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HOUSE BILL 299

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO TAXATION; PROVIDING FOR EQUAL TREATMENT AND
ADMINISTRATION UNDER THE TAX ADMINISTRATION ACT; EXTENDING
DEADLINES; ALLOWING INTEREST TO APPLY TO LONGER PERIODS;
ALLOWING THE SECRETARY OF TAXATION AND REVENUE TO ABATE CERTAIN
ASSESSMENTS OF TAXES PROTESTED; PROVIDING FOR EQUITABLE
RECOUPMENT; MAKING TECHNICAL CORRECTIONS; RECONCILING MULTIPLE
AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

SECTION 1. Section 7-1-13 NMSA 1978 (being Laws 1965,
Chapter 248, Section 18, as amended) is amended to read:

"7-1-13. TAXPAYER RETURNS--PAYMENT OF TAXES--EXTENSION OF
TIME.--

A. Taxpayers are liable for tax at the time of and
after the transaction or incident giving rise to tax until

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1 payment is made. Taxes are due on and after the date on which
2 their payment is required until payment is made.

3 B. Every taxpayer shall, on or before the date on
4 which payment of any tax is due, complete and file a tax return
5 in a form prescribed and according to the regulations issued by
6 the secretary. Except as provided in Section 7-1-13.1 NMSA
7 1978 or by regulation, ruling, order or instruction of the
8 secretary, the payment of any tax or the filing of any return
9 may be accomplished by mail. When the filing of a tax return
10 or payment of a tax is accomplished by mail, the date of the
11 postmark shall be considered the date of submission of the
12 return or payment.

13 C. If any adjustment is made in the basis for
14 computation of any federal tax as a result of an audit by the
15 internal revenue service or the filing of an amended federal
16 return changing a prior election or making any other change for
17 which federal approval is required by the Internal Revenue
18 Code, the taxpayer affected shall, within [~~ninety days of the~~
19 ~~internal revenue service audit adjustment or payment of the~~
20 ~~federal refund~~] one hundred eighty days of final determination
21 of the adjustment, file an amended return with the department.
22 Payment of any additional tax due shall accompany the return.

23 D. Payment of the total amount of all taxes that
24 are due from the taxpayer shall precede or accompany the
25 return. Delivery to the department of a check that is not paid

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1 upon presentment does not constitute payment.

2 E. The secretary or the secretary's delegate may,
3 for good cause, extend in favor of a taxpayer or a class of
4 taxpayers, for no more than a total of twelve months, the date
5 on which payment of any tax is required or on which any return
6 required by provision of the Tax Administration Act shall be
7 filed, but no extension shall prevent the accrual of interest
8 as otherwise provided by law. When an extension of time for
9 income tax has been granted a taxpayer under the Internal
10 Revenue Code, the extension shall serve to extend the time for
11 filing New Mexico income tax provided that a copy of the
12 approved federal extension of time is attached to the
13 taxpayer's New Mexico income tax return. The secretary by
14 regulation may also provide for the automatic extension for no
15 more than six months of the date upon which payment of any New
16 Mexico income tax or the filing of any New Mexico income tax
17 return is required. If the secretary or the secretary's
18 delegate believes it necessary to ensure the collection of the
19 tax, the secretary or the secretary's delegate may require, as
20 a condition of granting any extension, that the taxpayer
21 furnish security in accordance with the provisions of Section
22 7-1-54 NMSA 1978.

23 F. As used in this section, "final determination"
24 means:

25 (1) the taxpayer has:

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- 1 (a) made payment on any additional
- 2 income tax liability resulting from the federal audit; and
- 3 (b) not filed a petition for
- 4 redetermination or claim for refund for the portions of the
- 5 audit on which payment was made;
- 6 (2) the taxpayer has received a refund from
- 7 the United States department of the treasury resulting from the
- 8 federal audit;
- 9 (3) the taxpayer has signed federal form 870
- 10 or other internal revenue service form consenting to the
- 11 deficiency or accepting any overassessment;
- 12 (4) the taxpayer's time period for filing a
- 13 federal petition for redetermination to the United States tax
- 14 court has expired;
- 15 (5) the taxpayer enters into a closing
- 16 agreement with the internal revenue service as provided in
- 17 Section 7121 of the Internal Revenue Code; or
- 18 (6) a decision from the United States tax
- 19 court, United States district court, United States court of
- 20 appeals, United States court of claims or United States supreme
- 21 court becomes final."

22 SECTION 2. Section 7-1-16 NMSA 1978 (being Laws 1965,
23 Chapter 248, Section 19, as amended) is amended to read:

24 "7-1-16. DELINQUENT TAXPAYER.--

25 A. Except as provided in Subsection D of this

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1 section, any taxpayer to whom taxes have been assessed as
2 provided in Section 7-1-17 NMSA 1978 or upon whom demand for
3 payment has been made as provided in Section 7-1-63 NMSA 1978
4 who does not within [~~thirty~~] ninety days after the date of
5 assessment or demand for payment make payment, protest the
6 assessment or demand for payment as provided by Section 7-1-24
7 NMSA 1978 or furnish security for payment as provided by
8 Section 7-1-54 NMSA 1978 becomes a delinquent taxpayer and
9 remains such until:

10 (1) payment of the total amount of all such
11 taxes is made;

12 [~~(2) a retroactive extension of time to file a~~
13 ~~protest is granted pursuant to Section 7-1-24 NMSA 1978;~~
14 ~~provided, however, that the taxpayer again becomes a delinquent~~
15 ~~taxpayer if the assessment is not abated and the taxpayer does~~
16 ~~not pay, protest or furnish security within the time allowed by~~
17 ~~the retroactive extension of time;~~

18 ~~(3)]~~ (2) security is furnished for payment; or
19 [~~(4)]~~ (3) no part of the assessment remains
20 unabated.

21 B. Any taxpayer who fails to provide security as
22 required by Subsection D of Section 7-1-54 NMSA 1978 shall be
23 deemed to be a delinquent taxpayer.

24 C. If a taxpayer files a protest as provided in
25 Section 7-1-24 NMSA 1978, the taxpayer nevertheless becomes a

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1 delinquent taxpayer upon failure of the taxpayer to appear, in
2 person or by authorized representative, at the hearing set or
3 upon failure to perfect an appeal from any decision or part
4 thereof adverse to the taxpayer to the next higher appellate
5 level, as provided in that section, unless the taxpayer makes
6 payment of the total amount of all taxes assessed and remaining
7 unabated or furnishes security for payment.

