

HOUSE BILL 158

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; ENACTING THE REAL ESTATE TRANSFER TAX
ACT; EXEMPTING SOCIAL SECURITY INCOME FROM INCOME TAX FOR
CERTAIN INDIVIDUALS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 3 of this act may be cited as the "Real Estate Transfer
Tax Act".

SECTION 2. [NEW MATERIAL] REAL ESTATE TRANSFER TAX--
TRANSFERS OF RESIDENTIAL PROPERTY.--

A. An excise tax is imposed on all instruments
evidencing a transfer of any interest in residential property.
The rate of tax shall be:

(1) one-half percent of the consideration for
the interest in residential property transferred by the

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1 instrument if the price of the residential property was at
2 least five hundred thousand dollars (\$500,000) and up to seven
3 hundred fifty thousand dollars (\$750,000); and

4 (2) one and twenty-five hundredths percent of
5 the consideration for the interest in residential property
6 transferred by the instrument if the price of the residential
7 property was at least seven hundred fifty thousand dollars
8 (\$750,000).

9 B. If the price paid does not represent the value
10 of the residential property, the tax rate shall be applied to
11 the value of each instrument transferring the interest, which
12 value shall be based on the prior year's assessed value of the
13 residential property being transferred. In the event the prior
14 year's assessed value of the residential property being
15 transferred is based on undeveloped land that has since been
16 subdivided or otherwise developed, the county shall, upon
17 request, assess the value of the residential property since
18 being developed and provide a statement of the value to the
19 taxpayer.

20 C. A person who obtains more than one deed or other
21 instrument of conveyance for the same transfer of the same
22 tract or parcel of residential property shall pay the tax
23 imposed by this section only once with respect to that
24 transfer.

25 D. The tax imposed by this section shall be paid by

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1 the grantee or transferee of the interest in the residential
2 property to the county clerk of the county in which the
3 residential property is located. If the instrument transfers a
4 parcel of residential property lying in two or more counties,
5 the tax shall be paid to the county clerk of the county in
6 which the greater part of the residential property with respect
7 to value lies. The county clerk shall not record the transfer
8 until the tax has been paid.

9 E. The tax imposed by this section shall not be
10 imposed on the transfer of:

11 (1) a leasehold estate; or

12 (2) property where such transfer is:

13 (a) the creation or dissolution of a
14 tenancy by the entirety the conveyance from: 1) one spouse to
15 another; 2) one spouse or both spouses to the original grantor
16 in the instrument or the original grantor's spouse; or 3) one
17 spouse or both spouses to a trustee and immediate reconveyance
18 by the trustee in the same instrument as tenants in common,
19 tenants in common with right of survivorship, joint tenants or
20 joint tenants with right of survivorship;

21 (b) a deed of division in kind of
22 property formerly held by tenants in common;

23 (c) release of a life estate to the
24 beneficiaries of the remainder interest;

25 (d) a deed or will executed by an

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1 executor to implement a testamentary devise;

2 (e) a decree or deed that is an
3 adjustment of property rights between divorcing parties;

4 (f) a transfer by a transferor of
5 property to a revocable living trust created by the same
6 transferor or by a spouse of the transferor, or a transfer by
7 the trustee of a revocable living trust back to the same
8 transferor or to the transferor's spouse;

9 (g) a deed executed by the trustee of a
10 revocable living trust to implement a testamentary devise by
11 the trustor of the trust;

12 (h) a transfer of property to an
13 organization that has been granted exemption from the federal
14 income tax by the United States commissioner of internal
15 revenue as an organization described in Section 501(c)(3) of
16 the United States Internal Revenue Code of 1986, as amended or
17 renumbered;

18 (i) a transfer of property to the state
19 or any of its instrumentalities; or

20 (j) a transfer of property pursuant to
21 the Local Economic Development Act.

22 F. As used in this section, "residential property"
23 means "residential property" as defined in the Property Tax
24 Code.

25 SECTION 3. [NEW MATERIAL] REPORT AND TRANSFER OF PROCEEDS

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1 TO TAXATION AND REVENUE DEPARTMENT--ADMINISTRATIVE FEE.--The
2 county clerk shall report all collections of taxes made
3 pursuant to the Real Estate Transfer Tax Act on forms
4 prescribed by the taxation and revenue department and shall
5 submit the proceeds of the taxes collected to the taxation and
6 revenue department at the end of each month. A county may
7 withhold an administrative fee of three percent of the net
8 amount of the tax proceeds collected.

9 SECTION 4. Section 7-1-2 NMSA 1978 (being Laws 1965,
10 Chapter 248, Section 2, as amended) is amended to read:

11 "7-1-2. APPLICABILITY.--The Tax Administration Act
12 applies to and governs:

13 A. the administration and enforcement of the
14 following taxes or tax acts as they now exist or may hereafter
15 be amended:

- 16 (1) Income Tax Act;
- 17 (2) Withholding Tax Act;
- 18 (3) Oil and Gas Proceeds and Pass-Through
19 Entity Withholding Tax Act;
- 20 (4) Gross Receipts and Compensating Tax Act,
21 Interstate Telecommunications Gross Receipts Tax Act and Leased
22 Vehicle Gross Receipts Tax Act;
- 23 (5) Liquor Excise Tax Act;
- 24 (6) Local Liquor Excise Tax Act;
- 25 (7) any municipal local option gross receipts

