F I S C A L   I M P A C T   R E P O R T

SPONSOR Arnold-Jones
ORIGINAL DATE 1/24/07
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HB 181/aSPAC

SHORT TITLE Tax Filing Extension and Filing Changes
SB

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee (SPAC) amendment would allow the date of postmark to be the date of submission for tax returns or payments made by mail and strikes Section 2 of the bill, reducing the tax threshold requiring accelerated payment.

Synopsis of Original Bill

House Bill 181 amends the Tax Administration Act to authorize the Secretary of TRD to extend the time to file income tax returns, reduce the threshold trigger for mandatory electronic filing of taxpayer returns, and require certain tax preparers to file returns electronically.

Section 1 would increase from four months to six months the period of time by which the Secretary of TRD would be authorized to allow extensions of time to file personal income tax returns in cases where a taxpayer shows good cause for extension.

Section 2 would reduce the threshold for requiring accelerated payment of tax. Currently, taxpayers who are liable for taxes in excess of $25,000 per month are required to remit their taxes using payment methods that insure the funds are available to the state by the due date for the tax payment, including electronic payment, checks by certain dates, and cash. This proposal would reduce the tax threshold to $10,000 per month.

Section 3 would require personal income tax return preparers that file over 25 personal income tax returns per year to file the returns by electronic means unless the taxpayer whose return is being prepared requests otherwise. A penalty of $5 per return would be owed for failure to comply with this requirement.

FISCAL IMPLICATIONS

None identified by TRD, but there may some slight increase in revenue generated from assessment of penalties proposed in Section 3.

SIGNIFICANT ISSUES

Section 1. Currently, both federal and state statutes allow for an "automatic" extension, i.e. no cause need be shown. This change was implemented by the federal IRS in 2005 and state laws tracked the change. The proposal updates state laws so that extensions with good cause can be allowed for the same time period as the automatic extensions.

Section 2. In order to meet the requirements of the section, taxpayers can make payment by any of the following means as long as the funds are immediately available to the state on or before the due date: (1) electronic payment; (2) currency of the United States; (3) check drawn on and payable at a New Mexico financial institution as long as the check is received at least one banking day prior to the due date; and (4) check drawn on and payable at any domestic non-New Mexico financial institution as long as the check is received at least two days prior to the due date. These payment requirements apply to the following tax programs: (1) the taxpayer's combined liability under the Gross Receipts Tax, Withholding Tax, Compensating Tax, Local Option Gross Receipts Taxes, Interstate Telecommunications Gross Receipts Tax and Leased Vehicle Gross Receipts Tax ("CRS tax programs"); (2) Combined liability for monthly oil and gas production taxes; (3) Natural Gas Processors Tax; and (4) The taxpayers combined liability for Gasoline Tax, Special Fuels Tax and Petroleum Products Loading Fee.

TRD estimates that these changes would require the following numbers of additional taxpayers to make certain types of payments:

- CRS tax programs: 2,500 to 3,000 out of a total of approximately 100,000 taxpayers;
- Oil and gas tax programs: 40 out of a total of 700; and
- Fuels tax programs: 20 out of a total of 200.

PERFORMANCE IMPLICATIONS

According to TRD, the provisions requiring electronic returns and payments should increase the speed and accuracy with which the Department is able to process taxes. Since the requirements are limited to larger taxpayers and paid return preparers, the added compliance costs should be modest. Other states that have implemented similar requirements have reported a 20 percent increase in e-filed returns. Electronic filing and payment requirements are expected to improve accuracy and timeliness of revenue collections and distributions.

Electronic filing of returns and payments has become an increasingly important tool for the Department to improve efficiency and accuracy of revenue collection and distribution. In the case of taxpayers with relatively large liabilities, these requirements do not appear to impose major compliance burdens. Given the importance of these requirements for tax administration, the Legislature may want to consider expanding the special payment requirements in section 1 of the bill to include additional tax programs that involve relatively few taxpayers each of whom has relatively large tax liabilities. Two such programs are the Resources Excise Tax (Section 7-25 NMSA 1978) and the Severance Tax (Section 7-26 NMSA 1978).

ADMINISTRATIVE IMPLICATIONS

The department will need to notify all taxpayers that meet the new threshold for mandatory electronic filing and give them some time to set it up. System modifications will be required to track returns filed by tax preparers and to assess penalties where appropriate. The provisions can be implemented with the Department's current resources.

TECHNICAL ISSUES

The proposal requires new penalty payments, from certain personal income tax return preparers, but does not provide any guidance about how any revenue attributable to the penalties shall be distributed. Under present law Section 7-1-6.1, the default distribution for such revenue would be to the State General Fund.

BE/nt