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HOUSE BILL 82

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; MAKING TECHNICAL CORRECTIONS TO A SECTION OF THE CORPORATE INCOME AND FRANCHISE ACT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

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

Section 1. Section 7-2A-9.1 NMSA 1978 (being Laws 1986, Chapter 5, Section 1, as amended by Laws 2003, Chapter 86, Section 2 and by Laws 2003, Chapter 295, Section 1) is amended to read:

"7-2A-9.1. ESTIMATED TAX DUE--PAYMENT OF ESTIMATED TAX--PENALTY--EXEMPTION.--

A. Every taxpayer shall pay estimated corporate income tax to the state of New Mexico during its taxable year if its tax after applicable credits is five thousand dollars (\$5,000) or more in the current taxable year. A taxpayer to

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1 which this section applies shall calculate estimated tax by one
2 of the following methods:

3 (1) estimating the amount of tax due, net of
4 any credits, for the current taxable year, provided that the
5 estimated amount is at least eighty percent of the amount
6 determined to be due for the taxable year;

7 (2) using as the estimate an amount equal to
8 one hundred percent of the tax due for the previous taxable
9 year, if the previous taxable year was a full twelve-month
10 year;

11 (3) using as the estimate an amount equal to
12 one hundred ten percent of the tax due for the taxable year
13 immediately preceding the previous taxable year, if the taxable
14 year immediately preceding the previous taxable year was a full
15 twelve-month year and the return for the previous taxable year
16 has not been filed and the extended due date for filing that
17 return has not occurred at the time the first installment is
18 due for the taxable year; or

19 (4) estimating the amount of tax due, net of
20 any credits, for each fiscal quarter of the current taxable
21 year, provided that the estimated amount is at least eighty
22 percent of the amount determined to be due for that quarter.

23 B. If Subsection A of this section applies, the
24 amount of estimated tax shall be paid in installments as
25 provided in this subsection. Twenty-five percent of the

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1 estimated tax calculated under Paragraph (1), (2) or (3) of
2 Subsection A of this section or one hundred percent of the
3 estimated tax calculated under Paragraph (4) of Subsection A of
4 this section is due on or before the following dates: the
5 fifteenth day of the fourth month of the taxable year, the
6 fifteenth day of the sixth month of the taxable year, the
7 fifteenth day of the ninth month of the taxable year and the
8 fifteenth day of the twelfth month of the taxable year.

9 Application of this subsection to a taxable year that is a
10 fractional part of a year shall be determined by regulation of
11 the secretary.

12 C. Every taxpayer to which Subsection A of this
13 section applies that fails to pay the estimated tax when due or
14 that makes estimated tax payments during the taxable year that
15 are less than the lesser of eighty percent of the income tax
16 imposed on the taxpayer under the Corporate Income and
17 Franchise Tax Act or the amount required by Paragraph (2), (3)
18 or (4) of Subsection A of this section shall be subject to the
19 interest and penalty provisions of Sections 7-1-67 and 7-1-69
20 NMSA 1978 on the underpayment.

21 D. For purposes of this section, the amount of
22 underpayment shall be the excess of the amount of the
23 installment that would be required to be paid if the estimated
24 tax were equal to eighty percent of the tax shown on the return
25 for the taxable year or the amount required by Paragraph (2),

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1 (3) or (4) of Subsection A of this section or, if no return was
2 filed, eighty percent of the tax for the taxable year for which
3 the estimated tax is due less the amount, if any, of the
4 installment paid on or before the last date prescribed for
5 payment.

6 E. For purposes of this section, the period of
7 underpayment shall run from the date the installment was
8 required to be paid to whichever of the following dates is
9 earlier:

10 (1) the fifteenth day of the third month
11 following the end of the taxable year; or

12 (2) with respect to any portion of the
13 underpayment, the date on which such portion is paid. For the
14 purposes of this paragraph, a payment of estimated tax on any
15 installment date shall be applied as a payment of any previous
16 underpayment only to the extent such payment exceeds the amount
17 of the installment determined under Subsection D of this
18 section due on such installment date.

19 F. For the purposes of this section, the amount of
20 tax deducted and withheld with respect to a taxpayer by a
21 remitter under the Oil and Gas Proceeds Withholding Tax Act
22 shall be deemed a payment of estimated tax. An equal amount of
23 the amount of withheld tax shall be deemed paid on each due
24 date for the applicable taxable year unless the taxpayer
25 establishes the dates on which all amounts were actually

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1 withheld, in which case the amounts withheld shall be deemed
2 payments of estimated tax on the dates on which the amounts
3 were actually withheld. "

4 Section 2. APPLICABILITY. --The provisions of this act
5 apply to taxable years beginning on or after January 1, 2005.

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