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AN ACT

RELATING TO TAXATION; ALLOWING THE STATUTE OF LIMITATIONS TO
BE SUSPENDED DURING A PROCEEDING TO QUASH AN ADMINISTRATIVE
SUBPOENA ISSUED BY THE SECRETARY OF TAXATION AND REVENUE;
MAKING TECHNICAL CORRECTIONS TO CERTAIN SECTIONS OF THE NMSA
1978 FOR TAX ADMINISTRATION AND ENFORCEMENT AND TO AID IN
COMPLYING WITH THE TAX REFUND INTERCEPT PROGRAM ACT;
PROVIDING FOR ONE SOLAR MARKET DEVELOPMENT TAX CREDIT PER
MARRIED COUPLE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
SECTION OF LAW IN LAWS 2005; DECLARING AN EMERGENCY.

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

Section 1. Section 7-1-4 NMSA 1978 (being Laws 1965,
Chapter 248, Section 10, as amended) is amended to read:

"7-1-4. INVESTIGATIVE AUTHORITY AND POWERS.--

A. For the purpose of establishing or determining
the extent of the liability of any person for any tax, for
the purpose of collecting any tax, for the purpose of
enforcing any statute administered under the provisions of
the Tax Administration Act or for the purpose of
investigating possible criminal violations of the revenue
laws of this state, including fraud or other crimes that may
affect the taxes due to the state, the secretary or the
secretary's delegate is authorized to examine equipment and
to examine and require the production of any pertinent

1 records, books, information or evidence, to require the
2 presence of any person and to require that person to testify
3 under oath concerning the subject matter of the inquiry and
4 to make a permanent record of the proceedings.

5 B. As a means for accomplishing the matters
6 referred to in Subsection A of this section, the secretary is
7 hereby invested with the power to issue subpoenas and
8 summonses. In no case shall a subpoena or summons be made
9 returnable less than ten days from the date of service.

10 C. Any subpoena or summons issued by the secretary
11 shall state with reasonable certainty the nature of the
12 evidence required to be produced, the time and place of the
13 hearing, the nature of the inquiry or investigation and the
14 consequences of failure to obey the subpoena or summons;
15 shall bear the seal of the department; and shall be attested
16 by the secretary.

17 D. After service of a subpoena or summons upon the
18 person, if any person neglects or refuses to appear in
19 response to the summons or neglects or refuses to produce
20 records or other evidence or to allow the inspection of
21 equipment in response to the subpoena or neglects or refuses
22 to give testimony as required, the department may invoke the
23 aid of the court in the enforcement of the subpoena or
24 summons. In appropriate cases, the court shall issue its
25 order requiring the person to appear and testify or produce

1 books or records and may, upon failure of the person to
2 comply with the order, punish the person for contempt.

3 E. If a person, the extent of whose tax liability
4 is being established, or that person's agent, nominee or
5 other person acting under the direction or control of that
6 person, files an action with the court to quash a subpoena or
7 summons issued by the secretary or that court pursuant to
8 this section, the running of the period of limitations
9 pursuant to Sections 7-1-18 and 7-1-19 NMSA 1978 or Section
10 30-1-8 NMSA 1978 with respect to the tax liability under
11 investigation shall be suspended for the period during which
12 a proceeding and related appeals regarding the enforcement of
13 the subpoena or summons is pending."

14 Section 2. Section 7-2-5.8 NMSA 1978 (being Laws 2005,
15 Chapter 104, Section 5) is amended to read:

16 "7-2-5.8. EXEMPTION FOR LOW- AND MIDDLE-INCOME
17 TAXPAYERS.--

18 A. An individual may claim an exemption in an
19 amount specified in Subsections B through D of this section
20 not to exceed an amount equal to the number of federal
21 exemptions multiplied by two thousand five hundred dollars
22 (\$2,500) of income includable, except for this exemption, in
23 net income.

