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HOUSE BILL 571

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO TAXATION; LIMITING THE CAPITAL GAINS DEDUCTION FROM  
NET INCOME FOR CERTAIN TAXPAYERS; ELIMINATING THE CAPITAL GAINS  
DEDUCTION CAP.

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

SECTION 1. Section 7-2-34 NMSA 1978 (being Laws 1999,  
Chapter 205, Section 1, as amended) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection C of this  
section, a taxpayer may claim a deduction from net income in an  
amount equal to ~~[the greater of:~~

~~(1) the taxpayer's net capital gain income for  
the taxable year for which the deduction is being claimed, but  
not to exceed one thousand dollars (\$1,000); or~~

~~(2)]~~ the following percentage of the

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1 taxpayer's net capital gain income for the taxable year for  
2 which the deduction is being claimed:

3 ~~[(a) for a taxable year beginning in~~  
4 ~~2003, ten percent;~~

5 ~~(b) for a taxable year beginning in~~  
6 ~~2004, twenty percent;~~

7 ~~(c) for a taxable year beginning in~~  
8 ~~2005, thirty percent;~~

9 ~~(d) for a taxable year beginning in~~  
10 ~~2006, forty percent; and~~

11 ~~(e) for taxable years beginning on or~~  
12 ~~after January 1, 2007, fifty percent]~~

13 (1) for heads of household, surviving spouses  
14 and married individuals filing joint returns:

15 (a) with net income equal to or less  
16 than two hundred fifty thousand dollars (\$250,000), fifty  
17 percent; and

18 (b) with net income over two hundred  
19 fifty thousand dollars (\$250,000), twenty-five percent; and

20 (2) for single individuals and for estates and  
21 trusts:

22 (a) with net income equal to or less  
23 than two hundred thousand dollars (\$200,000), fifty percent;  
24 and

25 (b) with net income over two hundred

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underscored material = new  
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1 thousand dollars (\$200,000), twenty-five percent.

2 B. A husband and wife who file separate returns for  
3 a taxable year in which they could have filed a joint return  
4 may each claim only one-half of the deduction provided by this  
5 section that would have been allowed on the joint return.

6 C. A taxpayer may not claim the deduction provided  
7 in Subsection A of this section if the taxpayer has claimed the  
8 credit provided in Section 7-2D-8.1 NMSA 1978.

9 D. As used in this section, "net capital gain"  
10 means "net capital gain" as defined in Section 1222 (11) of the  
11 Internal Revenue Code."

12 SECTION 2. APPLICABILITY.--The provisions of this act  
13 apply to taxable years beginning on or after January 1, 2011.