

1 SENATE BILL 82

2 54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

3 INTRODUCED BY

4 James P. White and Mark Moores

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING A REFUNDABLE TAX CREDIT FOR
12 TAXABLE YEAR 2019; PROVIDING FOR INTEREST IF THE REFUND IS NOT
13 TIMELY MADE; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. A new section of the Income Tax Act is enacted
17 to read:

18 "[NEW MATERIAL] REFUNDABLE TAX CREDIT--2019 TAXABLE
19 YEAR.--

20 A. Except as otherwise provided in Subsection B of
21 this section, a taxpayer who for the 2019 taxable year files a
22 New Mexico income tax return, is a full-year or first-year
23 resident of New Mexico and is not a trust, estate or a
24 dependent of another taxpayer is allowed a credit in the amount
25 determined under Subsection C of this section. The credit may

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1 be allowed even though the taxpayer has no income taxable under
2 the Income Tax Act for the 2019 taxable year.

3 B. A claim for the tax credit provided in this
4 section is not allowed for a resident who was an inmate of a
5 public institution for more than six months during the 2019
6 taxable year.

7 C. The tax credit allowed in this section shall be
8 in the amount determined from the following tables for:

9 (1) married taxpayers filing jointly:

Adjusted Gross Income	Credit Amount	Additional Credit	
	for Taxpayer	Amount for Each	
Over	Not Over	and Spouse	Dependent
0	\$50,000	\$100	\$50.00
\$50,000	\$75,000	\$80.00	\$40.00
\$75,000	\$100,000	\$50.00	\$25.00
\$100,000		\$0.00	\$ 0.00; or

17 (2) taxpayers filing as single, head of
18 household, married filing separately or as a surviving spouse:

Adjusted Gross Income	Credit Amount	Additional Credit	
	for Taxpayer	Amount for Each	
Over	Not Over	Dependent	
0	\$50,000	\$50.00	\$50.00
\$50,000	\$75,000	\$40.00	\$40.00
\$75,000	\$100,000	\$25.00	\$25.00
\$100,000		\$0.00	\$0.00.

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1 D. The tax credit allowed in this section may be
2 credited by the department against the taxpayer's New Mexico
3 income tax liability. If the taxpayer is liable for interest
4 and penalties on the taxpayer's income tax liability for the
5 2019 taxable year prior to the effective date of this section,
6 the amount of interest and penalties shall not be recomputed
7 due to the credit provided by this section but may be satisfied
8 by applying the credit to the penalty or interest due.

9 E. If the tax credit exceeds the taxpayer's income
10 tax liability, the excess shall be refunded to the taxpayer.

11 F. For purposes of this section, "dependent" means
12 "dependent" as defined by Section 152 of the Internal Revenue
13 Code."

14 **SECTION 2.** Section 7-1-68 NMSA 1978 (being Laws 1965,
15 Chapter 248, Section 69, as amended) is amended to read:

16 "7-1-68. INTEREST ON OVERPAYMENTS.--

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

20 B. Interest on overpayments of tax shall accrue and
21 be paid at the underpayment rate established pursuant to
22 Section 6621 of the Internal Revenue Code, computed on a daily
23 basis; provided that if a different rate is specified by a
24 compact or other interstate agreement to which New Mexico is a
25 party, that rate shall apply to amounts due under the compact

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1 or other agreement.

2 C. Unless otherwise provided by this section,
3 interest on an overpayment not arising from an assessment by
4 the department shall be paid from the date of the claim for
5 refund until a date preceding by not more than thirty days the
6 date of the credit or refund to any person; and interest on an
7 overpayment arising from an assessment by the department shall
8 be paid from the date of overpayment until a date preceding by
9 not more than thirty days the date of the credit or refund to
10 any person.

11 D. Interest in the amount that may be refunded
12 pursuant to Section 1 of this 2020 act shall only be allowed
13 and paid if the amount is not refunded or credited within one
14 hundred twenty days after the effective date of that section or
15 the applicable period established in Subsection E of this
16 section, whichever is later.

17 [~~D.~~] E. No interest shall be allowed or paid with
18 respect to an amount credited or refunded if:

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

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

22 (a) fifty-five days of the date of the
23 complete claim for refund of income tax, pursuant to either the
24 Income Tax Act or the Corporate Income and Franchise Tax Act
25 for the tax year immediately preceding the tax year in which

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1 the claim is made;

2 (b) sixty days of the date of the complete
3 claim for refund of any tax not provided for in this paragraph;

4 (c) seventy-five days of the date of the
5 complete claim for refund of gasoline tax to users of gasoline
6 off the highways;

7 (d) one hundred twenty days of the date of the
8 complete claim for refund of tax imposed pursuant to the
9 Resources Excise Tax Act, the Severance Tax Act, the Oil and
10 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
11 the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
12 Valorem Production Tax Act, the Natural Gas Processors Tax Act
13 or the Oil and Gas Production Equipment Ad Valorem Tax Act; or

14 (e) one hundred twenty days of the date of the
15 complete claim for refund of income tax, pursuant to the Income
16 Tax Act or the Corporate Income and Franchise Tax Act, for any
17 tax year more than one year prior to the year in which the
18 claim is made;

19 (3) Sections 6611(f) and 6611(g) of the Internal
20 Revenue Code, as those sections may be amended or renumbered,
21 prohibit payment of interest for federal income tax purposes;

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

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1 1978;

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

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

11 (7) the refund results from a tax credit
12 pursuant to the Investment Credit Act, Laboratory Partnership
13 with Small Business Tax Credit Act, Technology Jobs and
14 Research and Development Tax Credit Act, Film Production Tax
15 Credit Act, Affordable Housing Tax Credit Act or a rural job
16 tax credit or high-wage jobs tax credit.

17 [~~E-~~] F. Nothing in this section shall be construed
18 to require the payment of interest upon interest."

19 **SECTION 3. APPROPRIATION.**--Seven hundred fifty thousand
20 dollars (\$750,000) is appropriated from the general fund to the
21 taxation and revenue department for expenditure in fiscal year
22 2020 to administer the tax credits provided pursuant to Section
23 1 of this act. Any unexpended or unencumbered balance
24 remaining at the end of fiscal year 2020 shall revert to the
25 general fund.

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SECTION 4. APPLICABILITY.--The provisions of this act apply to taxable years beginning between January 1, 2019 and December 31, 2019.

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.