

AN ACT

RELATING TO TAXATION; AMENDING CERTAIN PROVISIONS OF THE INCOME TAX ACT TO CORRECT ERRORS, PROVIDE AN EXCEPTION FROM ESTIMATED TAX PAYMENTS FOR FIRST-YEAR FILERS AND PROVIDE CONDITIONS BY WHICH OPTIONAL REFUND CONTRIBUTION PROVISIONS WOULD BE REPEALED; AMENDING THE CORPORATE INCOME AND FRANCHISE TAX ACT TO REMOVE A SUPERFLUOUS DEFINITION; AMENDING THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT TO CHANGE A DEFINITION; AMENDING THE ESTATE TAX ACT TO CLARIFY APPLICATION OF A PROVISION; AMENDING THE TAX REFUND INTERCEPT PROGRAM ACT TO REPEAL AN OBSOLETE PROVISION; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-2-7 NMSA 1978 (being Laws 1994, Chapter 5, Section 20, as amended) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, 1998:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of

	excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of excess over \$ 12,000
Over \$ 20,000 but not over \$ 32,000	\$ 864 plus 7.1% of excess over \$ 20,000
Over \$ 32,000 but not over \$ 50,000	\$ 1,716 plus 7.9% of excess over \$ 32,000
Over \$ 50,000	\$ 3,138 plus 8.2% of excess over \$ 50,000.

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of

	excess over \$
24,000	
Over \$ 40,000 but not over \$ 64,000	\$ 1,728 plus 7.1% of excess over \$ 40,000
Over \$ 64,000 but not over \$100,000	\$ 3,432 plus 7.9% of excess over \$ 64,000
Over \$100,000	\$ 6,276 plus 8.2% of excess over \$100,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of excess over \$ 16,000
Over \$ 26,000 but not over \$ 42,000	\$1,104.50 plus 7.1% of excess over \$ 26,000
Over \$ 42,000 but not over \$ 65,000	\$2,240.50 plus 7.9% of excess over \$ 42,000
Over \$ 65,000	\$4,057.50 plus 8.2% of excess over \$ 65,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of excess over \$ 20,000
Over \$ 33,000 but not over \$ 53,000	\$1,405 plus 7.1% of excess over \$ 33,000
Over \$ 53,000 but not over \$ 83,000	\$2,825 plus 7.9% of excess over \$ 53,000
Over \$ 83,000	\$5,195 plus 8.2% of excess over \$ 83,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Section 2. Section 7-2-12.2 NMSA 1978 (being Laws 1996, Chapter 17, Section 1, as amended) 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 through either withholding or estimated tax payments.

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 must be paid on or before June 15, twenty-five percent on September 15 and twenty-five percent on or before January 15 of the following taxable year;

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

(3) if the taxpayer becomes required to pay estimated tax after August 31, one hundred percent of the required annual payment must be paid on or before January 15 of the following taxable year.

D. Except as otherwise provided in this section, for taxpayers reporting on a calendar year basis, estimated payments of the required annual payment are due on or before April 15, June 15 and September 15 of the taxable year and January 15 of the following taxable year. For taxpayers reporting on a fiscal year other than a calendar year, the due dates for the installments are the fifteenth day of the

fourth, sixth and ninth months of the fiscal year and the fifteenth day of the first month following the fiscal year.

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

(1) pay the required annual payment for the taxable year in one installment on or before January 15 of the following taxable year; or

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

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

F. For the purposes of this section, the amount of tax deducted and withheld with respect to a taxpayer under the Withholding Tax Act shall be deemed a payment of estimated tax. An equal part of the amount of withheld tax shall be deemed paid on each due date for the applicable taxable year unless the taxpayer establishes the dates on

which all amounts were actually withheld, in which case the amounts withheld shall be deemed payments of estimated tax on the dates on which the amounts were actually withheld. The taxpayer may apply the provisions of this subsection separately to wage withholding and any other amounts withheld under the Withholding Tax Act.