8 D. A taxpayer does not become a delinquent taxpayer
9 if the taxpayer

10 [~~(1) files for an extension of time to file a~~
11 ~~protest as provided in Section 7-1-24 NMSA 1978 within thirty~~
12 ~~days after the date of the assessment or demand for payment,~~
13 ~~unless the assessment is not abated and the taxpayer does not~~
14 ~~pay, protest or furnish security within the time allowed by the~~
15 ~~extension of time; or~~

16 ~~(2)]~~ has been issued an assessment as a result
17 of a managed audit but is still within the allowed time period
18 to pay the tax due as specified in Paragraph (4) of Subsection
19 A of Section 7-1-67 NMSA 1978."

20 SECTION 3. Section 7-1-18 NMSA 1978 (being Laws 1965,
21 Chapter 248, Section 21, as amended) is amended to read:

22 "7-1-18. LIMITATION ON ASSESSMENT BY DEPARTMENT.--

23 A. Except as otherwise provided in this section, no
24 assessment of tax may be made by the department after three
25 years from the end of the calendar year in which payment of the

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1 tax was due, and no proceeding in court for the collection of
2 such tax without the prior assessment thereof shall be begun
3 after the expiration of such period.

4 B. In case of a false or fraudulent return made by
5 a taxpayer with intent to evade tax, the amount thereof may be
6 assessed at any time within ten years from the end of the
7 calendar year in which the tax was due, and no proceeding in
8 court for the collection of such tax without the prior
9 assessment thereof shall be begun after the expiration of such
10 period.

11 C. In case of the failure by a taxpayer to complete
12 and file any required return, the tax relating to the period
13 for which the return was required may be assessed at any time
14 within seven years from the end of the calendar year in which
15 the tax was due, and no proceeding in court for the collection
16 of such tax without the prior assessment thereof shall be begun
17 after the expiration of such period.

18 D. If a taxpayer in a return understates by more
19 than twenty-five percent the amount of [~~his~~] liability for any
20 tax for the period to which the return relates, appropriate
21 assessments may be made by the department at any time within
22 six years from the end of the calendar year in which payment of
23 the tax was due.

24 E. If any adjustment in the basis for computation
25 of any federal tax is made as a result of an audit by the

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1 internal revenue service or the filing of an amended federal
2 return changing a prior election or making any other change for
3 which federal approval is required by the Internal Revenue Code
4 that results in liability for any tax, the amount thereof may
5 be assessed at any time, but not after three years from the end
6 of the calendar year in which filing of an amended return is
7 required by Subsection C of Section 7-1-13 NMSA 1978.

8 F. If the taxpayer has signed a waiver of the
9 limitations on assessment imposed by this section, an
10 assessment of tax may be made or a proceeding in court begun
11 without regard to the time at which payment of the tax was
12 due."

13 SECTION 4. Section 7-1-19 NMSA 1978 (being Laws 1971,
14 Chapter 21, Section 1, as amended) is amended to read:

15 "7-1-19. LIMITATION OF ACTIONS.--No action or proceeding
16 shall be brought to collect taxes administered under the
17 provisions of the Tax Administration Act and due under an
18 assessment or notice of the assessment of taxes after the later
19 of either ten years from the date of such assessment or notice
20 or, with respect to undischarged amounts in a bankruptcy
21 proceeding, one year [~~after~~] after the later of the issuance of
22 the final order or the date of the last scheduled payment."

23 SECTION 5. Section 7-1-23 NMSA 1978 (being Laws 1965,
24 Chapter 248, Section 25, as amended) is amended to read:

25 "7-1-23. DISPUTING LIABILITIES--ELECTION OF REMEDIES.--

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1 Any taxpayer must elect to dispute [~~his~~] the taxpayer's
2 liability for the payment of taxes either by protesting the
3 assessment thereof as provided in Section 7-1-24 NMSA 1978
4 without making payment or by claiming a refund thereof as
5 provided in Section 7-1-26 NMSA 1978 after making payment. The
6 pursuit of one of the two remedies described herein constitutes
7 an unconditional waiver of the right to pursue the other."

8 SECTION 6. Section 7-1-24 NMSA 1978 (being Laws 1965,
9 Chapter 248, Section 26, as amended) is amended to read:

10 "7-1-24. DISPUTING LIABILITIES--ADMINISTRATIVE [~~HEARING--~~
11 ~~PROCEDURE~~] PROTEST.--

12 A. Any taxpayer may dispute:

13 (1) the assessment to the taxpayer of any
14 amount of tax;

15 (2) the application to the taxpayer of any
16 provision of the Tax Administration Act except the issuance of
17 a subpoena or summons; or

18 (3) the denial of or failure [~~to~~] either to
19 allow or to deny a:

20 (a) credit or rebate; or

21 (b) claim for refund made in accordance
22 with Section 7-1-26 NMSA 1978.

23 B. The taxpayer may dispute a matter described in
24 Subsection A of this section by filing with the secretary a
25 written protest [~~against the assessment or against the~~

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1 ~~application to the taxpayer of the provision or against the~~
2 ~~denial of or the failure to allow or deny the amount claimed to~~
3 ~~have been erroneously paid as tax].~~ Every protest shall
4 identify the taxpayer and the tax credit, rebate, property or
5 provision of the Tax Administration Act involved and state the
6 grounds for the taxpayer's protest and the affirmative relief
7 requested. The statement of grounds for protest shall specify
8 individual grounds upon which the protest is based and a
9 summary statement of the evidence, if any, expected to be
10 produced supporting each ground asserted [~~if any~~]; provided
11 that the taxpayer may supplement the statement at any time
12 prior to ten days before any hearing conducted on the protest
13 pursuant to [~~Subsection D of this~~] Section 7-1-24.1 NMSA 1978
14 or, if a scheduling order has been issued, in accordance with
15 the scheduling order. The secretary may, in appropriate cases,
16 provide for an informal conference before setting a hearing of
17 the protest or acting on any claim for refund. In the case of
18 an assessment of tax by the department, a protest may be filed
19 without making payment of the amount assessed.