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- 1 tax or municipal compensating tax;
- 2 (8) any county local option gross receipts tax
- 3 or county compensating tax;
- 4 (9) Special Fuels Supplier Tax Act;
- 5 (10) Gasoline Tax Act;
- 6 (11) petroleum products loading fee, which fee
- 7 shall be considered a tax for the purpose of the Tax
- 8 Administration Act;
- 9 (12) Alternative Fuel Tax Act;
- 10 (13) Cigarette Tax Act;
- 11 (14) Estate Tax Act;
- 12 (15) Railroad Car Company Tax Act;
- 13 (16) Investment Credit Act, rural job tax
- 14 credit, Laboratory Partnership with Small Business Tax Credit
- 15 Act, Technology Jobs and Research and Development Tax Credit
- 16 Act, Film Production Tax Credit Act, Affordable Housing Tax
- 17 Credit Act and high-wage jobs tax credit;
- 18 (17) Corporate Income and Franchise Tax Act;
- 19 (18) Uniform Division of Income for Tax
- 20 Purposes Act;
- 21 (19) Multistate Tax Compact;
- 22 (20) Tobacco Products Tax Act;
- 23 (21) the telecommunications relay service
- 24 surcharge imposed by Section 63-9F-11 NMSA 1978, which
- 25 surcharge shall be considered a tax for the purposes of the Tax

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- 1 Administration Act;
- 2 (22) the Insurance Premium Tax Act;
- 3 (23) the Health Care Quality Surcharge Act;
- 4 [~~and~~]
- 5 (24) the Cannabis Tax Act; and
- 6 (25) the Real Estate Transfer Tax Act;
- 7 B. the administration and enforcement of the
- 8 following taxes, surtaxes, advanced payments or tax acts as
- 9 they now exist or may hereafter be amended:
- 10 (1) Resources Excise Tax Act;
- 11 (2) Severance Tax Act;
- 12 (3) any severance surtax;
- 13 (4) Oil and Gas Severance Tax Act;
- 14 (5) Oil and Gas Conservation Tax Act;
- 15 (6) Oil and Gas Emergency School Tax Act;
- 16 (7) Oil and Gas Ad Valorem Production Tax Act;
- 17 (8) Natural Gas Processors Tax Act;
- 18 (9) Oil and Gas Production Equipment Ad
- 19 Valorem Tax Act;
- 20 (10) Copper Production Ad Valorem Tax Act;
- 21 (11) any advance payment required to be made
- 22 by any act specified in this subsection, which advance payment
- 23 shall be considered a tax for the purposes of the Tax
- 24 Administration Act;
- 25 (12) Enhanced Oil Recovery Act;

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1 (13) Natural Gas and Crude Oil Production
2 Incentive Act; and

3 (14) intergovernmental production tax credit
4 and intergovernmental production equipment tax credit;

5 C. the administration and enforcement of the
6 following taxes, surcharges, fees or acts as they now exist or
7 may hereafter be amended:

8 (1) Weight Distance Tax Act;

9 (2) the workers' compensation fee authorized
10 by Section 52-5-19 NMSA 1978, which fee shall be considered a
11 tax for purposes of the Tax Administration Act;

12 (3) Uniform Unclaimed Property Act (1995);

13 (4) 911 emergency surcharge and the network
14 and database surcharge, which surcharges shall be considered
15 taxes for purposes of the Tax Administration Act;

16 (5) the solid waste assessment fee authorized
17 by the Solid Waste Act, which fee shall be considered a tax for
18 purposes of the Tax Administration Act;

19 (6) the water conservation fee imposed by
20 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
21 for the purposes of the Tax Administration Act; and

22 (7) the gaming tax imposed pursuant to the
23 Gaming Control Act; and

24 D. the administration and enforcement of all other
25 laws, with respect to which the department is charged with

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1 responsibilities pursuant to the Tax Administration Act, but
2 only to the extent that the other laws do not conflict with the
3 Tax Administration Act."

4 SECTION 5. A new section of the Income Tax Act is enacted
5 to read:

6 "[NEW MATERIAL] EXEMPTION--SOCIAL SECURITY INCOME.--

7 A. The following individuals may claim an exemption
8 in an amount equal to the amount included in adjusted gross
9 income pursuant to Section 86 of the Internal Revenue Code, as
10 that section may be amended or renumbered, of income includable
11 except for this exemption in net income; provided that the
12 exempted amount shall not exceed the individual's net income:

13 (1) married individuals filing separate
14 returns with an adjusted gross income of fifty thousand dollars
15 (\$50,000) or less;

16 (2) heads of household, surviving spouses and
17 married individuals filing joint returns with an adjusted gross
18 income of one hundred thousand dollars (\$100,000) or less; and

19 (3) single individuals with an adjusted gross
20 income of seventy-two thousand dollars (\$72,000) or less.

21 B. An individual who claims an exemption pursuant
22 to this section shall not claim the exemption pursuant to
23 Section 7-2-5.2 NMSA 1978."

24 SECTION 6. APPLICABILITY.--The provisions of Section 5 of
25 this act apply to taxable years beginning on or after January

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1 1, 2022.

2 SECTION 7. EFFECTIVE DATE.--The effective date of the
3 provisions of Sections 1 through 3 of this act is July 1, 2022.

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