G. Except as otherwise provided in this section, in the case of any underpayment of the required annual payment by a taxpayer, there shall be added to the tax an amount as penalty determined by applying the rate specified in Subsection B of Section 7-1-67 NMSA 1978 to the amount of the underpayment for the period of the underpayment, provided:

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

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

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

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

(3) a payment of estimated tax shall be



credited against unpaid or underpaid installments in the order in which the installments are required to be paid.

H. No penalty shall be imposed under Subsection G of this section for any taxable year if:

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

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

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

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

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

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

I. If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable

year and pays in full the amount computed on the return as payable, then no penalty under Subsection G of this section shall be imposed with respect to any underpayment of the fourth required installment for the taxable year.

J. This section shall be applied to taxable years of less than twelve months and to taxpayers reporting on a fiscal year other than a calendar year in the manner determined by regulation or instruction of the secretary.

K. Except as otherwise provided in Subsection L of this section, this section applies to any estate or trust.

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

(1) the estate of the decedent; or

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

M. The provisions of this section do not apply to first-year residents."

Section 3. Section 7-2-18 NMSA 1978 (being Laws 1977, Chapter 196, Section 1, as amended) is amended to read:

"7-2-18. TAX REBATE OF PROPERTY TAX DUE THAT EXCEEDS THE ELDERLY TAXPAYER'S MAXIMUM PROPERTY TAX LIABILITY-- REFUND.--

A. Any resident who has attained the age of sixty-five and files an individual New Mexico income tax return and is not a dependent of another individual may claim a tax rebate for the taxable year for which the return is filed. The tax rebate shall be the amount of property tax due on the resident's principal place of residence for the taxable year that exceeds the property tax liability indicated by the table in Subsection F or G, as appropriate, of this section, based upon the taxpayer's modified gross income.

B. Any resident otherwise qualified under this section who rents a principal place of residence from another person may calculate the amount of property tax due by multiplying the gross rent for the taxable year by six percent. The tax rebate shall be the amount of property tax due on the taxpayer's principal place of residence for the taxable year that exceeds the property tax liability indicated by the table in Subsection F or G, as appropriate,

of this section, based upon the taxpayer's modified gross income.

C. As used in this section, "principal place of residence" means the resident's dwelling, whether owned or rented, and so much of the land surrounding it, not to exceed five acres, as is reasonably necessary for use of the dwelling as a home and may consist of a part of a multi-dwelling or a multi-purpose building and a part of the land upon which it is built.

D. No claim for the tax rebate provided in this section shall be allowed a resident who was an inmate of a public institution for more than six months during the taxable year or who was not physically present in New Mexico for at least six months during the taxable year for which the tax rebate could be claimed.

E. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax rebate that would have been allowed on a joint return.

F. For taxpayers whose principal place of residence is in a county that does not have in effect for the taxable year a resolution in accordance with Subsection J of this section, the tax rebate provided for in this section may be claimed in the amount of the property tax due each taxable year that exceeds the amount shown as property

tax liability in the following table:

ELDERLY HOMEOWNERS' MAXIMUM PROPERTY TAX LIABILITY

TABLE

Taxpayer's Modified Gross Income		Property Tax
Over	But Not Over	Liability
\$ 0	\$ 1,000	\$20
1,000	2,000	25
2,000	3,000	30
3,000	4,000	35
4,000	5,000	40
5,000	6,000	45
6,000	7,000	50
7,000	8,000	55
8,000	9,000	60
9,000	10,000	75
10,000	11,000	90
11,000	12,000	105
12,000	13,000	120
13,000	14,000	135
14,000	15,000	150
15,000	16,000	180.

