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HOUSE BILL 478

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JERRY W. SANDEL

AN ACT

RELATING TO REVENUE; AMENDING SECTION 7-36-4 NMSA 1978 (BEING LAWS 1976, CHAPTER 61, SECTION 1, AS AMENDED) TO ENSURE TAXATION OF FRACTIONAL INTERESTS IN REAL PROPERTY.

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

Section 1. Section 7-36-4 NMSA 1978 (being Laws 1976, Chapter 61, Section 1, as amended) is amended to read:

"7-36-4. FRACTIONAL PROPERTY INTERESTS-- DEFINITIONS-- TAXATION AND VALUATION OF FRACTIONAL INTERESTS. --

A. As used in this section:

(1) "fractional interest" means a tangible interest in real property, except for mineral property as defined in Section 7-36-22 NMSA 1978, that is less than the total of the interests existing in the property, but "fractional interest" does not include those property

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1 interests described in Sections 7-36-3, 7-36-3.1 and
2 7-36-3.2 NMSA 1978 nor does it include the lessee's interest
3 under a lease when the term of the lease is more than
4 seventy-five years;

5 (2) "exempt entity" means any person whose
6 real property is exempt from taxation under the constitution
7 of New Mexico or the Enabling Act (36 Stat. 557, as amended)
8 by reason of ownership;

9 (3) "exempt property" means property that is
10 exempt from property taxation pursuant to Article 8, Section 3
11 of the constitution of New Mexico;

12 [~~3~~] (4) "improvements" includes surface and
13 subsurface structures, fixtures, transmission lines, pipelines
14 and other works, but "improvements" does not include:

15 (a) that property either included or
16 specifically excluded under the terms "property used in
17 connection with mineral property" under Section 7-36-23 NMSA
18 1978, "property used in connection with potash mineral
19 property" under Section 7-36-24 NMSA 1978 and "property used
20 in connection with uranium mineral property" under Section
21 7-36-25 NMSA 1978;

22 (b) a dwelling occupied by a low-income
23 resident in a housing project authorized under the provisions
24 of the Municipal Housing Law; and

25 (c) those property interests described

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1 in Sections 7-36-3, 7-36-3.1 and 7-36-3.2 NMSA 1978; [and
2 ~~(4)~~ (5) "nonexempt entity" means any person
3 that is not an exempt entity; and

4 (6) "nonexempt property" means property that
5 is not exempt property.

6 B. Fractional interests of nonexempt entities in
7 real property of exempt entities are exempt from property
8 taxation under the Property Tax Code, but this exemption shall
9 not apply to the following property:

10 (1) improvements of land of an exempt entity
11 if the improvements are owned or leased by a nonexempt entity;
12 these improvements are [~~hereby subjected~~] subject to valuation
13 for property taxation purposes and to property taxation to be
14 paid by the nonexempt entity; and

15 (2) property interests of nonexempt entities
16 held under equitable title in the property of exempt entities.

17 C. When an owner creates and transfers a
18 fractional interest in property that results in the
19 transferred interest or the retained interest becoming tax-
20 exempt property because of its use or its ownership, the owner
21 of the nonexempt property shall report the transfer to the
22 appropriate valuation authority and it shall be valued for
23 property taxation purposes. The value of the nonexempt
24 property shall be its value determined for the tax year
25 immediately preceding the tax year in which the transfer

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1 occurs less any decrease and plus any increase in value
2 directly attributable to the creation of the fractional
3 interest that is tax-exempt property. "

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 12, 1998

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8 Mr. Speaker:

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10 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to
11 whom has been referred

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13 HOUSE BILL 478

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

17 1. On page 2, line 11, after "New Mexico" insert "by
18 reason of use".

19
20 2. On page 3, strike lines 17 through 25, strike page
21 four and insert in lieu thereof:

22 "C. When fractional interests are created in
23 property:

24
25 (1) fractional interests that are nonexempt

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property shall be reported to the appropriate valuation authority by the fractional interest owners for valuation for property tax purposes if the owner is a nonexempt entity; and

(2) except for fractional interests owned by the United States, an Indian nation, tribe or pueblo, the state of New Mexico or a political subdivision of the state, fractional interests that are owned by a nonexempt entity but are claimed to be exempt property shall be reported by the owner to the appropriate valuation authority for a determination of exemption status and valuation if determined to be nonexempt property.

D. Fractional interests that are nonexempt property shall be valued by the applicable method of valuation pursuant to the Property Tax Code, and if fractional interests that are exempt property have been created, the value of the remaining nonexempt fractional interests shall be determined in the property tax year following the creation of the interests as the value of the property in the property tax year immediately prior to the year in which creation of the fractional interests occurred, increased or decreased by the value directly attributable to the creation of the fractional interests that are exempt property. For subsequent property tax years, the nonexempt fractional interests shall be valued pursuant to the applicable methods of valuation.".,

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2 SECOND SESSION, 1998

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4 and thence referred to the TAXATION AND REVENUE
5 COMMITTEE.

6
7 Respectfully submitted,

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11 _____
12 Gary K. King, Chairman

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14 Adopted _____

Not Adopted _____

15 (Chief Clerk)

(Chief Clerk)

16
17 Date _____

18 The roll call vote was 6 For 0 Against

19 Yes: 6

20 Excused: Crook, Dana, Heaton, Johnson

21 Absent: None

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24 123239.1

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