20 [B.] C. Any protest by a taxpayer shall be filed
21 within [~~thirty~~] ninety days of the date of the mailing to or
22 service upon the taxpayer by the department of the notice of
23 assessment or [~~mailing to, or service upon, the taxpayer of~~]
24 other peremptory notice or demand, [~~or~~] the date of mailing or
25 filing a return, the date of the application to the taxpayer of

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1 the applicable provision of the Tax Administration Act, the
2 date of denial of a claim pursuant to Section 7-1-24.1 NMSA
3 1978 or the last date upon which the department was required to
4 take action on the claim but failed to take action. [Upon
5 ~~written request of the taxpayer made within the time permitted~~
6 ~~for filing a protest, the secretary may grant an extension of~~
7 ~~time, not to exceed sixty days, within which to file the~~
8 ~~protest.]~~ If a protest is not filed within the time required
9 ~~[for filing a protest or, if an extension has been granted,~~
10 ~~within the extended time],~~ the secretary may proceed to enforce
11 collection of any tax if the taxpayer is delinquent within the
12 meaning of Section 7-1-16 NMSA 1978. ~~[Upon written request of~~
13 ~~the taxpayer made after the time for filing a protest but not~~
14 ~~more than sixty days after the expiration of the time for~~
15 ~~filing a protest, the secretary may grant a retroactive~~
16 ~~extension of time, not to exceed sixty days, within which to~~
17 ~~file the protest; provided that the taxpayer demonstrates to~~
18 ~~the secretary's satisfaction that the taxpayer was not able to~~
19 ~~file a protest or to request an extension within the time to~~
20 ~~file the protest and that the grounds for the protest have~~
21 ~~substantial merit.]~~ The fact that the department did not mail
22 the assessment or other peremptory notice or demand by
23 certified or registered mail or otherwise demand and receive
24 acknowledgment of receipt by the taxpayer shall not be deemed
25 to demonstrate the taxpayer's inability to protest ~~[or request~~

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1 ~~an extension within the time for filing a protest] within the~~
2 ~~required time. [The secretary shall not grant a retroactive~~
3 ~~extension if a levy has already been served under Section~~
4 ~~7-1-31 or 7-1-33 NMSA 1978 or a jeopardy assessment has been~~
5 ~~made under Section 7-1-59 NMSA 1978.]~~

6 D. No proceedings other than those to enforce
7 collection of any amount assessed as tax and to protect the
8 interest of the state by injunction, as provided in Sections
9 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56 and 7-1-58 NMSA
10 1978, are stayed by timely filing of a protest under this
11 section.

12 ~~[G. Claims for refund shall be filed as provided~~
13 ~~for in Section 7-1-26 NMSA 1978.~~

14 ~~D. Upon timely receipt of a protest, the department~~
15 ~~or hearing officer shall promptly set a date for hearing and on~~
16 ~~that date hear the protest or claim.~~

17 ~~E. A hearing officer shall be designated by the~~
18 ~~secretary to conduct the hearing. Taxpayers may appear at a~~
19 ~~hearing for themselves or be represented by a bona fide~~
20 ~~employee, an attorney, a certified public accountant or a~~
21 ~~registered public accountant. Hearings shall not be open to~~
22 ~~the public except upon request of the taxpayer and may be~~
23 ~~postponed or continued at the discretion of the hearing~~
24 ~~officer.~~

25 ~~F. A hearing officer shall not engage or~~

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1 ~~participate in any way as an employee of the department in the~~
2 ~~areas of enforcement or formulating general tax policy other~~
3 ~~than to conduct hearings. A taxpayer may request that the~~
4 ~~secretary determine whether a hearing officer has engaged or~~
5 ~~participated in tax policy or enforcement in a way that might~~
6 ~~reasonably be expected to affect the hearing officer's~~
7 ~~impartiality in a particular matter. The secretary may~~
8 ~~designate another hearing officer for the matter to avoid~~
9 ~~actual or apparent prejudice.~~

10 ~~G. A hearing officer shall not engage in ex-parte~~
11 ~~communications concerning the substantive issues of any matter~~
12 ~~that has been protested while that matter is still pending. If~~
13 ~~the secretary finds that a hearing officer has engaged in~~
14 ~~prohibited ex-parte communications, the secretary shall~~
15 ~~designate another hearing officer for that matter.~~

16 ~~H. In hearings before the hearing officer, the~~
17 ~~technical rules of evidence shall not apply, but in ruling on~~
18 ~~the admissibility of evidence, the hearing officer may require~~
19 ~~reasonable substantiation of statements or records tendered,~~
20 ~~the accuracy or truth of which is in reasonable doubt. A~~
21 ~~taxpayer may request a written ruling on any contested question~~
22 ~~of evidence in a matter in which the taxpayer has filed a~~
23 ~~written protest and that protest is pending.~~

24 ~~I. In hearings before the hearing officer, the~~
25 ~~Rules of Civil Procedure for the District Courts shall not~~

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1 ~~apply, but the hearing shall be conducted so that both~~
2 ~~complaints and defenses are amply and fairly presented. To~~
3 ~~this end, the hearing officer shall hear arguments, permit~~
4 ~~discovery, entertain and dispose of motions, require written~~
5 ~~expositions of the case as the circumstances justify and render~~
6 ~~a decision in accordance with the law and the evidence~~
7 ~~presented and admitted. A taxpayer may request a written~~
8 ~~ruling on any contested question of procedure in a matter in~~
9 ~~which the taxpayer has filed a written protest and that protest~~
10 ~~is pending.~~

11 ~~J. In the case of the hearing of any protest, the~~
12 ~~hearing officer shall make and preserve a complete record of~~
13 ~~the proceedings. At the beginning of the hearing, the hearing~~
14 ~~officer shall inform the taxpayer of the taxpayer's right to~~
15 ~~representation. The hearing officer, within thirty days of the~~
16 ~~hearing, shall inform the protestant in writing of the~~
17 ~~decision, informing the protestant at the same time of the~~
18 ~~right to, and the requirements for perfection of, an appeal~~
19 ~~from the decision to the court of appeals and of the~~
20 ~~consequences of a failure to appeal. The written decision~~
21 ~~shall embody an order granting or denying the relief requested~~
22 ~~or granting such part thereof as seems appropriate.~~

23 ~~K. A taxpayer with two or more protests containing~~
24 ~~related issues may request that such protests be combined and~~
25 ~~heard jointly. The designated hearing officer shall grant the~~

1 ~~request to combine protests unless it would create an~~
2 ~~unreasonable burden on the department.~~

3 ~~E.]~~ E. Nothing in this section shall be construed
4 to authorize any criminal proceedings hereunder or to authorize
5 an administrative protest of the issuance of a subpoena or
6 summons."

