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

ORIGINAL DATE 02/05/14
SPONSOR Trujillo, Ch **LAST UPDATED** 02/12/14 **HB** 321

SHORT TITLE Repeal Capital Gains Deduction **SB**

ANALYST Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16	FY17	FY18		
		$67,000.0 - $75,000.0	$71,000.0 - $80,000.0	$75,000.0 – 84,000.0	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 321 repeals Section 7-2-34 NMSA 1978 of the Income Tax Act that provides a deduction of 50 percent of net capital gain income.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends. The provisions of this bill apply to taxable years beginning on or after January 1, 2015.

FISCAL IMPLICATIONS

TRD used New Mexico personal income data from tax year 2012 in their analysis to determine approximately 73,500 people claimed net capital gain deductions that totaled $1,190 million. The future years' capital gains deductions were calculated by applying capital gain realizations projection growth rates from 2012, published by The Budget and Economic Outlook, to Tax Year 2012 New Mexico personal income capital gain deductions.

TRD forecasted the fiscal impact for repealing the capital gains deduction by applying a 4 percent average tax rate to the projected capital gain deductions. However, LFC staff took into consideration a 2009 report (2006 data) from the Institute on Taxation and Economic Policy in which the proportion of federal taxpayers submitting returns with capital gains is less than 10 percent if their adjusted gross income is $50,000 or less. As such, LFC assumed taxpayers reporting capital gains paid a higher average marginal tax rate, and therefore assumed an increase in PIT revenue to the general fund based on an average marginal tax rate of 4.5 percent.

The range in the revenue table is the difference between the TRD and LFC assumptions.

SIGNIFICANT ISSUES

TRD reports that unlike the federal government, New Mexico treats capital gains as income and provides a 50 percent deduction for capital gains.

TRD is quoted as saying "Because paying taxes on capital gains is voluntary – that is, people can choose not to sell the assets – there is a very real possibility that investors will choose not to liquidate the assets and reinvest them, not for productive economic reasons, but for tax reasons; in those situations, New Mexico would receive no income tax revenue as opposed to the tax on 50 percent of the revenue that it currently receives."

ADMINISTRATIVE IMPLICATIONS

TRD estimates a minimal administrative impact. The repeal of the deduction for net capital gain income can be implemented as part of the annual renewal process for the personal income tax program. Forms, instructions, and publications will need to be modified.

TRD also predicts a moderate Information Technology (IT) impact because the bill will require an update to GenTax and to the Taxpayer Access Point system that could be completed within the annual updates.

RELATIONSHIP

HB 321 relates to SB 302.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

HD/ds