NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

FISCAL IMPACT REPORT

SPONSOR Eisenstadt DATE TYPED 02/05/98 HB

SHORT TITLE Accounting & Administrative Services Deduction SB 204

ANALYST Gallegos

REVENUE
(Thousands)

Estimated Revenue		Subsequent	Recurring	Fund
FY99	FY00	Years Impact	or Non-Rec	Affected
$ (200.0)*	$ (200.0)	$ (200.0)	Recurring	GF

***See Fiscal Implications Section.**

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates/Conflicts with/Companion to/Relates to none

SOURCES OF INFORMATION

Taxation and Revenue Department

SUMMARY

Synopsis of Bill

The bill proposes to expand the deduction for the receipts of administrative, managerial and accounting services performed by a corporation for its affiliates and the receipts from the joint use or sharing of office machines and facilities on a cost or non-profit basis for its affiliates to ***"limited liability partnerships"***. The bill also defines a *"limited liability partnership"* similar to the definition of an affiliated corporation (which is already defined in statute).

This proposal is applicable to receipts received after July 1, 1998 and is effective on July 1, 1998.

FISCAL IMPLICATIONS

The Taxation and Revenue Department in preliminary discussions had estimated that the fiscal loss to be under $200.0 annual recurring. An exact estimate cannot be computed because of confidentiality. The Taxation and Revenue Department has stated that the legislature should obtain direct testimony from the affected businesses.

ADMINISTRATIVE IMPLICATIONS

Training would be needed and could be incorporated into the training programs of TRD and the annual tax workshops of TRD.

TECHNICAL ISSUES

The Taxation and Revenue Department stated that the definition of "affiliated limited partnership" could be shortened by eliminating subparagraph (a) (which refers to voting power), since many limited partnership agreements do not specify voting rights. In the alternative, replace "corporation" with "limited partnership" on page 2, line 10.

OTHER SUBSTANTIVE ISSUES

1. The proposed language restricts the expansion of the deduction to limited liability partnerships that are at least 50% owned by a corporation. This has not answered the question of whether a limited liability partnership is treated that same as an affiliate for income tax purposes. Generally the receipts and expenses between affiliates are adjusted out in a consolidating schedule for income tax purposes; while the income and receipts of a partnership are not adjusted out. A corporation reports only its proportionate share of the net income or loss from the partnership activities. Partnerships are not generally treated the same as affiliates for federal income tax purposes. The only time is if it has elected to be treated as a corporation for federal purposes.

2. The impact of this bill is to create a disadvantage for consultants, accountants and other professional businesses that have elected to be treated as limited liability partnerships rather than corporations and affiliates.

3. This, as in the past, appears to only affect a minuscule segment of businesses in New Mexico.

MFG/sb