7 SECTION 7. A new section of the Tax Administration Act,
8 Section 7-1-24.1 NMSA 1978, is enacted to read:

9 "7-1-24.1. [NEW MATERIAL] DISPUTING LIABILITIES--CONDUCT
10 OF HEARINGS--HEARING OFFICER.--

11 A. Upon timely receipt of a protest filed pursuant
12 to Section 7-1-24 NMSA 1978, the department or a hearing
13 officer shall set a date for a hearing within ninety days.

14 B. A hearing officer shall be designated by the
15 secretary to conduct the hearing. A taxpayer may appear at a
16 hearing on the taxpayer's own behalf or may be represented by a
17 bona fide employee, an attorney, a certified public accountant,
18 a registered public accountant or, with respect only to tax
19 imposed pursuant to the Income Tax Act, a person who is an
20 enrolled agent for federal income tax purposes. If the
21 department and the taxpayer agree, the hearing may be conducted
22 via videoconference. A hearing shall not be open to the public
23 except upon request of the taxpayer. A hearing officer may
24 postpone or continue a hearing at the hearing officer's
25 discretion.

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1 C. A hearing officer shall not engage or
2 participate as an employee of the department in the enforcement
3 or formulation of general tax policy, other than to conduct
4 hearings. A taxpayer may request that the secretary determine
5 whether a hearing officer engaged or participated in the
6 enforcement or formulation of general tax policy and whether
7 that engagement or participation affects the hearing officer's
8 impartiality in a particular matter. The secretary may
9 designate another hearing officer for the matter to avoid
10 actual or apparent prejudice.

11 D. A hearing officer shall not engage in ex-parte
12 communications concerning the substantive issues of any matter
13 that has been protested while that matter is still pending. If
14 the secretary determines that a hearing officer has engaged in
15 prohibited ex-parte communications, the secretary shall
16 designate another hearing officer for that matter.

17 E. The rules of evidence shall not apply in a
18 hearing. The hearing officer may require reasonable
19 substantiation of statements or records tendered, the accuracy
20 or truth of which is in reasonable doubt, to rule on the
21 admissibility of evidence. A taxpayer may request a written
22 ruling on a contested question of evidence in a matter in which
23 the taxpayer has filed a written protest and for which that
24 protest is pending.

25 F. In hearings before a hearing officer, the Rules

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1 of Civil Procedure for the District Courts shall not apply.
2 The hearing officer shall conduct a hearing to allow the ample
3 and fair presentation of both complaints and defenses. The
4 hearing officer shall hear arguments, permit discovery,
5 entertain and dispose of motions, require written expositions
6 of the case as the circumstances justify and render a decision
7 in accordance with the law and the evidence presented and
8 admitted. A taxpayer may request a written ruling on any
9 contested question of procedure in a matter in which the
10 taxpayer has filed a written protest and for which that protest
11 is pending.

12 G. In the case of a hearing of any protest, the
13 hearing officer shall make and preserve a complete record of
14 the proceedings. At the beginning of the hearing, the hearing
15 officer shall inform the taxpayer of the taxpayer's right to
16 representation. The hearing officer, within thirty days of the
17 conclusion of the hearing, shall inform the protestant in
18 writing of the decision and of the protestant's right to, and
19 the requirements for perfection of, an appeal from the decision
20 to the court of appeals and of the consequences of a failure to
21 appeal. The written decision shall embody an order granting or
22 denying the relief requested or granting or denying a part of
23 the relief requested as appropriate.

24 H. A taxpayer with two or more protests containing
25 related issues may request that the protests be combined and

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1 heard jointly. The hearing officer shall grant the request to
2 combine protests unless it would create an unreasonable burden
3 on the department."

4 SECTION 8. Section 7-1-26 NMSA 1978 (being Laws 1965,
5 Chapter 248, Section 28, as amended) is amended to read:

6 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
7 OR REFUND.--

8 A. Any person who believes that an amount of tax
9 has been paid by or withheld from that person in excess of that
10 for which the person was liable, who has been denied any credit
11 or rebate claimed or who claims a prior right to property in
12 the possession of the department pursuant to a levy made under
13 authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim
14 a refund by directing to the secretary, within the time limited
15 by the provisions of Subsections D and E [~~and F~~] of this
16 section, a written claim for refund. Except as provided in
17 Subsection [~~J~~] I of this section, a refund claim shall include:

- 18 (1) the taxpayer's name, address and
19 identification number;
- 20 (2) the type of tax for which a refund is
21 being claimed, the credit or rebate denied or the property
22 levied upon;
- 23 (3) the sum of money or other property being
24 claimed;
- 25 (4) with respect to refund, the period for

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1 which overpayment was made; and [~~the basis for the refund. As~~
2 ~~used in this subsection, "basis for the refund" means]~~

3 (5) a brief statement of the facts and the law
4 on which the claim is based, which may be referred to as the
5 "basis for the refund".

6 B. The secretary or the secretary's delegate may
7 allow the claim in whole or in part or may deny the claim.

8 (1) If the claim is denied in whole or in part
9 in writing, no claim may be refiled with respect to that which
10 was denied, but the person, within ninety days after either the
11 mailing or delivery of the denial of all or any part of the
12 claim, may elect to pursue one, but not more than one, of the
13 remedies in Subsection C of this section.

14 (2) If the department has neither granted nor
15 denied any portion of a claim for refund within one hundred
16 twenty days of the date the claim was mailed or delivered to
17 the department, the person may refile it within the time limits
18 set forth in Subsection D of this section or may within ninety
19 days elect to pursue one, but only one, of the remedies in
20 Subsection C of this section. After the expiration of the two
21 hundred ten days from the date the claim was mailed or
22 delivered to the department, the department may not approve or
23 disapprove the claim unless the person has pursued one of the
24 remedies under Subsection C of this section.

