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SENATE BILL 11

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Shannon Robinson

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT TO PROVIDE A DEDUCTION FOR NET CAPITAL GAIN INCOME FROM THE SALE OF A CLOSELY HELD BUSINESS.

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

Section 1. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection [B] C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed one thousand dollars (\$1,000); or

(2) the taxpayer's net capital gain income

underscored material = new
[bracketed material] = delete

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1 attributable to the sale of a closely held business if the
2 income is included in net income and allocated or apportioned
3 to New Mexico.

4 B. A husband and wife who file separate returns
5 for a taxable year in which they could have filed a joint
6 return may each claim only one-half of the deduction provided
7 by this section that would have been allowed on the joint
8 return.

9 ~~[B.]~~ C. A taxpayer may not claim the deduction
10 provided in Subsection A of this section if the taxpayer has
11 claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

12 ~~[C.]~~ D. As used in this section:

13 (1) "closely held business" means a trade or
14 business:

15 (a) operated as a sole proprietorship;
16 or

17 (b) operated by a legal entity whose
18 outstanding equity interests are owned by seventy-five or
19 fewer individuals;

20 (2) "equity interest" means the equity of a
21 legal entity, including the capital stock of a corporation,
22 the interest of a general or limited partner in a partnership
23 or the interest of a member of a limited liability company;

24 (3) "net capital gain" means "net capital
25 gain" as defined in Section 1222 (11) of the Internal Revenue

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[bracketed material] = delete

1 Code; and

2 (4) "sale of a closely held business" means
3 the sale or exchange of:

4 (a) substantially all of the assets of
5 a closely held business; or

6 (b) a taxpayer's entire equity interest
7 in a closely held business in a transaction in which
8 substantially all of the equity interests of the closely held
9 business are sold or exchanged. "

10 Section 2. APPLICABILITY. -- The provisions of this act
11 apply to taxable years beginning on or after January 1, 2002.

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