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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/08  
 SPONSOR Feldman LAST UPDATED 2/1/08 HB \_\_\_\_\_  
 SHORT TITLE Credit for Tax Payments to Foreign Countries SB 475  
 ANALYST Francis

### REVENUE (dollars in thousands)

| Estimated Revenue |         |         | Recurring<br>or Non-Rec | Fund<br>Affected |
|-------------------|---------|---------|-------------------------|------------------|
| FY08              | FY09    | FY10    |                         |                  |
|                   | (455.0) | (315.0) |                         |                  |

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 475 allows a credit for taxes paid to foreign countries by resident individuals if the income has been properly allocated or apportioned on a New Mexico personal income tax return. The credit, identical to the existing credit for other US state income tax, cannot be more than 5.5 percent of the allocated or apportioned income.

The credit would be available for tax years beginning on or after January 1, 2008.

### FISCAL IMPLICATIONS

TRD:

The estimate shown is based on the amount of credits currently claimed by residents for taxes paid to other states. This figure averages approximately \$15 million annually. The estimate assumes about 2% of this amount, or \$300,000 annually in credits, would be claimed by residents with income taxed by New Mexico and also by a foreign country. Tax year 2008 liability changes were assumed to affect only FY2009 revenues. Tax year 2009 and subsequent year changes in liabilities were assumed to be evenly split across

the two fiscal years included in the calendar year. The estimate for 2008 was assumed to grow in future years by projected growth rate of New Mexico personal income. Due to data limitations, the estimate is considered very uncertain.

### **SIGNIFICANT ISSUES**

In some cases, income that is subject to New Mexico income tax may also be subject to tax in another state or country. Only a handful of other states (Arizona, Hawaii, Iowa, Montana, North Carolina, and Pennsylvania) allow a credit for income tax paid to other countries.

### **TECHNICAL ISSUES**

TRD:

The 5.5% rate currently in Section 7-2-13 exceeds the 4.9% top individual income tax rate applicable to any tax year beginning after January 1, 2008. At a minimum, the proposal should be amended to specify the 4.9% rate. The appropriate approach would be a limit based on the average New Mexico income tax on the underlying income, similar to the manner in which New Mexico income tax is apportioned to non-New Mexico income in Section 7-2-11 NMSA 1978, “Tax credit; income allocation and apportionment.”

NF/mt