25 C. A person may elect to pursue one, but only one,

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1 of the remedies in Paragraphs (1) and (2) of this subsection.
2 In any case, if a person does timely pursue more than one
3 remedy, the person shall be deemed to have elected the first
4 remedy invoked. The remedies are as follows:

5 (1) the person may direct to the secretary,
6 pursuant to the provisions of Section 7-1-24 NMSA 1978, a
7 written protest against the denial of, or failure to either
8 allow or deny the claim or portion ~~[thereof, which shall be set~~
9 ~~for hearing by a hearing officer designated by the secretary~~
10 ~~promptly after the receipt of the protest in accordance with~~
11 ~~the provisions of Section 7-1-24 NMSA 1978, and pursue the~~
12 ~~remedies of appeal from decisions adverse to the protestant as~~
13 ~~provided in Section 7-1-25 NMSA 1978]~~ of the claim; or

14 (2) the person may commence a civil action in
15 the district court for Santa Fe county by filing a complaint
16 setting forth the circumstance of the claimed overpayment,
17 denied credit or rebate or denial of a prior right to property
18 levied upon by the department alleging that on account thereof
19 the state is indebted to the plaintiff in the amount or
20 property stated, together with any interest allowable,
21 demanding the refund to the plaintiff of that amount or
22 property and reciting the facts of the claim for refund. The
23 plaintiff or the secretary may appeal from any final decision
24 or order of the district court to the court of appeals.

25 D. Except as otherwise provided in ~~[Subsections]~~

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1 Subsection E [~~and F~~] of this section, no credit or refund of
2 any amount may be allowed or made to any person unless as the
3 result of a claim made by that person as provided in this
4 section:

5 (1) within three years of the end of the
6 calendar year in which:

7 (a) the payment was originally due or
8 the overpayment resulted from an assessment by the department
9 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

10 (b) the final determination of value
11 occurs with respect to any overpayment that resulted from a
12 disapproval by any agency of the United States or the state of
13 New Mexico or any court of increase in value of a product
14 subject to taxation under the Oil and Gas Severance Tax Act,
15 the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency
16 School Tax Act, the Oil and Gas Ad Valorem Production Tax Act
17 or the Natural Gas Processors Tax Act; [~~or~~]

18 (c) property was levied upon pursuant to
19 the provisions of the Tax Administration Act; or

20 (d) an overpayment of New Mexico tax
21 resulted from: 1) an internal revenue service audit adjustment
22 or a federal refund paid due to an adjustment of an audit by
23 the internal revenue service or an amended federal return; or
24 2) making a change to a federal return for which federal
25 approval is required by the Internal Revenue Code;

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1 (2) when an amount of a claim for credit under
2 the provisions of the Investment Credit Act, Laboratory
3 Partnership with Small Business Tax Credit Act or Technology
4 Jobs Tax Credit Act or for the rural job tax credit pursuant to
5 [~~Sections 7-2E-1 and 7-2E-2~~] Section 7-2E-1.1 NMSA 1978 or
6 similar credit has been denied, the taxpayer may claim a refund
7 of the credit no later than one year after the date of the
8 denial;

9 (3) when a taxpayer under audit by the
10 department has signed a waiver of the limitation on assessments
11 on or after July 1, 1993 pursuant to Subsection F of Section
12 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of
13 the same tax paid for the same period for which the waiver was
14 given, until a date one year after the later of the date of the
15 mailing of an assessment issued pursuant to the audit, the date
16 of the mailing of final audit findings to the taxpayer or the
17 date a proceeding is begun in court by the department with
18 respect to the same tax and the same period;

19 (4) if the payment of an amount of tax was not
20 made within three years of the end of the calendar year in
21 which the original due date of the tax or date of the
22 assessment of the department occurred, a claim for refund of
23 that amount of tax can be made within one year of the date on
24 which the tax was paid; or

25 (5) when a taxpayer has been assessed a tax on

underscored material = new
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1 or after July 1, 1993 under Subsection B, C or D of Section
2 7-1-18 NMSA 1978 and when the assessment applies to a period
3 ending at least three years prior to the beginning of the year
4 in which the assessment was made, the taxpayer may claim a
5 refund for the same tax for the period of the assessment or for
6 any period following that period within one year of the date of
7 the assessment unless a longer period for claiming a refund is
8 provided in this section.

9 E. No credit or refund shall be allowed or made to
10 any person claiming a refund of gasoline tax under Section
11 7-13-11 NMSA 1978 unless notice of the destruction of the
12 gasoline was given the department within thirty days of the
13 actual destruction and the claim for refund is made within six
14 months of the date of destruction. No credit or refund shall
15 be allowed or made to any person claiming a refund of gasoline
16 tax under Section 7-13-17 NMSA 1978 unless the refund is
17 claimed within six months of the date of purchase of the
18 gasoline and the gasoline has been used at the time the claim
19 for refund is made.

20 ~~[F. If, as a result of an audit by the internal~~
21 ~~revenue service or the filing of an amended federal return~~
22 ~~changing a prior election or making any other change for which~~
23 ~~federal approval is required by the Internal Revenue Code, any~~
24 ~~adjustment of federal tax is made with the result that there~~
25 ~~would have been an overpayment of tax if the adjustment to~~

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1 ~~federal tax had been applied to the taxable period to which it~~
2 ~~relates, claim for credit or refund of only that amount based~~
3 ~~on the adjustment may be made as provided in this section~~
4 ~~within one year of the date of the internal revenue service~~
5 ~~audit adjustment or payment of the federal refund or within the~~
6 ~~period limited by Subsection D of this section, whichever~~
7 ~~expires later. Interest computed at the rate specified in~~
8 ~~Subsection B of Section 7-1-68 NMSA 1978 shall be allowed on~~
9 ~~any such claim for refund from the date one hundred twenty days~~
10 ~~after the claim is made until the date the final decision to~~
11 ~~grant the credit or refund is made.~~

12 ~~G.]~~ F. If as a result of an audit by the department
13 or a managed audit covering multiple periods an overpayment of
14 tax is found in any period under the audit, that overpayment
15 may be credited against an underpayment of the same tax found
16 in another period under audit pursuant to Section 7-1-29 NMSA
17 1978, provided that the taxpayer files a claim for refund for
18 the overpayments identified in the audit.