G. For taxpayers whose principal place of residence is in a county that has in effect for the taxable

year a resolution in accordance with Subsection J of this section, the tax rebate provided for in this section may be claimed in the amount of the property tax due each taxable year that exceeds the amount shown as property tax liability in the following table:

ELDERLY HOMEOWNERS' MAXIMUM PROPERTY TAX LIABILITY

TABLE

Taxpayer's Modified Gross Income		Property Tax Liability
Over	But Not Over	
\$ 0	\$ 1,000	\$ 20
1,000	2,000	25
2,000	3,000	30
3,000	4,000	35
4,000	5,000	40
5,000	6,000	45
6,000	7,000	50
7,000	8,000	55
8,000	9,000	60
9,000	10,000	75
10,000	11,000	90
11,000	12,000	105
12,000	13,000	120
13,000	14,000	135

14,000	15,000	150
15,000	16,000	165
16,000	17,000	180
17,000	18,000	195
18,000	19,000	210
19,000	20,000	225
20,000	21,000	240
21,000	22,000	255
22,000	23,000	270
23,000	24,000	285
24,000	25,000	300.

H. If a taxpayer's modified gross income is zero, the taxpayer may claim a tax rebate based upon the amount shown in the first row of the appropriate table. The tax rebate provided for in this section shall not exceed two hundred fifty dollars (\$250) per return, and, if a return is filed separately that could have been filed jointly, the tax rebate shall not exceed one hundred twenty-five dollars (\$125). No tax rebate shall be allowed any taxpayer whose modified gross income exceeds sixteen thousand dollars (\$16,000) for taxpayers whose principal place of residence is in a county that does not have in effect for the taxable year a resolution in accordance with Subsection J of this section and twenty-five thousand dollars (\$25,000) for all other taxpayers.

I. The tax rebate provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

J. The board of county commissioners may adopt a resolution authorizing otherwise qualified taxpayers whose principal place of residence is in the county to claim the rebate provided by this section in the amounts set forth in Subsection G of this section. The resolution must also provide that the county will reimburse the state for the additional amount of tax rebates paid to such taxpayers over the amount that would have been paid to such taxpayers under Subsection F of this section. The resolution may apply to one or more taxable years. The county must adopt the resolution and notify the department of the adoption by no later than September 1 of the taxable year to which the resolution first applies. The department shall determine the additional amounts paid to taxpayers of the county for each taxable year and shall bill the county for the amount at the time and in the manner determined by the department. If the county fails to pay any bill within thirty days, the department may deduct the amount due from any amount to be transferred or distributed to the county by the state, other than debt interceptions."



Section 4. Section 7-2-18.1 NMSA 1978 (being Laws 1981, Chapter 170, Section 1, as amended) is amended to read:

"7-2-18.1. CREDIT FOR EXPENSES FOR DEPENDENT CHILD DAY CARE NECESSARY TO ENABLE GAINFUL EMPLOYMENT TO PREVENT INDIGENCY.--

A. As used in this section:

(1) "caregiver" means a corporation or an individual eighteen years of age or over who receives compensation from the resident for providing direct care, supervision and guidance to a qualifying dependent of the resident for less than twenty-four hours daily and includes related individuals of the resident but does not include a dependent of the resident;

(2) "cost of maintaining a household" means the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of such occupants, including property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance and food consumed on the premises. "Cost of maintaining a household" shall not include expenses otherwise incurred, including cost of clothing, education, medical treatment, vacations, life insurance, transportation and mortgages;

(3) "dependent" means "dependent" as

defined by Section 152 of the Internal Revenue Code, as that section may be amended or renumbered, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident;

(4) "disabled person" means a person who has a medically determinable physical or mental impairment, as certified by a licensed physician, that renders such person unable to engage in gainful employment;

(5) "gainfully employed" means working for remuneration for others, either full time or part time, or self-employment in a business or partnership; and

(6) "qualifying dependent" means a dependent under the age of fifteen at the end of the taxable year who receives the services of a caregiver.

