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

ORIGINAL DATE 1/31/07
SPONSOR Beffort **LAST UPDATED** **HB**

SHORT TITLE Tax Audit Changes and Payments **SB** 203

ANALYST Earnest

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
$0.1*	$0.1*	$0.1*	Recurring	General Fund
$0.1*	$0.1*	$0.1*	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

*TRD estimates that uncertain but probably positive impact on revenues would result from the managed audit provisions.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 203 makes several changes to provisions governing the conduct of tax audits:

1. Taxpayers could request, in writing, early completion of an audit, instead of waiting 60 days.
2. A taxpayer would not be considered delinquent if the taxpayer has been issued an assessment as a result of a managed audit and pays the assessed liability within 180 days—and extension of 150 days.
3. No interest would be charged on a liability assessed as a result of a managed audit if the taxpayer pays the liability in full within 180 days of the notice of assessment. Current statue provides 30 days for full payment.
4. Chapter 16, section 4 of Laws 2001 is repealed. This section amended provisions of Section 7-1-11 NMSA 1978. However, the same section was amended by Chapter 56 Laws 2001, so the provisions of Chapter 16 never took effect. The repeal is simply a clean-up of statutory language.

FISCAL IMPLICATIONS

According to TRD analysis, the total managed audit collections are expected to be approximately $9 million in FY 2008. There would be some loss of interest revenue due to the extension of the interest-free period from 30 days to 180 days. Based on the projected baseline level of collections, this amount would be approximately $90,000. A positive impact on revenues would result if the provisions result in taxpayers making increased use of managed audit provisions. An increase of only 1 percent in the baseline forecast would generate enough revenue to fully offset the foregone interest income. Any increase of more than 1 percent would result in positive net revenues. Both State and Local revenues will benefit since most managed audit activity is in the Gross Receipts and Compensating Tax Act.

SIGNIFICANT ISSUES

The provision to allow a taxpayer to request early completion of an audit would relax a requirement in present law that TRD must wait 60 days from the commencement of an audit to notify a taxpayer of any records that have been requested but not received. This provision was originally intended to give taxpayers time to collect Non-Taxable Transaction Certificates from their purchasers. In many cases, however, taxpayers do not need additional information from other parties and are ready well before the 60-day period to provide complete documentation in response to the audit. In these cases, the proposal would allow TRD to communicate the notice of what information is needed sooner than the minimum 60-days. This will help to speed the audit process for taxpayers who are prepared.

According to TRD, the managed audit program (Section 7-1-11.1 NMSA 1978) allows the department to enter into an agreement with the taxpayer to identify tax liabilities that may be due. Taxpayers take the initiative by applying to TRD for the managed audit. The program encourages voluntary compliance with the tax code. A total of 921 managed audits had been conducted, with over $29 million assessed from inception in FY 2003 through December 31, 2006. Approximately 95% of this amount -- $27.6 million -- had been collected, a far higher recovery rate than is characteristic of assessments initiated by the department.

PERFORMANCE IMPLICATIONS

The department measures its collection rate as a part of performance based budgeting, but there is no specific measure for the managed audit program.

ADMINISTRATIVE IMPLICATIONS

TRD notes that the changes to the audit provision are intended to be “taxpayer friendly.” There should be no significant administrative impact on the department.

BE/mt