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

SPONSOR Martinez
ORIGINAL DATE 01/31/13
LAST UPDATED
HB 237

SHORT TITLE Chile Production Gross Receipts
SB

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
	($3,762.0)	($3,829.0)	($3,861.0)	($3,904.0)	Recurring	General Fund
	($2,508.0)	($2,552.0)	($2,574.0)	($2,603.0)	Recurring	Local Governments
	($6,270.0)	($6,381.0)	($6,435.0)	($6,507.0)	Recurring	Total

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Department of Agriculture (NMDA)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House bill 237 amends creates a new deduction from the gross receipts tax compensating tax for equipment directly related to chile production or chile processing.

Effective Date: From July 1, 2013, through June 30, 2019.

FISCAL IMPLICATIONS

In light of analyst's recent experience, TRD's fiscal impact has been tripled to adjust for the overly broad definition of "chile processing".

TRD notes that New Mexico's chile crop has faced steady decline in recent years, although 2011 showed some improvement over 2010's historic low. 9,500 acres were harvested in 2011 compared with the historic high of 34,500 acres harvested in 1992. According to a USDA report, the 2011 crop itself was estimated at $46.7 million compared to $41.6 million in 2010. The value of the chile industry as a whole is much higher, estimated to be about $300 million annually.

Assuming an investment in eligible equipment of 10 percent annually, eligible expenditures would be $30 million. Applying the statewide average gross receipts tax (GRT) rate of approximately 6.8 percent, estimates are forecast based on the BBER FOR-UNM December 2012 Forecast For Agricultural Employment. The General Fund is estimated to bear 60 percent of the revenue impact with the remaining 40 percent falling to local governments.

The spending by chile growers on agricultural implements is expected to be partly captured under the existing deduction for agricultural implements (Section 7-9-62). That deduction is only for 50 percent of the value, so taking this deduction would be advantageous. Barring the possibility for double dipping, any chile producers taking this deduction would decrease the amount of that deduction.

ADMINISTRATIVE IMPLICATIONS

TRD claims a high impact. Either a new location code could be used, or a supplemental form could be used and attached to the CRS-1 return, or both. Because deductions to the compensating taxes are not reported on the CRS-1 return, a supplemental form could be used to report the deductions to compensating tax, otherwise the CRS-1 return would need to be revised. More time and resources would be necessary to revise the CRS-1 return, because of the software developers and businesses who e-file and bulk file these returns. Many will need to re-program their e-file systems. The new location code and a revised CRS-1 return would cause the need for significant modifications to GenTax, which is not possible given the conversion of GenTax to version 9. A longer CRS-1 return would significantly slow processing of the paper CRS-1 returns received, delaying distributions, and causing the Department to re-vamp the equipment currently used to process those paper returns. An alternative is to create a supplemental form. However, the supplemental form would likely have to be manually recorded. Because of the number of deductions recorded, TRD may need to hire additional FTEs to accommodate this manual process. Currently we have no way for a supplemental form to be e-filed, and we have an e-file requirement for the majority of taxpayers. Thus, we would create a burden on the taxpayer if we require the taxpayer to report the deductions via paper in addition to e-filing the return.

The bill requests the new deduction be stated separately by the taxpayer on forms provided by department and the department is required to provide a report to track this deduction. It becomes a necessity that the changes on the CRS-1 return to have a separate schedule to track deductions. The changes will require ITD to make changes on CRS Doc (GenTax), EDCR, CRSNET and data extracting process, totaling 300 hours.

TRD is upgrading its data systems relating to GenTax, requiring that the systems be "locked-down" to any modification until July 1, 2013. The department's IT resources are fully engaged with contractors during this period to test and validate the systems' upgrades, and pursuant to contractual agreements and best-practice standards may not undertake systems changes until system upgrade verifications are completed. TRD's IT personnel are unavailable to begin to develop systems modifications (e.g., new deductions, data reporting, functionality, etc.) until after July 1st, and therefore NO SYSTEMS CHANGES CAN BE IMPLEMENTED UNTIL OCTOBER 1, 2013 to allow adequate time for development, testing and verification of any new system requirements.

As a result TRD will not be able to implement the GenTax modifications necessary to record and claim the tax deduction/credit until at least October 1, 2013, after the effective date of the legislation.

TECHNICAL ISSUES

The phrase "chile processing" is so broad that it could easily be construed to include businesses such as restaurants.

TRD notes the following technical issues:

- Page 2, line 6, and page 4, line 9 - limits the deduction if a deduction for an agricultural implement is claimed on the same equipment purchase; however, it requires that both deductions are claimed in the same period. This deduction can be claimed up to 12 months from the purchase date, so that the limitation can easily be avoided by claiming the two deductions in different months.

- Page 1, Subsection A, and page 3, Subsection A, both state that the deduction may be taken "within the twelve-month period beginning with the month that the equipment is purchased". Pursuant to Section 7-9-11, the tax must be reported on or before the 25th day of the month following the month in which the taxable event occurs.

- Section 1 should be deleted since compensating tax is a use tax and it would be more appropriate to allow a deduction from the sale of equipment, as stated in Section 2 of the bill.

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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