

1 HOUSE BILL 320

2 **47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO TAXATION; AMENDING THE CORPORATE INCOME AND
12 FRANCHISE TAX ACT TO MANDATE COMBINED REPORTING; REPEALING A
13 SECTION OF THE NMSA 1978 PERTAINING TO CONSOLIDATED RETURNS.

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

16 Section 1. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
17 Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
18 Section 4 and also by Laws 1993, Chapter 309, Section 2) is
19 amended to read:

20 "7-2A-8.3. COMBINED RETURNS.--

21 A. A unitary corporation that is subject to
22 taxation under the Corporate Income and Franchise Tax Act [~~and~~
23 ~~that has not previously filed a combined return pursuant to~~
24 ~~this section or a consolidated return pursuant to Section~~
25 ~~7-2A-8.4 NMSA 1978 may elect to~~] shall file a combined return

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1 with other unitary corporations as though the entire combined
2 net income were that of one corporation. The return filed under
3 this method of reporting shall include the net income of all
4 the unitary corporations. Transactions among the unitary
5 corporations may be eliminated by applying the appropriate
6 rules for reporting income for a consolidated federal income
7 tax return. ~~[Any corporation that has filed an income tax
8 return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978
9 shall not file pursuant to this section unless the secretary
10 gives prior permission to file on a combined return basis.]~~

11 B. Once corporations have reported net income
12 through a combined return for any taxable year, they shall file
13 combined returns for subsequent taxable years, so long as they
14 remain unitary corporations, ~~[unless the corporations elect to
15 file pursuant to Section 7-2A-8.4 NMSA 1978 or]~~ unless the
16 secretary grants prior permission for one or more of the
17 corporations to file individually.

18 ~~[C. For taxable years beginning on or after January
19 1, 1993, no unitary corporation once included in a combined
20 return may elect, or be granted permission by the secretary,
21 for any subsequent taxable year to separately account pursuant
22 to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]"~~

23 Section 2. REPEAL.--Section 7-2A-8.4 NMSA 1978 (being
24 Laws 1983, Chapter 213, Section 13, as amended by Laws 1993,
25 Chapter 307, Section 5 and by Laws 1993, Chapter 309, Section
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3) is repealed.

Section 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2006.