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SENATE BILL 50

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT TO REQUIRE ESTIMATED INCOME TAX PAYMENTS OF CERTAIN TAXPAYERS; ENACTING A NEW SECTION OF THE NMSA 1978.

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

Section 1. A new section of the Income Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ ESTIMATED TAX DUE--PAYMENT OF ESTIMATED TAX--PENALTY.--

A. Except as otherwise provided in this section, every individual who is required to file an income tax return under the Income Tax Act shall pay the required annual payment in installments. The amount of any required installment shall be twenty-five percent of the required annual payment.

B. For the purposes of this section:

Underscored material = new
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Underscored material = new
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1 (1) "required annual payment" means the lesser
2 of:

3 (a) ninety percent of the tax shown on
4 the return of the taxable year or, if no return is filed, ninety
5 percent of the tax for the taxable year; or

6 (b) one hundred percent of the tax shown
7 on the return for the preceding taxable year if the preceding
8 taxable year was a taxable year of twelve months and the
9 taxpayer filed a tax return for that preceding taxable year; and

10 (2) "tax" means the tax imposed under Section
11 7-2-3 NMSA 1978 less any amount allowed for credits provided by
12 Sections 7-2-13 and 7-2-18.1 through 7-2-18.4 NMSA 1978 and for
13 any applicable tax rebates provided by the Income Tax Act.

14 C. There shall be four required installments for
15 each taxable year. For taxpayers reporting on a calendar year
16 basis, the due dates for the installments are April 15, June 15,
17 September 15 and January 15 of the following taxable year. For
18 taxpayers reporting on a fiscal year other than a calendar year,
19 the due dates for the installments are the fifteenth day of the
20 fourth, sixth and ninth months of the fiscal year and the
21 fifteenth day of the first month following the fiscal year.

22 D. For the purposes of applying this section, the
23 amount of tax deducted and withheld with respect to a taxpayer
24 under the Withholding Tax Act shall be deemed a payment of
25 estimated tax. An equal part of the amount of withheld tax

Underscored material = new
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1 shall be deemed paid on each due date for the applicable taxable
2 year unless the taxpayer establishes the dates on which all
3 amounts were actually withheld, in which case the amounts
4 withheld shall be deemed payments of estimated tax on the dates
5 on which the amounts were actually withheld. The taxpayer may
6 apply the provisions of this subsection separately to wage
7 withholding and any other amounts withheld under the Withholding
8 Tax Act.

9 E. Except as otherwise provided in this section, in
10 the case of any underpayment of estimated tax by a taxpayer,
11 there shall be added to the tax an amount as penalty determined
12 by applying the rate specified in Subsection B of Section 7-1-67
13 NMSA 1978 to the amount of the underpayment for the period of
14 the underpayment, provided:

15 (1) the amount of the underpayment shall be the
16 excess of the amount of the required installment over the
17 amount, if any, of the installment paid on or before the due
18 date for the installment;

19 (2) the period of the underpayment runs from
20 the due date for the installment to whichever of the following
21 dates is earlier:

22 (a) the fifteenth day of the fourth month
23 following the close of the taxable year; or

24 (b) with respect to any portion of the
25 underpayment, the date on which the portion was paid; and

1 (3) for the purposes of Subparagraph (b) of
2 Paragraph (2) of this subsection, a payment of estimated tax
3 shall be credited against unpaid required installments in the
4 order in which the installments are required to be paid.

5 F. No penalty shall be imposed under Subsection E of
6 this section for any taxable year if:

7 (1) the difference between the following is
8 less than five hundred dollars (\$500):

9 (a) the tax shown on the return for the
10 taxable year or, when no return is filed, the tax for the
11 taxable year; and

12 (b) any amount withheld under the
13 provisions of the Withholding Tax Act for that taxpayer for that
14 taxable year;

15 (2) the individual's preceding taxable year was
16 a taxable year of twelve months, the individual did not have any
17 tax liability for the preceding taxable year and the individual
18 was a resident of New Mexico for the entire taxable year; or

19 (3) the secretary determines that the
20 underpayment was not due to fraud, negligence or disregard of
21 rules and regulations.

22 G. If, on or before January 31 of the following
23 taxable year, the taxpayer files a return for the taxable year
24 and pays in full the amount computed on the return as payable,
25 then no penalty under Subsection E of this section shall be

Underscored material = new
[bracketed material] = delete

1 imposed with respect to any underpayment of the fourth required
2 installment for the taxable year.

3 H. This section shall be applied to taxable years of
4 less than twelve months in the manner determined by regulation
5 or instruction of the secretary.

6 I. Except as otherwise provided in Subsection J of
7 this section, this section applies to any estate or trust.

8 J. This section does not apply to any trust that is
9 subject to the tax imposed by Section 511 of the Internal
10 Revenue Code or that is a private foundation. With respect to
11 any taxable year ending before the date two years after the date
12 of the decedent's death, this section does not apply to:

13 (1) the estate of the decedent; or

14 (2) any trust all of which was treated under
15 Subpart E of Part I of Subchapter J of Chapter 1 of the Internal
16 Revenue Code as owned by the decedent and to which the residue
17 of the decedent's estate will pass under the decedent's will or,
18 if no will is admitted to probate, that is the trust primarily
19 responsible for paying debts, taxes and expenses of
20 administration. "

21 Section 2. APPLICABILITY. --The provisions of this act
22 apply to taxable years beginning on or after January 1, 1997.

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1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996

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5 JANUARY 18, 1996

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7 Mr. Presi dent:

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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred

10
11 SENATE BILL 50

12
13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the SENATE WAYS
15 AND MEANS COMMI TTEE.

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17 Respectfully submi tted,

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22 _____
23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was __ For __ Against

Yes:

No:

Excused:

Absent:

S0050CC1

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1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996
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5 January 26, 1996
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7 Mr. President:
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9 Your WAYS AND MEANS COMMITTEE, to whom has been referred
10

11 SENATE BILL 50
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS, and thence referred to the FINANCE COMMITTEE.
15

16 Respectfully submitted,
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21 TITO D. CHAVEZ, Chairman
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25 Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

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The roll call vote was 6 For 1 Against

Yes: 6

No: Rawson

Excused: Riley

Absent:

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State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

February 15, 1996

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has been referred

SENATE BILL 50

has had it under consideration and reports same with recommendation that it DO PASS.

Respectfully submitted,

Jerry W. Sandel, Chairman

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HTRC/SB 50

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 2 Against

Yes: 5

No: Porter, Stell

Excused: None

Absent: Gallegos, Gonzales, Hawkins, Lovejoy, Lujan, Sandoval

Underscored material = new
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