

1 SENATE BILL 508

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Lisa A. Torraco

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9  
10 AN ACT

11 RELATING TO TAXATION; CHANGING PENALTIES FOR ATTEMPTING TO  
12 EVADE OR DEFEAT TAXES; CHANGING PENALTIES FOR TAX FRAUD.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 7-1-72 NMSA 1978 (being Laws 1965,  
16 Chapter 248, Section 73) is amended to read:

17 "7-1-72. ATTEMPTS TO EVADE OR DEFEAT TAX.--~~[Any person~~  
18 ~~who willfully attempts to evade or defeat any tax or the~~  
19 ~~payment thereof is, in addition to other penalties provided by~~  
20 ~~law, guilty of a felony and, upon conviction thereof, shall be~~  
21 ~~fined not less than one thousand dollars (\$1,000) nor more than~~  
22 ~~ten thousand dollars (\$10,000), or imprisoned not less than one~~  
23 ~~year nor more than five years, or both such fine and~~  
24 ~~imprisonment, together with the costs of prosecution.]~~

25 A. In addition to other penalties provided by law,

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1 a person who willfully attempts to evade or defeat any tax or  
2 the payment thereof is guilty of:

3 (1) a fourth degree felony and shall be  
4 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
5 1978, when the amount of tax owed is two thousand five hundred  
6 dollars (\$2,500) or less;

7 (2) a third degree felony and shall be  
8 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
9 1978, when the amount of tax owed is over two thousand five  
10 hundred dollars (\$2,500) but not more than twenty thousand  
11 dollars (\$20,000); or

12 (3) a second degree felony and shall be  
13 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
14 1978, when the amount of tax owed is over twenty thousand  
15 dollars (\$20,000).

16 B. In addition to the fines imposed pursuant to  
17 this section, a person who willfully attempts to evade or  
18 defeat any tax or the payment thereof shall pay the costs of  
19 the prosecution of the person's case."

20 SECTION 2. Section 7-1-73 NMSA 1978 (being Laws 1965,  
21 Chapter 248, Section 74, as amended) is amended to read:

22 "7-1-73. TAX FRAUD.--

23 A. A person is guilty of tax fraud if the person:

24 (1) willfully makes and subscribes any return,  
25 statement or other document that contains or is verified by a

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1 written declaration that it is true and correct as to every  
2 material matter and that the person does not believe it to be  
3 true and correct as to every material matter;

4 (2) willfully assists in, willfully procures,  
5 willfully advises or willfully provides counsel regarding the  
6 preparation or presentation of a return, affidavit, claim or  
7 other document pursuant to or in connection with any matter  
8 arising under the Tax Administration Act or a tax administered  
9 by the department, knowing that it is fraudulent or knowing  
10 that it is false as to a material matter, whether or not that  
11 fraud or falsity is with knowledge or consent of:

12 (a) the taxpayer or other person liable  
13 for taxes owed on the return; or

14 (b) a person who signs a document  
15 stating that the return, affidavit, claim or other document is  
16 true, correct and complete to the best of that person's  
17 knowledge;

18 (3) files any return electronically, knowing  
19 the information in the return is not true and correct as to  
20 every material matter; or

21 (4) with intent to evade or defeat the payment  
22 or collection of any tax, or, knowing that the probable  
23 consequences of the person's act will be to evade or defeat the  
24 payment or collection of any tax, removes, conceals or releases  
25 any property on which levy is authorized or that is liable for

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1 payment of tax under the provisions of Section 7-1-61 NMSA  
2 1978, or aids in accomplishing or causes the accomplishment of  
3 any of the foregoing.

4 ~~[B. Whoever commits tax fraud when the amount of~~  
5 ~~the tax owed is two hundred fifty dollars (\$250) or less is~~  
6 ~~guilty of a petty misdemeanor and shall be sentenced pursuant~~  
7 ~~to the provisions of Section 31-19-1 NMSA 1978.~~

8 ~~C. Whoever commits tax fraud when the amount of the~~  
9 ~~tax owed is over two hundred fifty dollars (\$250) but not more~~  
10 ~~than five hundred dollars (\$500) is guilty of a misdemeanor and~~  
11 ~~shall be sentenced pursuant to the provisions of Section~~  
12 ~~31-19-1 NMSA 1978.~~

13 ~~D.]~~ B. Whoever commits tax fraud when the amount of  
14 the tax owed is [~~over five hundred dollars (\$500) but not more~~  
15 ~~than~~] two thousand five hundred dollars (\$2,500) or less is  
16 guilty of a fourth degree felony and shall be sentenced  
17 pursuant to the provisions of Section 31-18-15 NMSA 1978.

18 ~~[E.]~~ C. Whoever commits tax fraud when the amount  
19 of the tax owed is over two thousand five hundred dollars  
20 (\$2,500) but not more than twenty thousand dollars (\$20,000) is  
21 guilty of a third degree felony and shall be sentenced pursuant  
22 to the provisions of Section 31-18-15 NMSA 1978.

23 ~~[F.]~~ D. Whoever commits tax fraud when the amount  
24 of the tax owed is over twenty thousand dollars (\$20,000) is  
25 guilty of a second degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978.

2 E. A tax return preparer, as defined in Section  
3 7-1-3 NMSA 1978, who commits tax fraud is guilty of a fourth  
4 degree felony and shall be sentenced pursuant to the provisions  
5 of Section 31-18-15 NMSA 1978.

6 [~~G.~~] F. In addition to the fines imposed pursuant  
7 to this section, a person who commits tax fraud shall pay the  
8 costs of the prosecution of the person's case.

9 [~~H.~~] G. As used in this section:

10 (1) "tax" does not include civil penalties or  
11 interest; and

12 (2) "willfully" means intentionally,  
13 deliberately or purposely, but not necessarily maliciously."

14 **SECTION 3. EFFECTIVE DATE.**--The effective date of the  
15 provisions of this act is July 1, 2015.