SENATE BILL 161

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Gregg Schmedes

AN ACT

RELATING TO TAXATION; ALLOWING EMPLOYERS WITH FIFTY OR FEWER EMPLOYEES TO ELECT TO NOT WITHHOLD THOSE EMPLOYEES' WAGES FOR PAYMENT OF INCOME TAX.

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

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

    "7-3-3. TAX WITHHELD AT SOURCE.--

        A. Every employer who deducts and withholds a portion of an employee's wages for payment of income tax under the provisions of the Internal Revenue Code shall deduct and withhold an amount for each payroll period computed from a state withholding tax table furnished by the department; provided:

            (1) if the employee instructs the employer to

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1   withhold a greater amount, the employer shall deduct and

2   withhold the greater amount;

3   (2) if the employee is not a resident of New

4   Mexico and is to perform services in New Mexico for fifteen or

5   fewer days cumulatively during the calendar year, the employer

6   is not required to deduct and withhold an amount from that

7   employee's wages; [and]

8   (3) if the aggregate monthly amount withheld

9   under this section would be less than one dollar ($1.00) for an

10   employee, the employer shall not be required to deduct and

11   withhold wages in regard to that employee; and

12   (4) if the employer has fifty employees or

13   fewer, the employer may elect not to withhold an amount from

14   those employee's wages. An employer that makes this election

15   shall notify the department, on a form and in a manner

16   prescribed by the department, and shall provide a copy of the

17   notification to each employee.

18   B. The department shall devise and furnish a state

19   withholding tax table based on statutes made and provided to

20   employers required to withhold amounts under this section.

21   This table shall be devised to provide for a yearly aggregate

22   withholding that will approximate the state income tax

23   liability of average taxpayers in each exemption category.

24   C. If an individual requests in writing that the

25   payor deduct and withhold an amount from the amount of the

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1   pension or annuity due the individual, the payor making payment

2   of a pension or annuity to an individual domiciled in New

3   Mexico shall deduct and withhold the amount requested to be

4   deducted and withheld, provided that the payor is not required

5   to deduct and withhold any amount less than ten dollars

6   ($10.00) per payment. The written request shall include the

7   payee's name, current address, taxpayer identification number

8   and, if applicable, the contract, policy or account number to

9   which the request applies.

10   D.   Every person in New Mexico who is required by

11 the provisions of the Internal Revenue Code to deduct and

12 withhold federal tax from payment of winnings that are subject

13 to withholding shall deduct and withhold from such payment a

14 tax in an amount equal to six percent of the winnings, except

15 that an Indian nation, tribe or pueblo or an agency,

16 department, subdivision or instrumentality thereof is not

17 required to deduct or withhold from payments made to members or

18 spouses of members of that Indian nation, tribe or pueblo."

19   SECTION 2. APPLICABILITY.--The provisions of this act

20 apply to taxable years beginning on or after January 1, 2022.

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