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FISCAL IMPACT REPORT

SPONSOR Whitaker DATE TYPED 2/5/2004 HB 258/aHTRC

SHORT TITLE Streamlined Sales and Use Tax Administration SB _____

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
NFI	NFI	NFI		

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation Revenue Committee amendments make the following change to the bill:

- Confidentiality provisions are changed to allow TRD to share information with the Workers' Compensation Administration to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees.
- TRD is allowed to share information with the NM Department of Labor for the purpose of enforcing unemployment insurance taxes. The Labor Department is made subject to the confidentiality provisions in the Tax Administration Act.
- TRD is permitted to act on refund claims more than 210 days old provided the taxpayer can show the claim was filed in a timely manner and was complete. No interest is allowed on such claims approved by the department.
- Changes in interest rates provisions proposed in the initial bill are deleted.

The bill as amended would become effective July 1, 2005.

FISCAL IMPLICATIONS

Provisions regarding the streamlined sales tax have no fiscal impact. They simply allow the state to participate in the discussions. Any changes suggested by the streamlined sales tax commis-

sion would have to be adopted by the legislature.

HTRC amendments striking changes in interest rates result in the bill having no fiscal impact.

Synopsis of Original Bill

House Bill 258 titles Sections 1 through 9 as the “Sales and Use Tax Administration Act”. The act finds that simplified sales and use taxes will serve to preserve and strengthen these taxes as a revenue source for state and local government and will reduce the administrative burden on sellers. The bill allows the state, represented by the Taxation and Revenue Department (TRD) Secretary, to participate with other states that have sales taxes in negotiating the streamline sales tax initiative. Implementation of the agreement requires adoption by the state legislature.

Sections 10 through 19 addresses tax administration matters:

Provisions prohibiting a current or former TRD employee from revealing taxpayer return information are amended. Currently TRD is required to answer all inquiries concerning whether a person is or is not a registered taxpayer. New language limits this to tax programs that require registration, and stipulates that this should not be interpreted to allow the department to answer inquiries concerning whether a person filed a tax return. A new exception is added for written ruling on questions of evidence or procedure made by a hearing officer on taxpayer disputes provided that the name and identification number of taxpayer requesting the ruling may not be provided. Administrative hearing procedures are amended to allow taxpayers to elect the “Rules of Civil Procedures for the District Courts” in TRD administrative hearings.

Claims for refunds provisions are changed by providing taxpayers with the right to designate certain refund claims as a protective claim. A protective claim is a claim for refund filed by someone based upon the arguments advanced by another person in a previously filed claim that has not been resolved. TRD would not take action on the protective claim until the previously filed claim is resolved.

The interest rate charged and paid by TRD on tax deficiencies and overpayments. The current 15 percent rate would be changed to 10 percent from January 1, 2005 through December 31, 2006. Starting January 1, 2007, the rate would be set equal to the IRS underpayment rate, a floating rate that reflects market interest rates. Exceptions to these rates are provided for compacts or other interstate agreements stipulating other rates. A new provision requires TRD to pay interest on refunds or credits initially denied for failure to produce a proper nontaxable transaction certificate or not claimed by the taxpayer on a timely filed original return from the date the taxpayer produces proof that the certificate has been obtained. A new provision says no interest shall be paid to an amount credited or refunded if the refund or credit is in settlement of a protective claim. The minimum penalty for failure to pay a tax or file a return is increased from five dollars to twenty-five dollars. The additional minimum penalty for cases in which the failure to pay is due to willful intent to evade or defeat a tax is increased from twenty five dollars to one hundred and fifty dollars. The minimum penalty for bad checks is increased from ten dollars to twenty-five dollars.

Effective Dates: for sections dealing with administrative changes other than interest and penalties, July 1, 2005; for sections dealing with interest and penalties, Jan 1, 2005

ADMINISTRATIVE IMPLICATIONS

The department noted in an analysis prepared for the special session that there may be significant changes to some of the older computer systems. That analysis did not cite any need for additional resources.

BT/yr