19 ~~[H.]~~ G. Any refund of tax paid under any tax or tax
20 act administered under Subsection B of Section 7-1-2 NMSA 1978
21 may be made, at the discretion of the department, in the form
22 of credit against future tax payments if future tax liabilities
23 in an amount at least equal to the credit amount reasonably may
24 be expected to become due.

25 ~~[I.]~~ H. For the purposes of this section, the term

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1 "oil and gas tax return" means a return reporting tax due with
2 respect to oil, natural gas, liquid hydrocarbons, carbon
3 dioxide, helium or nonhydrocarbon gas pursuant to the Oil and
4 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
5 the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
6 Valorem Production Tax Act, the Natural Gas Processors Tax Act
7 or the Oil and Gas Production Equipment Ad Valorem Tax Act.

8 [~~J-~~] I. The filing of a fully completed original
9 income tax return, corporate income tax return, corporate
10 income and franchise tax return, estate tax return or special
11 fuel excise tax return that shows a balance due the taxpayer or
12 a fully completed amended income tax return, an amended
13 corporate income tax return, an amended corporate income and
14 franchise tax return, an amended estate tax return, an amended
15 special fuel excise tax return or an amended oil and gas tax
16 return that shows a lesser tax liability than the original
17 return constitutes the filing of a claim for refund for the
18 difference in tax due shown on the original and amended
19 returns."

20 SECTION 9. Section 7-1-28 NMSA 1978 (being Laws 1965,
21 Chapter 248, Section 30, as amended) is amended to read:

22 "7-1-28. AUTHORITY FOR ABATEMENTS OF ASSESSMENTS OF
23 TAX.--

24 A. In response to a written protest against an
25 assessment, submitted in accordance with the provisions of

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1 Section 7-1-24 NMSA 1978, but before any court acquires
2 jurisdiction of the matter, or when a "notice of assessment of
3 taxes" is incorrect, the secretary or the secretary's delegate
4 [~~with prior written approval of the attorney general~~] may abate
5 any part of an assessment determined by the secretary or the
6 secretary's delegate to have been incorrectly, erroneously or
7 illegally made. An abatement in the amount of twenty thousand
8 dollars (\$20,000) or more shall be made with the prior approval
9 of the attorney general; except that the secretary or the
10 secretary's delegate may make abatements [~~(1)~~] with respect to
11 the Oil and Gas Severance Tax Act, the Oil and Gas Conservation
12 Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and
13 Gas Ad Valorem Production Tax Act, the Natural Gas Processors
14 Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax
15 Act, abatements of gasoline tax made under Section 7-13-17 NMSA
16 1978 and abatements of cigarette tax made under the Cigarette
17 Tax Act without the prior approval of the attorney general
18 regardless of the amount

19 [~~(2) with respect to the Corporate Income and~~
20 ~~Franchise Tax Act amounting to less than twenty thousand~~
21 ~~dollars (\$20,000) without prior approval of the attorney~~
22 ~~general; and~~

23 [~~(3) amounting to less than ten thousand~~
24 ~~dollars (\$10,000) without the prior written approval of the~~
25 ~~attorney general~~].

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1 B. Pursuant to the final order of the district
2 court [~~for Santa Fe county~~], the court of appeals, the supreme
3 court of New Mexico or any federal court, from which order,
4 appeal or review is not successfully taken by the department,
5 adjudging that any person is not required to pay any portion of
6 tax assessed to that person, the secretary or the secretary's
7 delegate shall cause that amount of the assessment to be
8 abated.

9 C. Pursuant to a compromise of taxes agreed to by
10 the secretary and according to the terms of the closing
11 agreement formalizing the compromise, the secretary or the
12 secretary's delegate shall cause the abatement of the
13 appropriate amount of any assessment of tax.

14 D. The secretary or the secretary's delegate shall
15 cause the abatement of the amount of an assessment of tax that
16 is equal to the amount of fee paid to or retained by an out-of-
17 state attorney or collection agency from a judgment or the
18 amount collected by the attorney or collection agency pursuant
19 to Section 7-1-58 NMSA 1978.

20 E. Records of abatements made in excess of ten
21 thousand dollars (\$10,000) shall be available for inspection by
22 the public. The department shall keep such records for a
23 minimum of three years from the date of the abatement.

24 F. In response to a timely protest pursuant to
25 Section 7-1-24 NMSA 1978 of an assessment by the department and

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1 notwithstanding any other provision of the Tax Administration
2 Act, the secretary or the secretary's delegate may abate that
3 portion of an assessment of tax, including applicable penalties
4 and interest, representing the amount of tax previously paid by
5 another person on behalf of the taxpayer on the same
6 transaction; provided that the requirements of equitable
7 recoupment are met. For purposes of this subsection, the
8 protest pursuant to Section 7-1-24 NMSA 1978 of the
9 department's assessment may be made by the taxpayer to whom the
10 assessment was issued or by the other person who claims to have
11 previously paid the tax on behalf of the taxpayer."

12 SECTION 10. Section 7-1-29 NMSA 1978 (being Laws 1965,
13 Chapter 248, Section 31, as amended) is amended to read:

14 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

15 A. In response to a claim for refund, credit or
16 rebate made as provided in Section 7-1-26 NMSA 1978, but before
17 a court acquires jurisdiction of the matter, the secretary or
18 the secretary's delegate may authorize [~~the refund~~] payment to
19 a person [~~of~~] in the amount of the creditor or rebate claimed
20 or refund an overpayment of tax determined by the secretary or
21 the secretary's delegate to have been erroneously made by the
22 person, together with allowable interest. A payment of a
23 credit rebate claimed or a refund of tax and interest
24 erroneously paid [~~and~~] amounting to [~~more than ten thousand~~
25 dollars (~~\$10,000~~) may] twenty thousand dollars (\$20,000) or

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1 more shall be made [~~to a person only~~] with the prior approval
2 of the attorney general, except that the secretary or the
3 secretary's delegate may make refunds with respect to [~~(1)~~] the
4 Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax
5 Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas
6 Ad Valorem Production Tax Act, the Natural Gas Processors Tax
7 Act or the Oil and Gas Production Equipment Ad Valorem Tax Act,
8 Section 7-13-17 NMSA 1978 and the Cigarette Tax Act without the
9 prior approval of the attorney general regardless of the amount
10 [~~and~~

11 ~~(2) the Corporate Income and Franchise Tax Act~~
12 ~~amounting to less than twenty thousand dollars (\$20,000)~~
13 ~~without the prior approval of the attorney general].~~

14 B. Pursuant to the final order of the district
15 court, the court of appeals, the supreme court of New Mexico or
16 a federal court, from which order, appeal or review is not
17 successfully taken, adjudging that a person has properly
18 claimed a credit or rebate or made an overpayment of tax, the
19 secretary shall authorize the [~~refund~~] payment to the person of
20 the amount thereof.

