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

SPONSOR Maestas **ORIGINAL DATE** **LAST UPDATED** 03/02/15 **HB** 540

SHORT TITLE New High-Income Tax Bracket **SB**

ANALYST Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	$47,000.0	$49,000.0	$50,000.0	$52,000.0	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$0.0	$42.0	$0.0	$42.0	Nonrecurring	TRD Operating

Parenthesis ( ) indicate expenditure decreases

Relates to HB 21, HB 110, and HB 137.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

Responses Not Received From
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 540 amends the Income Tax General Provision Act, Section 7-2-7 NMSA 1978, to create a new income tax bracket for high-income earners. The new income tax bracket applies to married individuals filing separately who have taxable income of over $112,500; heads of household, surviving spouses and married individuals filing joint returns with taxable income over $225,000; and single individuals or estates and trusts with taxable income over $150,000. Table 1 shows the existing individual income tax rates and the proposed new bracket.

Table 1.

A. For married individuals filing separate returns

If the taxable income is:	The tax shall be:	
Not over $4,000	1.7% of taxable income	
Over $4,000 but not over $8,000	$68 plus 3.2% of excess over $4,000	
Over $8,000 but nor over $12,000	$196 plus 4.7% of excess over $8,000	
Over $12,000 but not over $112,500	$384 plus 4.9% of excess over $12,000	
Over $112,500	**$5,308.50 plus 5.9% of excess over $112,500**	**New**

B. For heads of household, surviving spouses and married individuals filing joint returns

If the taxable income is:	The tax shall be:	
Not over $8,000	1.7% of taxable income	
Over $8,000 but not over $16,000	$136 plus 3.2% of excess over $8,000	
Over $16,000 but nor over $24,000	$392 plus 4.7% of excess over $16,000	
Over $24,000 but not over $225,000	$768 plus 4.9% of excess over $24,000	
Over $225,000	**$10,617 plus 5.9% of excess over $225,000**	**New**

C. For single individuals and for estates and trusts

If the taxable income is:	The tax shall be:	
Not over $5,500	1.7% of taxable income	
Over $5,500 but not over $11,000	$93.50 plus 3.2% of excess over $5,500	
Over $11,000 but nor over $16,000	$269.50 plus 4.7% of excess over $11,000	
Over $16,000 but not over $150,000	$505.50 plus 4.9% of excess over $16,000	
Over $150,000	**$7,070.50 plus 5.9% of excess over $150,000**	**New**

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

FISCAL IMPLICATIONS

TRD used 2012 tax year data to estimate the fiscal impact of the bill. TRD's methodology includes personal income growth rates obtained from general fund consensus revenue estimates. TRD then used current personal income growth rates to calculate estimated tax revenue under current law and then applied the bill's proposed changes to obtain equivalent taxes. The difference between the proposed changes and the current law represents the revenue that would be generated if the proposed law is implemented.

The proposed legislation will increase the base tax from $504.50 to $7,070.50 and the tax rate from 4.9 percent to 5.9 percent for about 3 percent of the total tax payers.

SIGNIFICANT ISSUES

TRD notes the proposed legislation in the bill has the potential to dissuade higher income earners from relocating to New Mexico or accepting employment in New Mexico due to the higher income tax rate.

TRD adds the bill raises a potential equal protection concern between married individuals filing separately and single individuals. The flat-rate dollar amount taxed to each of these two classes at the highest taxable income threshold for each class is approximately the same at 4.04 percent. However, married individuals filing separately begin paying tax at the 5.9 percent rate on taxable income above $112,500, whereas single individuals do not begin paying tax at the 5.9 percent rate until taxable income reaches $150,000. TRD believes there may be assumptions built into this structure that married individuals filing separately may have more deductions available to them than single individuals (i.e. an allocable share of deductions related to children or home ownership), which could potentially form a rational basis for disparate treatment.

According to TRD, all other factors being equal, married individuals filing separately would be paying a higher tax rate on the first $37,500 earned between $112,500 and $150,000 than single individuals. As such, if the proposed legislation becomes law, it could end up violating equal protection principles by treating single individuals more favorably than married individuals filing separately.

ADMINISTRATIVE IMPLICATIONS

TRD expects a high impact from the bill (600 hours). The bill requires changes to GenTax and Taxpayer Access Point income tax documents and configurations. These changes will require extensive testing and can be added to already schedule annual changes.

TRD reports the bill should not present any significant administrative hurdles for tax administration as it follows the same basic rate structuring as prior law, but adds a new higher income classification and rate. Early education of the changes for the public would be necessary so that taxpayers are informed of the changes and withhold appropriately for tax year 2015. TRD can modify the personal income tax forms, instructions and publication at a minimal incremental cost.

RELATIONSHIP

Relates to HB 21 – phased-in supplemental income tax; HB 110 – new tax bracket & income tax rates; HB 137 – reduce income tax & create new brackets;

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

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