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SENATE BILL 74

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Stephen H. Fischmann

AN ACT

RELATING TO TAXATION; PROVIDING INCOME TAX CREDITS FOR CERTAIN SERVICES INCURRED BETWEEN BUSINESSES; REDUCING THE DEDUCTION FOR CAPITAL GAIN INCOME; REQUIRING COMBINED REPORTING FOR CERTAIN UNITARY CORPORATIONS; INCREASING THE MOTOR VEHICLE EXCISE TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1, as amended) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but

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1 not to exceed one thousand dollars (\$1,000); or

2 (2) the following percentage of the taxpayer's
3 net capital gain income for the taxable year for which the
4 deduction is being claimed:

5 (a) for a taxable year beginning in
6 2003, ten percent;

7 (b) for a taxable year beginning in
8 2004, twenty percent;

9 (c) for a taxable year beginning in
10 2005, thirty percent;

11 (d) for a taxable year beginning in
12 2006, forty percent; ~~and~~

13 (e) for taxable years beginning ~~on or~~
14 ~~after January 1~~ in 2007 through 2012, fifty percent; and

15 (f) for taxable years beginning on or
16 after January 1, 2013, twenty-five percent.

17 B. A husband and wife who file separate returns for
18 a taxable year in which they could have filed a joint return
19 may each claim only one-half of the deduction provided by this
20 section that would have been allowed on the joint return.

21 C. A taxpayer may not claim the deduction provided
22 in Subsection A of this section if the taxpayer has claimed the
23 credit provided in Section 7-2D-8.1 NMSA 1978.

24 D. As used in this section, "net capital gain"
25 means "net capital gain" as defined in Section 1222 (11) of the

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1 Internal Revenue Code."

2 SECTION 2. A new section of the Income Tax Act is enacted
3 to read:

4 "[NEW MATERIAL] TAX CREDIT--BUSINESS SERVICES.--

5 A. A taxpayer who files an individual New Mexico
6 income tax return for a taxable year beginning on or after
7 January 1, 2013, who is not a dependent of another taxpayer and
8 who paid gross receipts taxes on business services during the
9 taxable year pursuant to the Gross Receipts and Compensating
10 Tax Act may claim and the department may allow a tax credit
11 equal to five and one hundred twenty-five thousandths percent
12 of the value of business services purchased in the taxable
13 year. The tax credit that may be claimed pursuant to this
14 section may be referred to as the "business services income tax
15 credit". The business services income tax credit allowed shall
16 not exceed thirteen thousand dollars (\$13,000) for a taxpayer
17 for a taxable year.

18 B. The purpose of the business services income tax
19 credit is to reduce the effects of pyramiding of gross receipts
20 taxes and therefore reduce the price of goods produced in New
21 Mexico by providing a credit for certain gross receipts taxes
22 for business services that occur between businesses.

23 C. Prior to July 1, 2013, the department shall
24 adopt rules to identify or limit the types of business services
25 that are eligible for the business services income tax credit.

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1 D. A taxpayer who otherwise qualifies and claims a
2 business services income tax credit that may be claimed by a
3 partnership of which the taxpayer is a member may only claim a
4 credit in proportion to the taxpayer's interest in the
5 partnership. The total credit claimed by all members of the
6 partnership shall not exceed the aggregate of the allowable
7 costs pursuant to Subsection A of this section.

8 E. A husband and wife who file separate returns for
9 a taxable year in which they could have filed a joint return
10 may each claim only one-half of the business services income
11 tax credit that would have been allowed on a joint return.

12 F. The department shall compile an annual report
13 that includes the number of taxpayers approved by the
14 department to receive a business services income tax credit and
15 the total allowed amount of business services income tax
16 credits. Notwithstanding any other section of law to the
17 contrary, the department may disclose the number of taxpayers
18 allowed to receive the business services income tax credit, the
19 amount of each credit approved and any other information
20 required by the legislature or the department to aid in
21 evaluating the impact of the business services income tax
22 credit.

23 G. As used in this section, "business services"
24 means the services of architects, archaeologists, engineers,
25 surveyors, landscape architects, medical arts practitioners,

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1 scientists, management and systems analysts, certified public
2 accountants, registered public accountants, lawyers,
3 psychologists, planners, researchers, construction managers and
4 other persons or businesses providing similar professional
5 services, which may be designated as such by a determination
6 issued by the department, that occur between businesses and
7 that are subject to the gross receipts tax and are not subject
8 to any other tax credit or exemption under the Income Tax Act
9 other than the business services income tax credit."

