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HOUSE BILL 181

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Janice E. Arnold-Jones

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAX ADMINISTRATION; AUTHORIZING THE SECRETARY OF TAXATION AND REVENUE TO EXTEND TIME TO FILE INCOME TAX RETURNS; REDUCING THE THRESHOLD AMOUNT OF TAXES DUE THAT IS THE TRIGGER FOR MANDATORY ELECTRONIC FILING OF TAXPAYER RETURNS; REQUIRING CERTAIN TAX PREPARERS TO FILE RETURNS ELECTRONICALLY; PROVIDING A PENALTY.

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

Section 1. Section 7-1-13 NMSA 1978 (being Laws 1965, Chapter 248, Section 18, as amended) is amended to read:

"7-1-13. TAXPAYER RETURNS--PAYMENT OF TAXES--EXTENSION OF TIME.--

A. Taxpayers are liable for tax at the time of and after the transaction or incident giving rise to tax until payment is made. Taxes are due on and after the date on which

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1 their payment is required until payment is made.

2 B. Every taxpayer shall, on or before the date on
3 which payment of any tax is due, complete and file a tax return
4 in a form prescribed and according to the regulations issued by
5 the secretary. Except as provided in Section 7-1-13.1 NMSA
6 1978 or by regulation, ruling, order or instruction of the
7 secretary, the payment of any tax or the filing of any return
8 may be accomplished by mail.

9 C. If any adjustment is made in the basis for
10 computation of any federal tax as a result of an audit by the
11 internal revenue service or the filing of an amended federal
12 return changing a prior election or making any other change for
13 which federal approval is required by the Internal Revenue
14 Code, the taxpayer affected shall, within ninety days of the
15 internal revenue service audit adjustment or payment of the
16 federal refund, file an amended return with the department.
17 Payment of any additional tax due shall accompany the return.

18 D. Payment of the total amount of all taxes that
19 are due from the taxpayer shall precede or accompany the
20 return. Delivery to the department of a check that is not paid
21 upon presentment does not constitute payment.

22 E. The secretary or the secretary's delegate may,
23 for good cause, extend in favor of a taxpayer or a class of
24 taxpayers, for no more than a total of twelve months, the date
25 on which payment of any tax is required or on which any return

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1 required by provision of the Tax Administration Act shall be
2 filed, but no extension shall prevent the accrual of interest
3 as otherwise provided by law. When an extension of time for
4 income tax has been granted a taxpayer under the Internal
5 Revenue Code, [~~such~~] the extension shall serve to extend the
6 time for filing New Mexico income tax provided that a copy of
7 the approved federal extension of time is attached to the
8 taxpayer's New Mexico income tax return. [~~except that~~] The
9 secretary by regulation may also provide for the automatic
10 extension for no more than [~~four~~] six months of the date upon
11 which payment of any New Mexico income tax or the filing of any
12 New Mexico income tax return is required. If the secretary or
13 the secretary's delegate believes it necessary to [~~assure~~]
14 ensure the collection of the tax, the secretary or the
15 secretary's delegate may require, as a condition of granting
16 any extension, that the taxpayer furnish security in accordance
17 with the provisions of Section 7-1-54 NMSA 1978."

18 Section 2. Section 7-1-13.1 NMSA 1978 (being Laws 1988,
19 Chapter 99, Section 3, as amended) is amended to read:

20 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

21 A. Payment of the taxes, including any applicable
22 penalties and interest, described in Paragraph (1), (2), (3) or
23 (4) of this subsection shall be made on or before the date due
24 in accordance with Subsection B of this section if the
25 taxpayer's average tax payment for the group of taxes during

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1 the preceding calendar year equaled or exceeded [~~twenty-five~~
2 ~~thousand dollars (\$25,000)] ten thousand dollars (\$10,000):~~

3 (1) Group 1: all taxes due under the
4 Withholding Tax Act, the Gross Receipts and Compensating Tax
5 Act, local option gross receipts tax acts, the Interstate
6 Telecommunications Gross Receipts Tax Act and the Leased
7 Vehicle Gross Receipts Tax Act;

8 (2) Group 2: all taxes due under the Oil and
9 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
10 the Oil and Gas Emergency School Tax Act and the Oil and Gas Ad
11 Valorem Production Tax Act;

12 (3) Group 3: the tax due under the Natural
13 Gas Processors Tax Act; or

14 (4) Group 4: all taxes and fees due under the
15 Gasoline Tax Act, the Special Fuels Supplier Tax Act and the
16 Petroleum Products Loading Fee Act.

17 For taxpayers who have more than one identification number
18 issued by the department, the average tax payment shall be
19 computed by combining the amounts paid under the several
20 identification numbers.

21 B. Taxpayers who are required to make payment in
22 accordance with the provisions of this section shall make
23 payment by one or more of the following means on or before the
24 due date so that funds are immediately available to the state
25 on or before the due date:

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1 (1) electronic payment; provided that a result
2 of the payment is that funds are immediately available to the
3 state of New Mexico on or before the due date;

4 (2) currency of the United States;

5 (3) check drawn on and payable at any New
6 Mexico financial institution provided that the check is
7 received by the department at the place and time required by
8 the department at least one banking day prior to the due date;
9 or

10 (4) check drawn on and payable at any domestic
11 non-New Mexico financial institution, provided that the check
12 is received by the department at the time and place required by
13 the department at least two banking days prior to the due date.

14 C. If the taxes required to be paid under this
15 section are not paid in accordance with Subsection B of this
16 section, the payment is not timely and is subject to the
17 provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

18 D. For the purposes of this section, "average tax
19 payment" means the total amount of taxes paid with respect to a
20 group of taxes listed under Subsection A of this section during
21 a calendar year divided by the number of months in that
22 calendar year containing a due date on which the taxpayer was
23 required to pay one or more taxes in the group."

24 Section 3. A new section of the Tax Administration Act is
25 enacted to read:

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