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FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/09

SPONSOR Arnold-Jones LAST UPDATED _____ HB 460

SHORT TITLE Net Income Deduction of Capital Gains SB _____

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
		(\$149,850.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department

SUMMARY

Synopsis of Bill

House Bill 460 makes capital gain income fully deductible from adjusted gross income for the purpose of calculating personal income tax liability. Under current law, a taxpayer can deduct the greater of \$1,000 or 50 percent of capital gains from income.

The change would be effective for tax years 2010 and beyond.

FISCAL IMPLICATIONS

TRD calculated the fiscal impact and the change would cause a \$150 million reduction in personal income tax revenue in FY11. The calculation was derived from the 2007 tax return data and so may be overstated due to strong housing and stock markets in 2007. However, markets may return by 2010.

SIGNIFICANT ISSUES

Approximately 80 percent of capital gains income reported in 2005 were from non resident taxpayers. Exempting capital gains income will be a tax reduction for the highest income taxpayers who have benefitted the most from the reduction in tax rates from 2003 to 2008. The table below shows that over 85 percent of capital gains reported by New Mexico taxpayers had adjusted gross income of more than \$100,000. Only 8 percent of federal tax returns in 2006 reported AGI over \$100,000. It is important to note that the “Under \$50,000” column includes returns with negative AGI which are generally taxpayers reporting losses rather than low income taxpayers.

Individual Income and Tax Data, by State and Size of Adjusted Gross Income

[Money amounts are in thousands of dollars]

Item	All returns	Size of adjusted gross income				
		Under \$50,000 [1]	\$50,000 under \$75,000	\$75,000 under \$100,000	\$100,000 under \$200,000	\$200,000 or more
Tax Year 2004						
Net capital gain (less loss) in AGI: Number..	125,376	59,704	21,327	15,347	20,942	8,056
Amount.....	1,503,425	90,787	65,598	76,773	242,143	1,028,125
		6%	4%	5%	16%	68%
Tax Year 2005						
Net capital gain (less loss) in AGI: Number..	130,565	57,723	22,025	16,661	23,782	10,374
Amount.....	2,227,217	117,122	90,354	103,926	328,460	1,587,356
		5%	4%	5%	15%	71%
Tax Year 2006						
Net capital gain (less loss) in AGI: Number	134,822	55,303	22,337	17,712	27,015	12,455
Amount	2,781,309	152,308	106,855	132,899	417,364	1,971,882
		5%	4%	5%	15%	71%

[1] Includes returns with negative adjusted gross income

Source: IRS SOI Data

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

- 1. Adequacy:** revenue should be adequate to fund government services.
- 2. Efficiency:** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House bill 262 also amends Section 7-2-34 NMSA 1978 which could create confusion if both bills became law: only the last signed will be compiled into the statutes that are public available though they will both be law.

NF/mt