

1 HOUSE BILL 376

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Nathan P. Small

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10 AN ACT

11 RELATING TO TAXATION; REQUIRING THE ANNUAL SUBMISSION OF
12 STATEMENTS OF WITHHOLDING; PROVIDING A CIVIL PENALTY.

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

15 SECTION 1. Section 7-3-7 NMSA 1978 (being Laws 1961,
16 Chapter 243, Section 8, as amended) is amended to read:

17 "7-3-7. STATEMENTS OF WITHHOLDING.--

18 A. ~~[Except for employers required to file quarterly~~
19 ~~withholding information returns pursuant to the Withholding Tax~~
20 ~~Act or required to file a wage and contribution report to the~~
21 ~~workforce solutions department pursuant to Section 51-1-12 NMSA~~
22 ~~1978]~~ Every employer shall file with the department an annual
23 statement of withholding for each employee. ~~[This]~~ The
24 statement shall be in a form prescribed by the department,
25 ~~[and]~~ except employers with twenty-five or more employees shall

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1 file statements using a department-approved electronic medium.
2 The statement shall be filed with the department on or before
3 the last day of [~~February~~] January of the year following that
4 for which the statement is made. It shall include the total
5 compensation paid the employee and the total amount of tax
6 withheld for the calendar year or portion of a calendar year if
7 the employee has worked less than a full calendar year.

8 B. [~~Except for payors who file the quarterly~~
9 ~~withholding information returns pursuant to the Withholding Tax~~
10 ~~Act~~] Every payor shall file with the department an annual
11 statement of withholding for each individual from whom some
12 portion of a pension or an annuity has been deducted and
13 withheld by that payor. [~~This~~] The statement shall be in a
14 form prescribed by the department, [~~and~~] except employers with
15 twenty-five or more employees shall file statements using a
16 department-approved electronic medium. The statement shall be
17 filed with the department on or before the last day of
18 [~~February~~] January of the year following that for which the
19 statement is made. It shall include the total amount of
20 pension or annuity paid to the individual and the amount of tax
21 withheld for the calendar year.

22 C. Every person required to deduct and withhold tax
23 from a payment of winnings that are subject to withholding
24 shall file with the department an annual statement of
25 withholding for each wagerer from whom some portion of a

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[bracketed material] = delete

1 payment of winnings has been deducted and withheld by that
2 person. The statement shall be [~~in a form prescribed by the~~
3 ~~department~~] filed using a department-approved electronic medium
4 and shall be filed with the department on or before the last
5 day of [~~February~~] January of the year following that for which
6 the statement is made. It shall include the total amount of
7 winnings paid to the individual and the amount of tax withheld
8 for the calendar year. The department may also require any
9 person who is required to submit an information return to the
10 internal revenue service regarding the winnings of another
11 person to submit copies of the return to the department.

12 D. Any employer, payor or person required to file
13 an annual statement of withholding pursuant to Subsections A
14 through C of this section who fails to do so by the due date is
15 subject to a penalty in the amount of five percent per month of
16 gross wages reported for all employees in that year, not to
17 exceed twenty percent for that year."

18 **SECTION 2. APPLICABILITY.**--The provisions of this act
19 apply to taxable years beginning on or after January 1, 2017.