B. Any resident who files an individual New Mexico income tax return and who is not a dependent of another taxpayer may claim a credit for child day care expenses incurred and paid to a caregiver in New Mexico during the taxable year by such resident if the resident:

(1) singly or together with a spouse furnishes over half the cost of maintaining the household for one or more qualifying dependents for any period in the

taxable year for which the credit is claimed;

(2) is gainfully employed for any period for which the credit is claimed or, if a joint return is filed, both spouses are gainfully employed or one is disabled for any period for which the credit is claimed;

(3) compensates a caregiver for child day care for a qualifying dependent to enable such resident together with his spouse, if any and if not disabled, to be gainfully employed;

(4) is not a recipient of public assistance under a program of aid to families with dependent children, a program under the New Mexico Works Act or any successor program during any period for which the credit provided by this section is claimed; and

(5) has a modified gross income, including child support payments, if any, of not more than the annual income that would be derived from earnings at double the federal minimum wage.

C. The credit provided for in this section shall be forty percent of the actual compensation paid to a caregiver by the resident for a qualifying dependent not to exceed four hundred eighty dollars (\$480) for each qualifying dependent or a total of one thousand two hundred dollars (\$1,200) for all qualifying dependents for a taxable year. For the purposes of computing the credit, actual

compensation shall not exceed eight dollars (\$8.00) per day for each qualifying dependent.

D. The caregiver shall furnish the resident with a signed statement of compensation paid by the resident to the caregiver for day care services. Such statements shall specify the dates and the total number of days for which payment has been made.

E. If the resident taxpayer has a federal tax liability, the taxpayer shall claim from the state not more than the difference between the amount of the state child care credit for which the taxpayer is eligible and the federal credit for child and dependent care expenses the taxpayer is able to deduct from federal tax liability for the same taxable year; provided, for first year residents only, the amount of the federal credit for child and dependent care expenses may be reduced to an amount equal to the amount of federal credit for child and dependent care expenses the resident is able to deduct from federal tax liability multiplied by the ratio of the number of days of residence in New Mexico during the resident's taxable year to the total number of days in the resident's taxable year.

F. The credit provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the credit exceeds the taxpayer's income tax liability, the excess shall be

refunded to the taxpayer.

G. A husband and wife maintaining a household for one or more qualifying dependents and filing separate returns for a taxable year for which they could have filed a joint return:

(1) may each claim only one-half of the credit that would have been claimed on a joint return; and

(2) are eligible for the credit provided in this section only if their joint modified gross income, including child support payments, if any, is not more than the annual income that would be derived from earnings at double the federal minimum wage."

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

"OPTIONAL REFUND CONTRIBUTION PROVISIONS--CONDITIONAL REPEAL.--

A. By August 31, 2000, and by August 31 of every succeeding year, the secretary shall determine the total amount contributed through the preceding July 31 on returns filed for taxable years ending in the preceding calendar year pursuant to each provision of the Income Tax Act that allows a taxpayer the option of directing the department to contribute all or any part of an income tax refund due the taxpayer to a specified account, fund or entity.

B. If the secretary's determination pursuant to

Subsection A of this section regarding an optional refund contribution provision is that the total amount contributed is less than five thousand dollars (\$5,000), exclusive of directions for contributions disregarded under Subsection C of this section, the secretary shall certify that fact to the secretary of state. Any optional refund contribution provision for which a certification is made for three consecutive years is repealed, effective on the January 1 following the third certification.

C. The department shall disregard a direction on a return to make an optional refund contribution if the amount of refund due on the return is determined by the department to be less than the sum of the amounts directed to be contributed.

D. Notwithstanding the provisions of Section 7-1-26 NMSA 1978, a taxpayer may not claim and the department may not allow a refund with respect to any optional refund contribution that was made by the department at the direction of the taxpayer."