24 B. For a married individual filing a separate
25 return with adjusted gross income up to twenty thousand three

1 hundred thirty-three dollars (\$20,333):

2 (1) if the adjusted gross income is not
3 over twelve thousand dollars (\$12,000), the amount of the
4 exemption pursuant to this section shall be two thousand five
5 hundred dollars (\$2,500) for each federal exemption; and

6 (2) if the adjusted gross income is over
7 twelve thousand dollars (\$12,000) but not over twenty
8 thousand three hundred thirty-three dollars (\$20,333), the
9 amount of the exemption pursuant to this section for each
10 federal exemption shall be calculated as follows:

11 (a) two thousand five hundred dollars
12 (\$2,500); less

13 (b) twenty percent of the amount
14 obtained by subtracting twelve thousand dollars (\$12,000)
15 from the adjusted gross income.

16 C. For single individuals with adjusted gross
17 income up to twenty-seven thousand one hundred ten dollars
18 (\$27,110):

19 (1) if the adjusted gross income is not
20 over sixteen thousand dollars (\$16,000), the amount of the
21 exemption pursuant to this section shall be two thousand five
22 hundred dollars (\$2,500) for each federal exemption; and

23 (2) if the adjusted gross income is over
24 sixteen thousand dollars (\$16,000) but not over twenty-seven
25 thousand one hundred ten dollars (\$27,110), the amount of the

1 exemption pursuant to this section for each federal exemption
2 shall be calculated as follows:

3 (a) two thousand five hundred dollars
4 (\$2,500); less

5 (b) fifteen percent of the amount
6 obtained by subtracting sixteen thousand dollars (\$16,000)
7 from the adjusted gross income.

8 D. For married individuals filing joint returns,
9 surviving spouses or for heads of households with adjusted
10 gross income up to forty thousand six hundred sixty-seven
11 dollars (\$40,667):

12 (1) if the adjusted gross income is not
13 over twenty-four thousand dollars (\$24,000), the amount of
14 the exemption pursuant to this section shall be two thousand
15 five hundred dollars (\$2,500) for each federal exemption; and

16 (2) if the adjusted gross income is over
17 twenty-four thousand dollars (\$24,000) but not over forty
18 thousand six hundred sixty-seven dollars (\$40,667), the
19 amount of the exemption pursuant to this section for each
20 federal exemption shall be calculated as follows:

21 (a) two thousand five hundred dollars
22 (\$2,500); less

23 (b) ten percent of the amount obtained
24 by subtracting twenty-four thousand dollars (\$24,000) from
25 the adjusted gross income."

1 Section 3. Section 7-2-18.14 NMSA 1978 (being Laws
2 2006, Chapter 93, Section 1) is amended to read:

3 "7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--
4 RESIDENTIAL AND SMALL BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC
5 MARKET DEVELOPMENT TAX CREDIT.--

6 A. Except as provided in Subsection C of this
7 section, a taxpayer who files an individual New Mexico income
8 tax return for a taxable year beginning on or after January 1,
9 2006 and who purchases and installs after January 1, 2006 but
10 before December 31, 2015 a solar thermal system or a
11 photovoltaic system in a residence, business or agricultural
12 enterprise in New Mexico may apply for, and the department
13 may allow, a solar market development tax credit if the
14 residence, business or agricultural enterprise is:

15 (1) owned by the taxpayer; or

16 (2) owned by a limited liability company or
17 other business association of which the taxpayer is an owner.

18 B. The amount of the solar market development tax
19 credit shall be not more than thirty percent of the purchase
20 and installation costs of the system; provided that under no
21 circumstances shall the federal and state tax credits
22 allowed, when combined, total more than thirty percent of the
23 purchase and installation cost of the system. To determine
24 the amount of the state solar market development tax credit
25 due pursuant to this section, the amount of the allowable

1 federal tax credit, whether claimed or not claimed by the
2 taxpayer, shall be deducted from thirty percent of the
3 purchase and installation cost of the system. The total
4 solar market development tax credit allowed for either a
5 photovoltaic system or a solar thermal system shall not
6 exceed nine thousand dollars (\$9,000). The department shall
7 allow solar market development tax credits only for solar
8 thermal systems and photovoltaic systems certified by the
9 energy, minerals and natural resources department.