21 C. In the discretion of the secretary, any amount
22 of credit or rebate to be paid or tax to be refunded may be
23 offset against any amount of tax for which the person due to
24 receive the credit, rebate payment or refund is liable. The
25 secretary or the secretary's delegate shall give notice to the

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1 taxpayer that the credit, rebate payment or refund will be made
2 in this manner, and the taxpayer shall be entitled to interest
3 pursuant to Section 7-1-68 NMSA 1978 until the tax liability is
4 credited with the credit, rebate or refund amount.

5 D. In an audit by the department or a managed audit
6 covering multiple reporting periods in which both underpayments
7 and overpayments of a tax have been made in different reporting
8 periods, the department shall credit the tax overpayments
9 against the underpayments, provided that the taxpayer files a
10 claim for refund of the overpayments. An overpayment shall be
11 applied as a credit first to the earliest underpayment and then
12 to succeeding underpayments. An underpayment of tax to which
13 an overpayment is credited pursuant to this section shall be
14 deemed paid in the period in which the overpayment was made or
15 the period to which the overpayment was credited against an
16 underpayment, whichever is later. If the overpayments credited
17 pursuant to this section exceed the underpayments of a tax, the
18 amount of the net overpayment for the periods covered in the
19 audit shall be refunded to the taxpayer.

20 E. When a taxpayer makes a payment identified to a
21 particular return or assessment, and the department determines
22 that the payment exceeds the amount due pursuant to that return
23 or assessment, the secretary may apply the excess to the
24 taxpayer's other liabilities pursuant to the tax acts to which
25 the return or assessment applies, without requiring the

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1 taxpayer to file a claim for a refund. The liability to which
2 an overpayment is applied pursuant to this section shall be
3 deemed paid in the period in which the overpayment was made or
4 the period to which the overpayment was applied, whichever is
5 later.

6 F. If the department determines, upon review of an
7 original or amended income tax return, corporate income and
8 franchise tax return, estate tax return, special fuels excise
9 tax return or oil and gas tax return, that there has been an
10 overpayment of tax for the taxable period to which the return
11 or amended return relates in excess of the amount due to be
12 refunded to the taxpayer pursuant to the provisions of
13 Subsection [~~⌈~~] I of Section 7-1-26 NMSA 1978, the department
14 may refund that excess amount to the taxpayer without requiring
15 the taxpayer to file a refund claim.

16 G. Records of refunds and credits made in excess of
17 ten thousand dollars (\$10,000) shall be available for
18 inspection by the public. The department shall keep such
19 records for a minimum of three years from the date of the
20 refund or credit.

21 H. In response to a timely refund claim pursuant to
22 Section 7-1-26 NMSA 1978 and notwithstanding any other
23 provision of the Tax Administration Act, the secretary or the
24 secretary's delegate may refund or credit a portion of an
25 assessment of tax paid, including applicable penalties and

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1 interest representing the amount of tax previously paid by
2 another person on behalf of the taxpayer on the same
3 transaction, provided that the requirements of equitable
4 recoupment are met. For purposes of this subsection, the
5 refund claim may be filed by the taxpayer to whom the
6 assessment was issued or by another person who claims to have
7 previously paid the tax on behalf of the taxpayer. Prior to
8 granting the refund or credit, the secretary may require a
9 waiver of all rights to claim a refund or credit of the tax
10 previously paid by another person paying a tax on behalf of the
11 taxpayer."

12 SECTION 11. Section 7-1-67 NMSA 1978 (being Laws 1965,
13 Chapter 248, Section 68, as amended by Laws 2007, Chapter 45,
14 Section 2 and by Laws 2007, Chapter 262, Section 4) is amended
15 to read:

16 "7-1-67. INTEREST ON DEFICIENCIES.--

17 A. If a tax imposed is not paid on or before the
18 day on which it becomes due, interest shall be paid to the
19 state on that amount from the first day following the day on
20 which the tax becomes due, without regard to any extension of
21 time or installment agreement, until it is paid, except that:

22 (1) for income tax imposed on a member of the
23 armed services of the United States serving in a combat zone
24 under orders of the president of the United States, interest
25 shall accrue only for the period beginning the day after any

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1 applicable extended due date if the tax is not paid;

2 (2) if the amount of interest due at the time
3 payment is made is less than one dollar (\$1.00), then no
4 interest shall be due;

5 (3) if demand is made for payment of a tax,
6 including accrued interest, and if the tax is paid within ten
7 days after the date of the demand, no interest on the amount
8 paid shall be imposed for the period after the date of the
9 demand;

10 (4) if a managed audit is completed by the
11 taxpayer on or before the date required, as provided in the
12 agreement for the managed audit, and payment of any tax found
13 to be due is made in full within one hundred eighty days of the
14 date the secretary has mailed or delivered an assessment for
15 the tax to the taxpayer, no interest shall be due on the
16 assessed tax;

17 (5) when, as the result of an audit or a
18 managed audit, an overpayment of a tax is credited against an
19 underpayment of tax pursuant to Section 7-1-29 NMSA 1978,
20 interest shall accrue from the date the tax was due until the
21 tax is deemed paid;

22 (6) if the department does not issue an
23 assessment for the tax program and period within the time
24 provided in Subsection D of Section 7-1-11.2 NMSA 1978,
25 interest shall be paid from the first day following the day on

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1 which the tax becomes due until the tax is paid, excluding the
2 period between either:

3 (a) the one hundred eightieth day after
4 giving a notice of outstanding records or books of account and
5 the date of the assessment of the tax; or

6 (b) the ninetieth day after the
7 expiration of the additional time requested by the taxpayer to
8 comply pursuant to Section 7-1-11.2 NMSA 1978, if such request
9 was granted, and the date of the assessment of the tax; and

10 (7) if the taxpayer was not provided with
11 proper notices as required in Section 7-1-11.2 NMSA 1978,
12 interest shall be paid from the first day following the day on
13 which the tax becomes due until the tax is paid, excluding the
14 period between one hundred eighty days prior to the date of
15 assessment and the date of assessment.

