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## FISCAL IMPACT REPORT

SPONSOR Russell DATE TYPED 02/17/98 HB 35/aHTRC/aHF1#1  
 SHORT TITLE Gross Receipts Tax Technical Changes SB \_\_\_\_\_  
 ANALYST Gallegos

### REVENUE (Thousands)

Estimated Revenue FY99	Estimated Revenue FY00	Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
\$ <u>(.1)</u> *	\$ <u>(.1)</u>	\$ <u>na</u>	<u>Recurring</u>	<u>GF</u>
\$ <u>4.9</u>	\$ <u>5.1</u>	\$ <u>na</u>	<u>Recurring</u>	<u>Muni/Cnty</u>

\* \_\_\_\_\_  
 (Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Taxation and Revenue Department

### SUMMARY

#### Synopsis of HFI Amendment #1

The HFI#1 amendment replaces Section 4 (Section 7-9-57) of this bill with a revision that makes technical changes to the current deduction. In essence it takes the deduction out of a "double negative" mode and makes it a "positive" mode and clearer to understand.

The HFI#1 amendment does not affect any of the changes and fiscal implications made by the HTRC amendments.

#### Synopsis of HTRC amendments

The HTRC amendment effectively makes the following changes to the bill:

- a) deletes the proposed definition of "product of a service" from Section 7-9-57; and
- b) reinstates the exemption from municipal and county taxation for the transportation industry involved in inter-city and inter-county transportation of property or persons.

The HTRC amendments change the fiscal impact as follows:

The Taxation and Revenue Department has estimated that a net loss of \$0.1 thousand and a gain of \$4.9 thousand for local governments would occur in FY99. The figures were arrived as follows: (with the assumptions that <10 meant 9.9 and <5 meant 4.9)

Exemption for Diplomats	(10.0)	State General Fund
Agricultural Implements*	<u>9.9</u>	State General Fund
net	( 0.1)	State General Fund
Exemption for Diplomats	**	Municipalities/Counties
Agricultural Implements*	4.9	Municipalities/Counties

\*Additional taxes would be collected on the receipts from the sale of agricultural implements to persons not regularly engaged in farming or ranching.

\*\*The impact from the deduction for diplomats and missions is insignificant since there are only 3 diplomats in New Mexico at this time.

Synopsis of Original Bill

This bill proposes to correct a number of problems in the Gross Receipts and Compensating Tax Act and the Local Option Gross Receipts Taxes Act by doing the following:

- Section 1- expands the exemption from the gross receipts tax enjoyed by both federal, state and local government and their agencies to foreign nations, their agencies or diplomats where a federal treaty would be violated otherwise.
- Section 2- creates a new deduction for the sale or lease of tangible personal property and the sale of services to diplomats governed by the Treaty of Vienna. (Vienna Convention).
- Section 3- permits the Taxation and Revenue Department to allow the acceptance of multi jurisdictional certificates or other similar state certificates as proof of deductibility of a transaction by regulation.
- Section 4- clarifies the language of the deduction for the export of a service and includes a definition of a "product of a service."
- Section 5- clarifies and narrows the 50% deduction from gross receipts for the sale of agricultural implements.
- Section 6- clarifies and narrows the 50% deduction from compensating tax for the importation of agricultural implements.
- Section 7- eliminates the exemption from supplemental municipal gross receipts tax for the transportation industry within New Mexico.

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Section 8- eliminates the exemption from the Municipal Local Options Gross Receipts Taxes Act for the transportation industry within New Mexico.

Section 9- repeals the similar exemptions in the county gross receipts taxes as those in Sections 7 & 8 above.

The effective date of this bill is July 1, 1998.

**FISCAL IMPLICATIONS**

The Taxation and Revenue Department has estimated that a net loss of \$0.1 thousand and a gain of \$105.9 thousands for local governments would occur in FY99.

The figures were arrived as follows: (with the assumptions that < 10 meant 9.9 and < 5 meant 4.9)

Exemption for Diplomats	(10.0)	State General Fund
Agricultural Implements*	<u>9.9</u>	State General Fund
net	( 0.1)	State General Fund
Exemption for Diplomats	***	Municipalities/Counties
Agricultural Implements*	4.9	Municipalities/Counties
Transportation Services **	28.0	Counties
Transportation Services **	<u>73.0</u>	Municipalities
net	105.9	

\* Additional taxes would be collected on the receipts from the sale of agricultural implements to persons not regularly engaged in farming or ranching.

\*\* Municipal and County local option taxes do not currently apply to transporting persons or property between counties or between municipalities. This would treat the transportation industry the same as any other business. The transportation company will be taxed at the rate at which it maintains its principal place of business.

\*\*\* The impact from the deduction for diplomats and missions is insignificant since there are only 3 diplomats in New Mexico at this time.

**ADMINISTRATIVE IMPLICATIONS**

The Taxation and Revenue Department estimates that the administrative impacts will be insignificant.

**TECHNICAL ISSUES**

Need to address the parallel exemption from compensating tax currently available for the federal government, its agencies, the state of New Mexico, its entities and political subdivisions and apply it to the foreign nations, their agencies and diplomats as was done in the exemption from gross receipts tax.

**OTHER SUBSTANTIVE ISSUES**

1. Need to further study the implications of allowing a deduction for the sale of services or the leasing of property to foreign nations, agencies and diplomats and compare to the treatment of federal and state governments. IF the service or lease is not within the confines of the consulate or diplomatic offices, the state is granting a deduction which neither the federal nor state government or local governments currently enjoy. IF the service or lease is within the confines of the consulate or diplomatic offices, one could argue that it is foreign sovereign territory, similar to what has happened with the Indian tribes, nations and pueblos in New Mexico. Also, the treaties between the federal government and the foreign country acknowledge the sovereignty within the specified areas.
2. The Taxation and Revenue Department states that enactment of the proposed legislation would improve administration of New Mexico's gross receipts and compensating taxes.

MFG/gm