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FISCAL IMPACT REPORT

ORIGINAL DATE 2/01/06

SPONSOR Smith LAST UPDATED _____ HB _____

SHORT TITLE Electronic Tax Return Filing and Refunds SB 320

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Companion to House Bill 382.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 320 would amend the Tax Administration Act to:

- require a tax return preparer that files over 25 personal income tax returns to file the returns by electronic means unless that taxpayer requests otherwise. A penalty of \$5 per return would be owed for failure to comply with this requirement.
- allow the Taxation and Revenue Department to require the electronic delivery of any tax return or payment by regulation.
- lower the threshold -- from \$25 thousand to \$10 thousand per year -- at which taxpayers may be required to pay taxes by electronic means.
- allow the TRD to modify by regulation the due date for payment of withholding tax. Under present law, the payments are due by the 25th day of the month following the month for which taxes are due.

FISCAL IMPLICATIONS

No significant fiscal impact would result from enactment of this legislation. The electronic filing and payment requirements are expected to improve accuracy and timeliness of revenue collections and distributions, but not necessarily to result in a large net increase in revenue.

SIGNIFICANT ISSUES

The Taxation and Revenue Department has identified the impacts on NM citizens and the department.

The bill creates new requirements for tax return preparers:

- A new form will be required from preparers to show the requirement to electronically file has been waived by their clients.
- Programming changes will be required to even handedly capture, identify and compute \$5 penalty imposed on the preparer.
- A new program may be needed to assess tax preparers. For example, out of state tax preparers do not have a CRS or PIT filing requirement. TRD will need to refine their instructions and regulations to clarify how preparers should identify themselves as a preparer on the return and who the penalty will be imposed upon. The department could require preparers to register with us, but then we'll have additional registrations and monitoring to do.

To change the due date of the withholding tax:

- A regulation change will be required before TRD can change the due date of the return.
- If the withholding due date were modified by regulation as authorized in the bill, substantial changes would be required in the department's revenue processing and information systems.
- The proposal may create some confusion about the application of certain business tax credits. Many tax credits can be applied to withholding, and some say "may be claimed against any tax filed and paid at the same time as GRT". Currently, this includes the withholding tax, but under the proposal this might not be the case.

Significant taxpayer and department employee education needs will be associated with these changes.

PERFORMANCE IMPLICATIONS

The legislation should help the department increase the percentage of PIT and CRS returns filed electronically, a performance measure mandated by the legislature in the GAA.

ADMINISTRATIVE IMPLICATIONS

TRD indicates that the provisions requiring electronic returns and payments should increase the speed and accuracy with which the department is able to process taxes. Since the requirements are limited to larger taxpayers and paid return preparers, the added compliance costs should be modest.

The modest costs, nevertheless, will be recurring. The department has not quantified a “modest” expense.

TRD further notes that withholding tax changes would facilitate the department’s participation in an ongoing effort to integrate the withholding tax program with the Worker’s Compensation Program and with the Unemployment Insurance program in the effort to streamline reporting and to improve enforcement capabilities in each program. As an example, the program should help the department to match withholding tax payments with personal income tax returns to insure accurate reporting and payment. Computerized matching will enable automated assessments, vastly increasing the department’s compliance tools on this tax.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 320 is the companion to House Bill 382.

TECHNICAL ISSUES

None identified.

BE/yr