

LFC Requester:	Brendon Gray
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AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Date Prepared: 01/27/2026

Bill Number: SB 151

Original Correction
 Amendment Substitute

Sponsor: Sen. Peter Wirth (D)

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: Corporate Income Tax
Changes

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY26	FY27	FY28	3 Year	Recurring or	Fund

				Total Cost	Nonrecurring	Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

SB 151 partially decouples New Mexico corporate income tax from recent federal tax provisions by modifying the definition of “base income” and clarifying apportionment rules. SB 151 proposes to (i) reverse New Mexico’s exclusion of certain global intangible low-taxed income (“GILTI”) amounts; (ii) require an add-back of federal “bonus” depreciation and expanded interest deductions; and (iii) apply New Mexico apportionment factors to earned income from controlled foreign corporations (“CFCs”). Finally, SB 151 delays the applicability of these changes until tax years beginning on or after January 1, 2027.

Section 1 of SB 151 modifies the statutory definition of “base income” under NMSA 1978 § 7-2A-2, which is the first step in calculating corporate taxable income in New Mexico. Subsection (C)(2)(c) eliminates the existing statutory provision that allows corporate taxpayers to subtract global intangible low-income tax (“GILTI”) from their base income. *See* SB 151 § 1(C)(2)(c) (proposing to amend NMSA 1978, § 72A2(C)(2)(c) which allows corporate taxpayers in New Mexico to subtract GILTI); 26 USCA §§ 250 (federal deduction for GILTI) and 951A (federal GILTI inclusion); *see also* 26 USCA §§ 168(a)–(j). Subsection (C)(2)(d) then adds a new provision that requires taxpayers to subtract additional interest deductions attributed to the expanded definition of “adjusted taxable income” under Section 163(j) of the Internal Revenue Code (“IRC”), while preserving the disallowed business interest’s eligibility to be treated as a federal carryforward. *See* SB 151 § 1(C)(2)(d); 26 USC §§ 163(j) (outlining the required limitation for deductions on business interest), and 163(j)(2) (noting that the disallowed business interest may still be treated as a federal carryforward); *see also* One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 1 (2025) (modifying the limitation on business interest deductions in Section 163(j) of the Internal Revenue Code for tax years beginning after December 31, 2024 by restoring taxpayers’ ability to calculate the thirty percent (30%) adjusted taxable income limitation using earnings before interest, taxes, depreciation, and amortization).

Section 1, therefore, broadens the New Mexico corporate tax base by (i) including foreign income; (ii) normalizing depreciation timing; and (iii) tightening the limit for interest deductions, while relying on apportionment to maintain a constitutional balance with the federal income tax.

Section 2 clarifies in Subsection A that apportionment factors apply to controlled foreign

corporations (“CFCs”) to the extent that their income is included in New Mexico net income. *See* SB 151 § 2(A) at 12 (amending NMSA 1978, § 7-4-10(A) by clarifying that “[t]he apportionment calculation shall include the factors of a controlled foreign corporation to the extent the income of the corporation is included in net income.”). Subsection E proposes to add a new definition for “controlled foreign corporations” that incorporates the federal definition into state law. *See* SB 151 § 2(E)(1) at 14.

Section 3 adds an “applicability” provision that applies the act to taxable years beginning on or after January 1, 2027. *See* SB 151 § 3 at 16.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

SB 151 appears to navigate Commerce Clause and Due Process Clause concerns well. However, it is worth noting that these clauses restrict the ability of states to tax out-of-state conduct or income. *See, e.g., Container Corp. of America v. Franchise Tax Bd.*, 463 U.S. 159, 164–66 (1983) (“Under both the Due Process and the Commerce Clauses of the Constitution, a state may not, when imposing an income-based tax, tax value earned outside its borders.” (quotation marks omitted)); *see also Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977) (outlining four-factor test from precedent). Because SB 151 includes GILTI with apportionment when calculating a CFC’s income tax liability, it is well-positioned to survive constitutional scrutiny.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A