10 C. Solar market development tax credits may not
11 be claimed or allowed for:

12 (1) a heating system for a swimming pool or
13 a hot tub; or

14 (2) a commercial or industrial photovoltaic
15 system other than an agricultural photovoltaic system on a
16 farm or ranch that is not connected to an electric utility
17 transmission or distribution system.

18 D. The department may allow a maximum annual
19 aggregate of:

20 (1) two million dollars (\$2,000,000) in
21 solar market development tax credits for solar thermal
22 systems; and

23 (2) three million dollars (\$3,000,000) in
24 solar market development tax credits for photovoltaic
25 systems.

1 E. A portion of the solar market development tax
2 credit that remains unused in a taxable year may be carried
3 forward for a maximum of ten consecutive taxable years
4 following the taxable year in which the credit originates
5 until fully expended.

6 F. Prior to July 1, 2006, the energy, minerals
7 and natural resources department shall adopt rules
8 establishing procedures to provide certification of solar
9 thermal systems and photovoltaic systems for purposes of
10 obtaining a solar market development tax credit. The rules
11 shall address technical specifications and requirements
12 relating to safety, code and standards compliance, solar
13 collector orientation and sun exposure, minimum system sizes,
14 system applications and lists of eligible components. The
15 energy, minerals and natural resources department may modify
16 the specifications and requirements as necessary to maintain
17 a high level of system quality and performance.

18 G. A husband and a wife who file separate returns
19 for a taxable year in which they could have filed a joint
20 return may each claim only one-half of the credit provided in
21 this section that would have been allowed on a joint return.

22 H. As used in this section:

23 (1) "photovoltaic system" means an energy
24 system that collects or absorbs sunlight for conversion into
25 electricity; and

1 (2) "solar thermal system" means an energy
2 system that collects or absorbs solar energy for conversion
3 into heat for the purposes of space heating, space cooling or
4 water heating."

5 Section 4. Section 7-2C-5 NMSA 1978 (being Laws 1985,
6 Chapter 106, Section 5, as amended) is amended to read:

7 "7-2C-5. DEPARTMENT TO AID IN COLLECTION OF DEBTS
8 THROUGH SETOFF.--Subject to the limitations contained in the
9 Tax Refund Intercept Program Act, the department, upon
10 request, shall render assistance in the collection of any
11 debt owed to a claimant agency or any debt that a claimant
12 agency is obligated by law to collect. This assistance shall
13 be provided by withholding from any refund due to the debtor
14 pursuant to the Income Tax Act or the Corporate Income and
15 Franchise Tax Act the amount of debt meeting the requirements
16 of the Tax Refund Intercept Program Act and paying over to
17 the claimant agency the amount withheld."

18 Section 5. Section 9-11-4 NMSA 1978 (being Laws 1977,
19 Chapter 249, Section 4, as amended by Laws 2005, Chapter 108,
20 Section 5 and by Laws 2005, Chapter 110, Section 6) is
21 amended to read:

22 "9-11-4. DEPARTMENT ESTABLISHED.--There is created in
23 the executive branch the "taxation and revenue department".
24 The department shall be a cabinet department and shall
25 consist of, but not be limited to, seven divisions as

1 follows:

- 2 A. the audit and compliance division;
- 3 B. the property tax division;
- 4 C. the revenue processing division;
- 5 D. the tax fraud investigations division;
- 6 E. the motor vehicle division;
- 7 F. the administrative services division; and
- 8 G. the information technology division."

9 Section 6. APPLICABILITY.--The provisions of Sections
10 2, 3 and 4 of this act shall be applicable to taxable years
11 beginning on or after January 1, 2007.

12 Section 7. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect
14 immediately. _____

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