10 SECTION 3. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
11 Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
12 Section 4 and also by Laws 1993, Chapter 309, Section 2) is
13 amended to read:

14 "7-2A-8.3. COMBINED RETURNS.--

15 A. A unitary corporation that is subject to
16 taxation under the Corporate Income and Franchise Tax Act and
17 that has not previously filed [~~a combined return pursuant to~~
18 ~~this section or~~] a consolidated return pursuant to Section
19 7-2A-8.4 NMSA 1978 [~~may elect to~~] shall file a combined return
20 with other unitary corporations as though the entire combined
21 net income were that of one corporation. The return filed
22 under this method of reporting shall include the net income of
23 all the unitary corporations. Transactions among the unitary
24 corporations may be eliminated by applying the appropriate
25 rules for reporting income for a consolidated federal income

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1 tax return. Any corporation that has filed an income tax
2 return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978
3 shall not file pursuant to this section unless the secretary
4 gives prior permission to file on a combined return basis.

5 B. Once corporations have reported net income
6 through a combined return for any taxable year, they shall file
7 combined returns for subsequent taxable years, so long as they
8 remain unitary corporations, unless the corporations elect to
9 file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the
10 secretary grants prior permission for one or more of the
11 corporations to file individually.

12 [~~G. For taxable years beginning on or after January~~
13 ~~1, 1993, no unitary corporation once included in a combined~~
14 ~~return may elect, or be granted permission by the secretary,~~
15 ~~for any subsequent taxable year to separately account pursuant~~
16 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]"~~

17 SECTION 4. A new section of the Corporate Income and
18 Franchise Tax Act is enacted to read:

19 "[NEW MATERIAL] TAX CREDIT--BUSINESS-TO-BUSINESS
20 TRANSACTIONS.--

21 A. A taxpayer that files a New Mexico corporate
22 income tax return for a taxable year beginning on or after
23 January 1, 2013 and that has paid gross receipts tax on
24 business services during the taxable year pursuant to the Gross
25 Receipts and Compensating Tax Act may claim and the department

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1 may allow a tax credit against the taxpayer's corporate income
2 tax liability equal to five and one hundred twenty-five
3 thousandths percent of the value of business services purchased
4 in the taxable year. The tax credit provided in this section
5 may be referred to as the "business services corporate income
6 tax credit". The business services corporate income tax credit
7 allowed by the department shall not exceed thirteen thousand
8 dollars (\$13,000) for a taxpayer for a taxable year.

9 B. The purpose of the business services corporate
10 income tax credit is to reduce pyramiding of gross receipts
11 taxes and therefore reduce the price of goods produced in New
12 Mexico by providing a credit for certain gross receipts taxes
13 for business services that occur between businesses.

14 C. Prior to July 1, 2013, the department shall
15 adopt rules to identify or limit the types of business services
16 that will be eligible for the business services corporate
17 income tax credit.

18 D. The department shall compile an annual report
19 that includes the number of taxpayers approved by the
20 department to receive a business services corporate income tax
21 credit and the total allowed amount of business services
22 corporate income tax credits. Notwithstanding any other
23 section of law to the contrary, the department may disclose the
24 number of taxpayers allowed to receive the business services
25 corporate income tax credit, the amount of each credit approved

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1 and any other information required by the legislature or the
2 department to aid in evaluating the impact of the business
3 services corporate income tax credit.

4 E. As used in this section, "business services"
5 means the services of architects, archaeologists, engineers,
6 surveyors, landscape architects, medical arts practitioners,
7 scientists, management and systems analysts, certified public
8 accountants, registered public accountants, lawyers,
9 psychologists, planners, researchers, construction managers and
10 other persons or businesses providing similar professional
11 services, which may be designated as such by a determination
12 issued by the department, that occur between businesses and
13 that are subject to the gross receipts tax and are not subject
14 to any other tax credit or exemption under the Corporate Income
15 and Franchise Tax Act other than the business services
16 corporate income tax credit."

17 SECTION 5. Section 7-14-4 NMSA 1978 (being Laws 1988,
18 Chapter 73, Section 14) is amended to read:

19 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE
20 TAX.--The rate of the motor vehicle excise tax is [~~three~~] four
21 percent and is applied to the price paid for the vehicle. If
22 the price paid does not represent the value of the vehicle in
23 the condition that existed at the time it was acquired, the tax
24 rate shall be applied to the reasonable value of the vehicle in
25 such condition at such time. [~~However, allowances granted for~~

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1 ~~vehicle trade-ins may be deducted from the price paid or the~~
2 ~~reasonable value of the vehicle purchased.]"~~

3 SECTION 6. APPLICABILITY.--The provisions of Sections 1
4 through 4 of this act apply to taxable years beginning on or
5 after January 1, 2013.

6 SECTION 7. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is January 1, 2013.

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