

HOUSE BILL 93

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

Elaine Sena Cortez

AN ACT

RELATING TO TAXATION; INCREASING THE STANDARD DEDUCTION FOR  
INCOME TAX PURPOSES TO TWO HUNDRED FIVE PERCENT OF THE STANDARD  
DEDUCTION ALLOWED BY THE FEDERAL GOVERNMENT.

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

SECTION 1. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended by Laws 2023, Chapter 17, Section 1 and by Laws 2023, Chapter 159, Section 1) is amended to read:

"7-2-2. DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code, as that section may be amended or renumbered;

## B. "base income":

.232933.1

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus:

(a) for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year; and

(b) for taxable years beginning on or after January 1, 2023, an amount equal to the amount of credit claimed and allowed for that year pursuant to Section 7-3A-10 NMSA 1978 with respect to the distributed net income of a pass-through entity;

(2) means, for taxpayers other than estates or trusts, that part of the taxpayer's income defined as adjusted gross income plus:

(a) for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year; and

(b) for taxable years beginning on or after January 1, 2023, an amount equal to the amount of credit claimed and allowed for that year pursuant to Section 7-3A-10

underscored material = new  
[bracketed material] = delete

1 NMSA 1978 with respect to the distributed net income of a pass-  
2 through entity;

3 (3) includes, for all taxpayers, any other  
4 income of the taxpayer not included in adjusted gross income  
5 but upon which a federal tax is calculated pursuant to the  
6 Internal Revenue Code for income tax purposes, except amounts  
7 for which a calculation of tax is made pursuant to Section 55  
8 of the Internal Revenue Code, as that section may be amended or  
9 renumbered; "base income" also includes interest received on a  
10 state or local bond;

11 (4) includes, for all taxpayers, an amount  
12 deducted pursuant to Section 7-2-32 NMSA 1978 in a prior  
13 taxable year if:

14 (a) such amount is transferred to  
15 another qualified tuition program, as defined in Section 529 of  
16 the Internal Revenue Code, not authorized in the Education  
17 Trust Act; or

18 (b) a distribution or refund is made for  
19 any reason other than: 1) to pay for federally allowable  
20 qualified higher education expenses, set out in Section 529 of  
21 the Internal Revenue Code, including other expenses allowed  
22 pursuant to that section as qualified expenses; or 2) upon the  
23 beneficiary's death, disability or receipt of a scholarship;  
24 and

25 (5) excludes, for a taxpayer who conducts a

underscored material = new  
[bracketed material] = delete

1 lawful business pursuant to the laws of the state, an amount  
2 equal to any expenditure that is eligible to be claimed as a  
3 federal income tax deduction but is disallowed by Section 280E  
4 of the Internal Revenue Code, as that section may be amended or  
5 renumbered;

6 C. "compensation" means wages, salaries,  
7 commissions and any other form of remuneration paid to  
8 employees for personal services;

9 D. "department" means the taxation and revenue  
10 department, the secretary or any employee of the department  
11 exercising authority lawfully delegated to that employee by the  
12 secretary;

13 E. "fiduciary" means a guardian, trustee, executor,  
14 administrator, committee, conservator, receiver, individual or  
15 corporation acting in any fiduciary capacity;

16 F. "filing status" means "married filing joint  
17 returns", "married filing separate returns", "head of  
18 household", "surviving spouse" and "single", as those terms are  
19 generally defined for federal tax purposes;

20 G. "fiscal year" means any accounting period of  
21 twelve months ending on the last day of any month other than  
22 December;

23 H. "head of household" means "head of household" as  
24 generally defined for federal income tax purposes;

25 I. "individual" means a natural person, an estate,

underscored material = new  
[bracketed material] = delete

1 a trust or a fiduciary acting for a natural person, trust or  
2 estate;

3 J. "Internal Revenue Code" means the United States  
4 Internal Revenue Code of 1986, as amended;

5 K. "lump-sum amount" means, for the purpose of  
6 determining liability for federal income tax, an amount that  
7 was not included in adjusted gross income but upon which the  
8 five-year-averaging or the ten-year-averaging method of tax  
9 computation provided in Section 402 of the Internal Revenue  
10 Code, as that section may be amended or renumbered, was  
11 applied;

12 L. "modified gross income" means all income of the  
13 taxpayer and, if any, the taxpayer's spouse and dependents,  
14 undiminished by losses and from whatever source, including:

- 15 (1) compensation;
- 16 (2) net profit from business;
- 17 (3) gains from dealings in property;
- 18 (4) interest;
- 19 (5) net rents;
- 20 (6) royalties;
- 21 (7) dividends;
- 22 (8) alimony and separate maintenance payments;
- 23 (9) annuities;
- 24 (10) income from life insurance and endowment  
25 contracts;

.232933.1

- (11) pensions;
- (12) discharge of indebtedness;
- (13) distributive share of partnership income;
- (14) income in respect of a decedent;
- (15) income from an interest in an estate or a trust;
- (16) social security benefits;
- (17) unemployment compensation benefits;
- (18) workers' compensation benefits;
- (19) public assistance and welfare benefits;
- (20) cost-of-living allowances; and
- (21) gifts;

