

1 SENATE BILL 408

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

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO TAXATION; LIMITING THE CAPITAL GAINS DEDUCTION FROM
12 NET INCOME; FORGIVING PENALTIES AND INTEREST FOR
13 UNDERESTIMATING INCOME TAX LIABILITY.

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

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

18 "7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

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

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

25 ~~(2) the following percentage of the taxpayer's~~

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1 ~~net capital gain income for the taxable year for which the~~
2 ~~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 B. ~~[A husband and wife]~~ Married individuals who
14 file separate returns for a taxable year in which they could
15 have filed a joint return may each claim only one-half of the
16 deduction provided by this section that would have been allowed
17 on the joint return.

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

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

24 SECTION 2. TEMPORARY PROVISION--UNDERESTIMATING INCOME
25 TAX LIABILITY--FORGIVING PENALTIES AND INTEREST.--A taxpayer

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underscoring material = new
~~[bracketed material]~~ = delete

1 that estimated income tax to the state pursuant to Section
2 7-2-12.2 NMSA 1978 for income tax liabilities for taxable year
3 2017 but underpaid due to the changes made to Section 7-2-34
4 NMSA 1978 pursuant to this act shall not be subject to the
5 penalties and interest provisions of the Tax Administration
6 Act; provided that the underestimation is solely attributable
7 to the changes made to Section 7-2-34 NMSA 1978 pursuant to
8 this act.

9 SECTION 3. APPLICABILITY.--The provisions of this act
10 apply to taxable years beginning on or after January 1, 2017.