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FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/21
 LAST UPDATED 03/08/21 **HB** _____

SPONSOR Shendo

SHORT TITLE Uniform Division of Income For Tax Purposes **SB** 218/aSJC

ANALYST Graeser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$15.5		\$15.5	Nonrecurring	TRD Operating
		\$(.2)	\$(.2)	\$(.4)	Recurring	TRD Operating (RPD staff)

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SJC amendment

The Senate Judiciary amendment to Senate Bill 218 deletes two lines which correct typographical errors.

Synopsis of Original Bill

Senate Bill 218 deletes a provision in the Multistate Tax Compact in Section 7-5-1 NMSA 1978 that allows a taxpayer to elect to apportion and allocate income in the manner provided by the compact. As a result, taxpayers would apportion and allocate income pursuant to the New Mexico's Uniform Division of Income for Tax Purposes Act (Section 7-4-1 et seq NMSA 1978).

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends. (June 18, 2021). Applicable to taxable years beginning on or after January 1, 2021.

FISCAL IMPLICATIONS

This bill has no revenue impact. It ensures that market-based sourcing changes for the Corporate Income Tax (CIT) enacted in 2019 (HB6) are implemented as intended.

SIGNIFICANT ISSUES

TRD notes the following:

New Mexico and 15 other states have joined the Multistate Tax Compact (“Compact”). To join the Compact, New Mexico adopted the Compact in Section 7-5-1, et seq. The Compact establishes the Multistate Tax Commission and all of its functions and contains model law for the Uniform Division of Income for Tax Purposes Act (UDITPA). Compact member states also adopted UDITPA in statute, and New Mexico’s version of UDITPA is found in section 7-4-1 et seq. The Compact found in Section 7-5-1 NMSA 1978 allows a taxpayer to elect to use the model version of UDITPA found in Section 7-5-1 NMSA 1978 rather than the version of UDITPA found in New Mexico’s Section 7-4-1 et seq.

In recent years, states including New Mexico have enacted changes to UDITPA that are intended to be mandatory for taxpayers. New Mexico made changes to UDITPA (Section 7-4-18) in 2019’s HB6 that ensure market-based sourcing for New Mexico’s CIT. Market-based sourcing ensures that CIT is due from corporations based on their delivering services or intangibles to a customer in New Mexico or if they are used in New Mexico. This bill would delete the election for taxpayers to use the model UDITPA in the Compact rather than the mandatory changes enacted in Section 7-4-18 NMSA 1978 in 2019.

As described in Section 7-5-1 NMSA 1978, purpose of the Multistate Tax Compact is to facilitate determination of state and local tax liability of multistate taxpayers, to promote uniformity or compatibility of tax systems across states, to facilitate taxpayer convenience and compliance in tax, and to avoid duplicate taxation.

ADMINISTRATIVE IMPLICATIONS

TRD anticipates a low administrative impact implementing the provisions of SB218,

This bill will have a low impact on the Information Technology Division (ITD) requiring approximately 300 hours of effort or approximately 2 months for an estimated staff workload cost of \$15,492. This requires updates to GenTax, Taxpayer Access Point (TAP), Mef and GenKFI. This will be included in the annual tax year changes for tax year 2021. TRD’s Revenue Processing Division (RPD) will experience slight savings of about \$0.2 thousand per year no longer reviewing and processing taxpayer elections.

LG/sb/al