Section 6. Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

"7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:

A. "affiliated group" means that term as it is

used in the Internal Revenue Code;

B. "bank" means any national bank, national banking association, state bank or bank holding company;

C. "base income" means that part of the taxpayer's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and claimed by the taxpayer for that year; "base income" also includes interest received on a state or local bond;

D. "corporation" means corporations, joint stock companies, real estate trusts organized and operated under the Real Estate Trust Act, financial corporations and banks, other business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;

E. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

F. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than

December;

G. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

H. "net income" means base income adjusted to exclude:

(1) income from obligations of the United States less expenses incurred to earn that income;

(2) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

(3) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:

(a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and

(b) net operating loss carryover deductions to that year claimed and allowed; and

(4) for taxable years beginning on or after January 1, 1991, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed, provided that the amount of any net operating loss carryover from a taxable year beginning on or after January 1, 1991 may be excluded only as follows:

(a) in the case of a timely filed



return, in the taxable year immediately following the taxable year for which the return is filed; or

(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and

(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next four succeeding taxable years in turn until the net operating loss carryover is exhausted; in no event may a net operating loss carryover be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies;

I. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

J. "net operating loss carryover" means the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (3) or (4) of Subsection H of this section, may be excluded from

base income;

K. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

L. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

M. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or political subdivision thereof or any political subdivision of a foreign country;

N. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

O. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and includes, in the case of the return made for a

fractional part of a year under the provisions of that act, the period for which the return is made;

P. "taxpayer" means any corporation subject to the taxes imposed by the Corporate Income and Franchise Tax Act; and

Q. "unitary corporations" means two or more integrated corporations, other than any foreign corporation incorporated in a foreign country and not engaged in trade or business in the United States during the taxable year, that are owned in the amount of more than fifty percent and controlled by the same person and for which at least one of the following conditions exists:

(1) there is a unity of operations evidenced by central purchasing, advertising, accounting or other centralized services;

(2) there is a centralized management or executive force and centralized system of operation; or

(3) the operations of the corporations are dependent upon or contribute property or services to one another individually or as a group."

Section 7. Section 7-4-2 NMSA 1978 (being Laws 1965, Chapter 203, Section 2, as amended) is amended to read:

"7-4-2. DEFINITIONS.--As used in the Uniform Division of Income for Tax Purposes Act:

A. "business income" means income arising from

transactions and activity in the regular course of the taxpayer's trade or business and income from the disposition or liquidation of a business or segment of a business.

"Business income" includes income from tangible and intangible property if the acquisition, management or disposition of the property constitute integral parts of the taxpayer's regular trade or business operations;

B. "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed;

C. "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "nonbusiness income" means all income other than business income;

F. "sales" means all gross receipts of the taxpayer not allocated under Sections 7-4-5 through 7-4-9 NMSA 1978 of the Uniform Division of Income for Tax Purposes Act;

G. "secretary" means the secretary of taxation and revenue or a division director delegated by the

secretary; and

H. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof."

Section 8. Section 7-7-4 NMSA 1978 (being Laws 1973, Chapter 345, Section 4) is amended to read:

"7-7-4. NONRESIDENTS--TAX IMPOSED--EXEMPTION.--

A. Tax in an amount computed as provided in this section is imposed on the transfer of the net estate located in New Mexico of every nonresident.

B. The tax shall be computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in New Mexico and the denominator of which is the value of the decedent's gross estate.

C. For purposes of this section, the following is included as property located in New Mexico:

(1) debts arising from transactions in, or having a business situs in, New Mexico; and

(2) the securities of any corporation or other entity organized under the laws of New Mexico.

D. The transfer of the personal property of a nonresident is exempt from the tax imposed by this section to the extent that the personal property of residents is

exempt from taxation under the laws of the state in which the nonresident is domiciled."

Section 9. REPEAL.--Section 7-2C-14 NMSA 1978 (being Laws 1985, Chapter 106, Section 14, as amended) is repealed.

Section 10. APPLICABILITY.--The provisions of Sections 2, 3, 4, 6 and 7 of this act apply to the 1999 and subsequent taxable years.

Section 11. RETROACTIVE EFFECTIVE DATE.--The effective date of the provisions of Section 1 of this act is May 20, 1998.

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