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FISCAL IMPACT REPORT



SPONSOR: Varela DATE TYPED: 02/07/02 HB 374

SHORT TITLE: Clarify “Basis for Refund” SB _____

ANALYST: Hayes

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03			
	(\$**)	(\$**)	Recurring	Various funds affected by the Tax Administration Act

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)
LFC files

SUMMARY

Synopsis of Bill

House Bill 374 amends Section 7-1-26 NMSA 1978, CLAIM FOR REFUND, in Subsection A to define the term “basis for the refund.” In making a refund claim, taxpayers must provide the taxpayer’s name, address, identification number, the type of tax, the period, the amount and the *basis for refund*, meaning a written explanation sufficient to identify the issue or issues that the taxpayer asserts as the grounds upon which the refund is being claimed.

Other provisions amended in Subsection A include:

- Claims for refunds cannot be rejected as incomplete or invalid by the Secretary of the Taxation and Revenue Department solely because TRD needs additional information for the department’s evaluation or processing of the claim.
- Amendments to the refund claim in response to the department’s request for information and made within 120 days of the original refund claim date will not constitute a new claim for purposes of interest accrual on the claim.

Significant Issues

1) HB374 expands upon tenets of taxpayers' rights by not allowing TRD to automatically reject a taxpayer's claim for refund simply because the taxpayer's initial refund claim/basis for refund does not include all necessary documentation required by the agency. In essence, the bill directs TRD to conduct a more thorough analysis of the refund claim, to contact the taxpayer, to assist the taxpayer and to obtain any additional necessary information from the taxpayer before denying a claim.

However, TRD's perception is that the bill "*is fundamentally a challenge to the department to dedicate more staff time to processing refunds. Unfortunately, the approach taken in the bill is a rather blunt instrument to achieve this goal.*"

2) By clarifying "basis for the refund" in HB374, TRD claims that it "*sets a relatively low standard for the amount of information that must be included in the original claim...If reduced information makes it harder for the department to grant or deny the claim, there would need to be further exchanges between the department and the taxpayer.*"

It is unclear why communication with the taxpayer appears to be a 'task' to TRD as indicated in above statement. Moreover, the bill does not attempt to lower the standards for taxpayers' documentation as TRD interprets it; the bill simply directs TRD to not reject the refund claim if all appropriate documentation was not initially included in the taxpayer's letter.

3) If TRD does a more thorough review of claims for refund and attempts to resolve disputed issues up front, then perhaps this process would reduce the number of protests filed in the future, thereby reducing costs to the department.

However, TRD believes that having additional communication between the department and the taxpayer, or having more "*exchanges, would "run the clock" on the amount of time the department has to respond to the refund claim without owing interest. The Department would have three options: (1) grant more refunds, potentially reducing revenue; (2) allow the interest-free period to elapse and pay interest on more refund claims; or (3) deny more refunds and force the taxpayer to seek resolution through the protest process.*"

If TRD ends up granting more refunds, the assumption is that the refund was appropriately due to the taxpayer. Revenue to the state would naturally decrease. If by interacting with the taxpayer in a positive, helpful manner and the taxpayer receives the claimed refund, the process should be viewed as a good thing-- not as a loss. Ultimately, the goal of the Taxation and Revenue Department is to ensure taxpayer compliance and to collect the correct amount of liability.

FISCAL IMPLICATIONS

(\$**) TRD claims that "*unless the department undertakes a major revision in its approach to refunds, [HB374] would force the payment of additional interest on refund claims for the various taxes collected under the Tax Administration Act. This would result in smaller net revenue distributions to a wide variety of beneficiaries although the amount is unknown.*"

While there is a potential issue with interest accrual, this analyst estimates that any additional interest paid to taxpayers on refund claims due to extra processing time would be zero to minimal, particularly if TRD addresses these claims in accordance with the legislative intent described herein.

OTHER SUBSTANTIVE ISSUES

It appears that the Taxation and Revenue Department is not in agreement with this bill because it seemingly shifts a “burden” to TRD. However, the *Accountability in Government Act* states that agencies should be held accountable for the services they deliver; should have incentives to deliver services in the most efficient and effective manner; and should strive to keep citizens informed of the public benefits derived from the agency’s services and of the progress agencies are making with regard to improving performance. TRD claims that this bill will require a major revision in its approach to refunds, adding another burden to its tax processors. Using the service-oriented message of the *Accountability in Government Act*, perhaps more effective and efficient internal procedures can be developed that will address both the concerns of the agency and the goals of the legislation while still serving the public.

CMH/njw