16 B. Interest due to the state under Subsection A or
17 D of this section shall be at the underpayment rate established
18 for individuals pursuant to Section 6621 of the Internal
19 Revenue Code computed on a daily basis; provided that if a
20 different rate is specified by a compact or other interstate
21 agreement to which New Mexico is a party, that rate shall be
22 applied to amounts due under the compact or other agreement.

23 C. Nothing in this section shall be construed to
24 impose interest on interest or interest on the amount of any
25 penalty.

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1 D. If any tax required to be paid in accordance
2 with Section 7-1-13.1 NMSA 1978 is not paid in the manner
3 required by that section, interest shall be paid to the state
4 on the amount required to be paid in accordance with Section
5 7-1-13.1 NMSA 1978. If interest is due under this subsection
6 and is also due under Subsection A of this section, interest
7 shall be due and collected only pursuant to Subsection A of
8 this section."

9 **SECTION 12.** Section 7-1-68 NMSA 1978 (being Laws 1965,
10 Chapter 248, Section 69, as amended) is amended to read:

11 "7-1-68. INTEREST ON OVERPAYMENTS.--

12 A. As provided in this section, interest shall be
13 allowed and paid on the amount of tax overpaid by a person that
14 is subsequently refunded or credited to that person.

15 B. Interest on overpayments of tax shall accrue and
16 be paid at the underpayment rate established [~~for individuals~~]
17 pursuant to Section 6621 of the Internal Revenue Code, computed
18 on a daily basis; provided that if a different rate is
19 specified by a compact or other interstate agreement to which
20 New Mexico is a party, that rate shall apply to amounts due
21 under the compact or other agreement.

22 C. Unless otherwise provided by this section,
23 interest on an overpayment [~~not arising from an assessment by~~
24 ~~the department shall be paid from the date of the claim for~~
25 ~~refund until a date preceding by not more than thirty days the~~

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1 ~~date of the credit or refund to any person; interest on an~~
2 ~~overpayment arising from an assessment by the department]~~ shall
3 be paid from the later of the date of overpayment or the due
4 date of the tax to which the overpayment related until a date
5 preceding by not more than thirty days the date of the credit
6 or refund to any person; provided that if the date of the claim
7 is before July 1, 2013, interest on an overpayment not arising
8 from an assessment of the department shall be paid from the
9 date of the claim for refund until a date preceding by not more
10 than thirty days the date of the credit or refund.

11 D. No interest shall be allowed or paid with
12 respect to an amount credited or refunded if:

13 (1) the amount of interest due is less than
14 one dollar (\$1.00);

15 (2) the credit or refund is made within:

16 (a) fifty-five days of the date of the
17 claim for refund of income tax, pursuant to either the Income
18 Tax Act or the Corporate Income and Franchise Tax Act for the
19 tax year immediately preceding the tax year in which the claim
20 is made;

21 (b) sixty days of the date of the claim
22 for refund of any tax not provided for in this paragraph;

23 [~~b~~] (c) seventy-five days of the date
24 of the claim for refund of gasoline tax to users of gasoline
25 off the highways; [~~or~~

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1 ~~(e)~~] (d) one hundred twenty days of the
2 date of the claim for refund of tax imposed pursuant to the
3 Resources Excise Tax Act, the Severance Tax Act, the Oil and
4 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
5 the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
6 Valorem Production Tax Act, the Natural Gas Processors Tax Act
7 or the Oil and Gas Production Equipment Ad Valorem Tax Act; or

8 ~~[(3) the credit or refund is made within]~~

9 (e) one hundred twenty days of the date
10 of the claim for refund of income tax, pursuant to the Income
11 Tax Act or the Corporate Income and Franchise Tax Act, for any
12 tax year more than one year prior to the year in which the
13 claim is made;

14 ~~[(4)]~~ (3) Sections 6611(f) and 6611(g) of the
15 Internal Revenue Code, as those sections may be amended or
16 renumbered, prohibit payment of interest for federal income tax
17 purposes;

18 ~~[(5) the credit or refund is made within sixty~~
19 ~~days of the date of the claim for refund of any tax other than~~
20 ~~income tax;~~

21 ~~(6)]~~ (4) the credit results from overpayments
22 found in an audit of multiple reporting periods and applied to
23 underpayments found in that audit or refunded as a net
24 overpayment to the taxpayer pursuant to Section 7-1-29 NMSA
25 1978;

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1 [~~(7)~~] (5) the department applies the credit or
2 refund to an intercept program, to the taxpayer's estimated
3 payment prior to the due date for the estimated payment or to
4 offset prior liabilities of the taxpayer pursuant to Subsection
5 E of Section 7-1-29 NMSA 1978;

6 [~~(8)~~] (6) the credit or refund results from
7 overpayments the department finds pursuant to Subsection F of
8 Section 7-1-29 NMSA 1978 that exceed the refund claimed by the
9 taxpayer on the return; or

10 [~~(9)~~] (7) the refund results from a film
11 production tax credit pursuant to Section 7-2F-1 NMSA 1978.

12 E. Nothing in this section shall be construed to
13 require the payment of interest upon interest."

14 **SECTION 13. APPLICABILITY--WRITTEN PROTESTS--TIME**
15 **LIMITS.--**The following time limits for filing a written protest
16 shall apply pursuant to that version of Section 7-1-24 NMSA
17 1978 in effect:

18 A. immediately prior to July 1, 2013, if the date
19 of mailing or service of process, application of the applicable
20 provision of the Tax Administration Act, denial of failure to
21 deny or allow with the time prescribed occurred on or before
22 June 1, 2013; or

23 B. on or after July 1, 2013, if the date of mailing
24 or service of process, application of the applicable provision
25 of the Tax Administration Act, denial or failure to deny or

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1 allow with the time prescribed occurred on or after June 2,
2 2013.

3 SECTION 14. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2013.

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