M. "modified gross income" excludes:

(1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;

(2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of compensation;

(3) payments pursuant to a federal, state or local government program directly or indirectly to a third party on behalf of the taxpayer when identified to a particular use or invoice by the payer; or

(4) payments for credits and rebates pursuant to the Income Tax Act and made for a credit pursuant to Section

underscored material = new  
[bracketed material] = delete

1 7-3-9 NMSA 1978;

2                   N. "net income" means, for estates and trusts, base  
3 income adjusted to exclude amounts that the state is prohibited  
4 from taxing because of the laws or constitution of this state  
5 or the United States and means, for taxpayers other than  
6 estates or trusts, base income adjusted to exclude:

7                   (1) an amount equal to two hundred five  
8 percent of the standard deduction allowed the taxpayer for the  
9 taxpayer's taxable year by Section 63 of the Internal Revenue  
10 Code, as that section may be amended or renumbered;

11                   (2) an amount equal to the itemized deductions  
12 defined in Section 63 of the Internal Revenue Code, as that  
13 section may be amended or renumbered, allowed the taxpayer for  
14 the taxpayer's taxable year less the amount excluded pursuant  
15 to Paragraph (1) of this subsection and less the amount of  
16 state and local income and sales taxes included in the  
17 taxpayer's itemized deductions;

18                   (3) an amount equal to the product of the  
19 exemption amount allowed for the taxpayer's taxable year by  
20 Section 151 of the Internal Revenue Code, as that section may  
21 be amended or renumbered, multiplied by the number of personal  
22 exemptions allowed for federal income tax purposes;

23                   (4) income from obligations of the United  
24 States of America less expenses incurred to earn that income;

25                   (5) other amounts that the state is prohibited

.232933.1

1 from taxing because of the laws or constitution of this state  
2 or the United States;

3 (6) for taxable years beginning on or after  
4 January 1, 2013, an amount equal to the sum of any net  
5 operating loss carryover deductions to that year claimed and  
6 allowed; provided that the amount of any net operating loss  
7 carryover may be excluded only as follows:

8 (a) in the case of a timely filed  
9 return, in the taxable year immediately following the taxable  
10 year for which the return is filed; or

11 (b) in the case of amended returns or  
12 original returns not timely filed, in the first taxable year  
13 beginning after the date on which the return or amended return  
14 establishing the net operating loss is filed; and

15 (c) in either case, if the net operating  
16 loss carryover exceeds the amount of net income exclusive of  
17 the net operating loss carryover for the taxable year to which  
18 the exclusion first applies, in the next nineteen succeeding  
19 taxable years in turn until the net operating loss carryover is  
20 exhausted for any net operating loss carryover from a taxable  
21 year beginning on or after January 1, 2013; in no event shall a  
22 net operating loss carryover from a taxable year beginning: 1)  
23 prior to January 1, 2013 be excluded in any taxable year after  
24 the fourth taxable year beginning after the taxable year to  
25 which the exclusion first applies; and 2) on or after January

1, 2013 be excluded in any taxable year after the nineteenth taxable year beginning after the taxable year to which the exclusion first applies; and

(7) for taxable years beginning on or after January 1, 2011, an amount equal to the amount included in adjusted gross income that represents a refund of state and local income and sales taxes that were deducted for federal tax purposes in taxable years beginning on or after January 1, 2010;

0. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

P. "net operating loss carryover" means the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (6) of Subsection N of this section, may be excluded from base income;

Q. "nonresident" means every individual not a resident of this state;

R. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the

1 extent permitted by law, any federal, state or other  
2 governmental unit or subdivision or agency, department or  
3 instrumentality thereof;

4           S. "resident" means an individual who is domiciled  
5 in this state during any part of the taxable year or an  
6 individual who is physically present in this state for one  
7 hundred eighty-five days or more during the taxable year; but  
8 any individual, other than someone who was physically present  
9 in the state for one hundred eighty-five days or more during  
10 the taxable year, who, on or before the last day of the taxable  
11 year, changed the individual's place of abode to a place  
12 without this state with the bona fide intention of continuing  
13 actually to abide permanently without this state is not a  
14 resident for the purposes of the Income Tax Act for periods  
15 after that change of abode;

16           T. "secretary" means the secretary of taxation and  
17 revenue or the secretary's delegate;

18           U. "state" means any state of the United States,  
19 the District of Columbia, the commonwealth of Puerto Rico, any  
20 territory or possession of the United States or any political  
21 subdivision of a foreign country;

22           V. "state or local bond" means a bond issued by a  
23 state other than New Mexico or by a local government other than  
24 one of New Mexico's political subdivisions, the interest from  
25 which is excluded from income for federal income tax purposes

under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

W. "surviving spouse" means "surviving spouse" as generally defined for federal income tax purposes;

X. "taxable income" means net income less any lump-sum amount;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of the

Z. "taxpayer" means any individual subject to the tax imposed by the Income Tax Act."

**SECTION 2. APPLICABILITY.--**The provisions of this act apply to taxable years beginning on or after January 1, 2026.

- 11 -

underscored material = new  
[bracketed material] = delete