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SENATE BILL 687

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

STUART INGLE

AN ACT

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE INCOME  
TAX ACT PERTAINING TO ESTIMATED TAX PAYMENTS; DECLARING AN  
EMERGENCY.

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

Section 1. Section 7-2-12.2 NMSA 1978 (being Laws 1996,  
Chapter 17, Section 1) is amended to read:

"7-2-12.2. 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~~] through  
either withholding or estimated tax payments.

Underscored material = new  
[bracketed material] = delete

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B. For the purposes of this section:

(1) "required annual payment" means the lesser of:

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

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

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

C. There shall be four required installments for each taxable year. If a taxpayer is not liable for estimated tax payments on March 31, but becomes liable for estimated tax at some point after March 31, he must make estimated tax payments as follows:

(1) if the taxpayer becomes required to pay estimated tax after March 31 and before June 1, fifty percent of the required annual payment shall be paid on June 15, twenty-five percent on September 15 and twenty-five percent on January 15 of the following taxable year;

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1                   (2) if the taxpayer becomes required to pay  
2 estimated tax after May 31, but before September 1, seventy-five  
3 percent of the required annual payment shall be paid on  
4 September 15 and twenty-five percent on January 15 of the  
5 following taxable year; and

6                   (3) if the taxpayer becomes required to pay  
7 estimated tax after August 31, one hundred percent of the  
8 required annual payment shall be paid on January 15 of the  
9 following taxable year.

10                   D. Except as otherwise provided in this section, for  
11 taxpayers reporting on a calendar year basis, [the due dates for  
12 the installments are] estimated payments of the required annual  
13 payment are due on or before April 15, June 15 and September 15  
14 of the taxable year and January 15 of the following taxable  
15 year. For taxpayers reporting on a fiscal year other than a  
16 calendar year, the due dates for the installments are the  
17 fifteenth day of the fourth, sixth and ninth months of the  
18 fiscal year and the fifteenth day of the first month following  
19 the fiscal year.

20                   E. A rancher or farmer who expects to receive at  
21 least two-thirds of his gross income for the taxable year from  
22 ranching or farming, or who has received at least two-thirds of  
23 his gross income for the previous taxable year from ranching or  
24 farming, may:

25                   (1) pay the required annual payment for the

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1 taxable year in one installment on January 15 of the following  
2 taxable year; or

3 (2) on or before March 1 of the following  
4 taxable year, file a return for the taxable year and pay in full  
5 the amount computed on the return as payable.

6 No penalty under Subsection G of this section shall be  
7 imposed unless the rancher or farmer underpays his tax by more  
8 than one-third. If a joint return is filed, a rancher or farmer  
9 shall consider his spouse's gross income in determining whether  
10 at least two-thirds of gross income is from ranching or farming.

11 ~~[D.]~~ F. For the purposes of ~~[applying]~~ this section,  
12 the amount of tax deducted and withheld with respect to a  
13 taxpayer under the Withholding Tax Act shall be deemed a payment  
14 of estimated tax. An equal part of the amount of withheld tax  
15 shall be deemed paid on each due date for the applicable taxable  
16 year unless the taxpayer establishes the dates on which all  
17 amounts were actually withheld, in which case the amounts  
18 withheld shall be deemed payments of estimated tax on the dates  
19 on which the amounts were actually withheld. The taxpayer may  
20 apply the provisions of this subsection separately to wage  
21 withholding and any other amounts withheld under the Withholding  
22 Tax Act.

23 ~~[E.]~~ G. Except as otherwise provided in this  
24 section, in the case of any underpayment of ~~[estimated tax]~~ the  
25 required annual payment by a taxpayer, there shall be added to

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[bracketed material] = delete

1 the tax an amount as penalty determined by applying the rate  
2 specified in Subsection B of Section 7-1-67 NMSA 1978 to the  
3 amount of the underpayment for the period of the underpayment,  
4 provided:

5 (1) the amount of the underpayment shall be the  
6 excess of the amount of the required [~~installment~~] annual  
7 payment over the amount, if any, [~~of the installment~~] paid on or  
8 before the due date for the installment;

9 (2) the period of the underpayment runs from  
10 the due date for the installment to whichever of the following  
11 dates is earlier:

12 (a) the fifteenth day of the fourth month  
13 following the close of the taxable year; or

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

16 (3) [~~for the purposes of Subparagraph (b) of~~  
17 ~~Paragraph (2) of this subsection~~] a payment of estimated tax  
18 shall be credited against unpaid [~~required~~] or underpaid  
19 installments in the order in which the installments are required  
20 to be paid.

21 [~~F.~~] H. No penalty shall be imposed under Subsection  
22 [~~E~~] G of this section for any taxable year if:

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

25 (a) the tax shown on the return for the

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1 taxable year or, when no return is filed, the tax for the  
2 taxable year; and

3 (b) any amount withheld under the  
4 provisions of the Withholding Tax Act for that taxpayer for that  
5 taxable year;

6 (2) the individual's preceding taxable year was  
7 a taxable year of twelve months, the individual did not have any  
8 tax liability for the preceding taxable year and the individual  
9 was a resident of New Mexico for the entire taxable year; ~~[or]~~

10 (3) through either withholding or estimated tax  
11 payments, the individual paid the required annual payment as  
12 defined in Subsection B of this section; or

13 ~~[(3)]~~ (4) the secretary determines that the  
14 underpayment was not due to fraud, negligence or disregard of  
15 rules and regulations.

16 ~~[G-]~~ I. If, on or before January 31 of the following  
17 taxable year, the taxpayer files a return for the taxable year  
18 and pays in full the amount computed on the return as payable,  
19 then no penalty under Subsection ~~[E]~~ G of this section shall be  
20 imposed with respect to any underpayment of the fourth required  
21 installment for the taxable year.

22 ~~[H-]~~ J. This section shall be applied to taxable  
23 years of less than twelve months in the manner determined by  
24 regulation or instruction of the secretary.

25 ~~[I-]~~ K. Except as otherwise provided in Subsection

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1 [J] L of this section, this section applies to any estate or  
2 trust.

3 [J-] L. This section does not apply to any trust  
4 that is subject to the tax imposed by Section 511 of the  
5 Internal Revenue Code or that is a private foundation. With  
6 respect to any taxable year ending before the date two years  
7 after the date of the decedent's death, this section does not  
8 apply to:

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

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

19 Section 3. EMERGENCY. --It is necessary for the public  
20 peace, health and safety that this act take effect immediately.

1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

SB 687/a

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5  
6 February 17, 1997

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8 Mr. President:

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10 Your WAYS AND MEANS COMMITTEE, to whom has been  
11 referred

12  
13 SENATE BILL 687

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

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19 1. On page 2, line 23, after "on" insert "or before".  
20  
21 2. On page 2, line 24, after both occurrences of "on" insert  
22 "or before".  
23  
24 3. On page 3, line 3, after "on" insert "or before".  
25  
4. On page 3, line 4, after "on" insert "or before".



FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

SWMC/SB 687

Page 9

5. On page 3, line 8, after "on" insert "or before".

6. On page 4, line 1, after "on" insert "or before".

7. On page 6, line 23, after "months" insert "and to  
taxpayers  
reporting on a fiscal year other than a calendar year".,  
and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Carlos R. Cisneros, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: McSorley, Nava

Absent: None

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