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FISCAL IMPACT REPORT

SPONSOR Griego **ORIGINAL DATE** 02/19/07
LAST UPDATED 03/15/07 **HB** _____
SHORT TITLE Audit Service Gross Receipts Reporting **SB** 1129/aHBIC
ANALYST Hanika Ortiz/Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(See Narrative)		Recurring	Local Governments

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Board of Examiners for Architects
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to Senate Bill 1129 adds an effective date of January 1, 2008. Gross receipts tax provisions are easier to administer if effective on January 1 or July 1 since that is when instructions are regularly revised.

Synopsis of Original Bill

Senate Bill 1129 amends Section 7-1-14 NMSA 1978 so that the “place of business” for services of architects, engineers, legal or independent audit services will be the location of a project for which the services are rendered. Under current law, these professional pay gross receipts tax in their county or municipality of residence, regardless of where the associated project is located.

FISCAL IMPLICATIONS

The bill will result in higher gross receipts tax revenue for some counties and municipalities and lower gross receipts tax revenue for others. LFC expects rural areas to benefit while metropolitan

areas will lose revenue since many architects, engineers, law offices and independent auditors are located in metropolitan areas but perform services in non-metropolitan areas.

TRD reports that about \$80 million per year of gross receipts tax is collected from about 2 thousand businesses in the effected industries. TRD expects the proposal would result in a net revenue decrease across local governments because it would shift gross receipts tax collections to non-municipal areas, where tax rates tend to be lower.

The January 1, 2008 effective date added by the House Business and Industry Committee amendment will result in a half year fiscal impact in FY08 and full year fiscal impacts in FY09 and beyond.

SIGNIFICANT ISSUES

For gross receipts tax purposes, the place of business for most services is defined as the service provider's place of residence. However, since construction work is nearly always done "on site," construction services are required to be reported in the area the construction project is located. The bill would apply this same exception to architect, engineer, legal and independent audit services. However, services provided by these professionals are normally performed in their offices rather than "on site" like construction services.

The bill will require architects, engineers, legal professionals and independent auditors to charge different gross receipts tax rates for projects in different political subdivisions since each county and municipality have different rates. Increased burden on taxpayers to collect the gross receipts tax could be passed along to consumers in the form of higher prices for services. Design work is different than construction work in that it is done in a permanent location - the architect's office - so the "site" does not vary with the project.

By regulation, the secretary may require any person maintaining one or more places of business to report taxable gross receipts and deductions for each municipality or county or area within an Indian reservation or pueblo grant in which the person maintains a "place of business".

Current law for persons engaged in the construction business, the place where the construction project is performed is a "place of business"; and, for a person engaged in the business of selling real estate, the location of the real property sold is the "place of business". The bill proposes to determine the "place of business" as the location of a project for persons engaged in the business of providing architectural, engineering, legal or independent audit services.

ADMINISTRATIVE IMPLICATIONS

The bill will have a significant administrative impact on TRD. Taxpayers will shift from filing the short-form Combined Revenue System (CRS) return to the long-form CRS return. TRD will need to process more tax lines, more data, and longer forms. An additional scanning machine may be required.

TRD reports it will be difficult to determine which legal and audit services are attributable to each project location.

TECHNICAL ISSUES

TRD suggests the term “location of project” requires further clarification, especially regarding legal and audit services. For example, what defines a “project” when legal services are rendered?

AHO/SS/nt