

Taxation & Revenue: Legislative Agenda 2023 Regular Session

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223112.4SA: Tax Code Clean Up Bill #1

- This is a TRD agency bill that cleans up the tax code to make several minor but important administrative changes.
- These changes will prevent tax disputes, close loopholes, and make TRD more efficient
- The bill's fiscal impacts are a mix of small negatives and small positives, though none will be material.

223113.1SA: Tax Code Clean Up Bill #2

- This is a TRD agency bill that cleans up the tax code to make several minor but important administrative changes.
- Section 1 ensures that TRD will be able to hold accountable individuals who use software or electronic devices to artificially lower their receipts in order to evade taxation.
- Sections 2 through 6 make various changes in the Property Tax Code clarifying the taxpayer protest process and taxpayer and TRD appeals processes for property that is assessed centrally by TRD's Property Tax Division.

223112.4SA: Tax Code Clean Up Bill #1

Bill Section	Proposal Title	Summary	Fiscal Implications	Consequences of Not Enacting	Existing Sections Amended	Effective/ Applicability Date
1	Require tax expenditure budget	Tax & Rev will produce a tax expenditure budget by November 15 of each year	NA	Tax & Rev may continue in its discretion to produce this report annually	New Material	7-1-2023
2	Cannabis excise tax distribution technical cleanup	Minor technical corrections to language related to distribution of cannabis excise tax to local governments	NA	Possible confusion or inconsistency in law	7-1-6.68	7-1-2023
3	Special fuel tax data sharing	Allows Tax & Rev to share data on the special fuel tax with DOT, same as the gasoline tax	NA	DOT will continue to lack data needed on the special fuel tax	7-1-8.2	7-1-2023
4	Business code reporting technical cleanup	Minor technical corrections to language related to business tax reporting locations	NA	Possible confusion or inconsistency in law	7-1-14	7-1-2023
6	Amend definition of “disclosed agency” in GRT Act	Clarify the meaning of “disclosed agency” to prevent litigation and prevent potential pyramiding	NA	Could result in continued litigation around disclosed agency and pyramiding on receipts that pass through an agent.	7-9-3	7-1-2023
7	Prevent double taxation in excise taxes	Currently, cannabis and cigarette excise taxes collected and remitted to Tax & Rev are also taxable gross receipts for purposes of GRT. Eliminates GRT on cannabis and cigarette excise taxes	Small negative	Cannabis and cigarette excise taxes collected by businesses will continue to be subject to GRT.	7-9-3.5	7-1-2023
8	Separate reporting of GRT deductions	Allows Tax & Rev to require separate reporting of GRT deductions through rule	NA	Deductions may continue to be taken without taxpayer separate reporting, reducing policymakers’ ability to evaluate the efficacy of the deductions	7-9-6	7-1-2023

Bill Section	Proposal Title	Summary	Fiscal Implications	Consequences of Not Enacting	Existing Sections Amended	Effective/ Applicability Date
9	Clarify services used by government are exempt from compensating tax	Current statute only exempts property. Proposal also exempts services	NA to state	The U.S. and New Mexico will continue to owe compensating tax on purchases of services that are not subject to GRT by the seller.	7-9-14	7-1-2023
10	Clarifies that “alternative evidence” may be provided to claim GRT deduction	Clarifies that the GRT deduction for sales to manufacturers may provide alternative evidence in lieu of a non-taxable transaction certificate (NTTC)	NA	Taxpayers may be confused and not aware that Section 7-9-46 allows them to provide alternative evidence to claim this deduction	7-9-46	7-1-2023
11	Prevents GRT on e-book license of public libraries	Ensures e-books licensed through public libraries will not be subject to GRT; ensures e-books are treated the same as tangible books for GRT purposes	Minimal	E-books licensed through public libraries will continue to be taxed under GRT while paper books are not.	7-9-54	7-1-2023
12	Allow tribes to set tribal GRT rates	Similar to HB15 in 2022 regular session. Allows tribes that have a revenue sharing agreement with Tax & Rev to set their own GRT rate, regardless of GRT rate in neighboring county area	NA to state	Tribes will remain unable to establish GRT rates any higher than neighboring county area	7-9-88.1	7-1-2023
13	Amend definitions in Technology Jobs and Research and Development Tax Credit	Align definition of “qualified research” in this State credit to match the federal tax code.	NA	Tax & Rev’s administration of this credit will remain less efficient; taxpayers may protest and litigate around whether certain costs are “qualified research”	7-9F-3	7-1-2023

Bill Section	Proposal Title	Summary	Fiscal Implications	Consequences of Not Enacting	Existing Sections Amended	Effective/ Applicability Date
16 and 19	Clarification on self-procured insurance providers	Ensures self-procured insurance providers are subject to insurance premium tax and tax administration act.	NA	Confusion of application of insurance premium tax to self-insured insurance providers	7-40-3; 59A-15-4	7-1-2023
17	Cannabis excise tax to destination-based sourcing	Ensures cannabis excise tax is reported to the destination of the product to align with the GRT	Minor shift possible between local governments	Cannabis retailers that deliver their product may experience burden by having to report delivered cannabis sales to the retail location and GRT to the buyer's location.	7-42-4	7-1-2023
15, 20, and 21	Repeal obsolete sections of tax code	See following page for details	NA	Obsolete language will remain in the tax code, adding confusion and complexity	See following page for details	7-1-2023
5, 14, 18, and 21	Standardize tax compliance checks for license renewal	Standardize tax compliance checks required for liquor, cannabis, and cigarette sellers.	NA	Tax & Rev compliance checks for licensees will continue to be inefficient and manual, causing delays for licensees	7-1-82; 7-12-9.1; 26-2C-6; Repeal 66-4-3	7-1-2023

Sections 15, 20 and 21: Proposed for Repeal

Section	Name	Rationale for repeal	2022 (\$000)
7-9-114	Advanced Energy GRT and Compensating Tax Deduction	No claims to date. Construction of facility required prior to Dec. 31, 2015.	\$0
7-2-18.25 7-2A-25 7-9G-2	Advanced Energy Credit Against GRT, Compensating Tax, Withholding Tax, PIT, or CIT	No claimants in Tax Year 2021. Fiscal impact in FY22 due to prior tax years. Construction of facility required prior to Dec. 31, 2015.	\$800
7-2-18.21 7-2A-23	Blended Biodiesel Fuel Credit against PIT and CIT	Credit has expired and carry-forward period ended in tax year 2017.	\$0
7-2-18.4 7-2A-15	Business Facility Rehabilitation Credit against PIT and CIT	No claims to date, there are no enterprise zones to establish eligibility.	\$0
7-2-18.8 7-2A-18	Electronic ID Reader Credit against PIT and CIT	Credit has never been claimed.	\$0
7-14-6	Hybrid Vehicle Exemption from MVX	Exemption was effective until June 30, 2009.	\$0
7-9-16	Nonprofit Elderly Care Facility Exemption from GRT	Non-profit entities already qualify for GRT exemption based on status.	\$0

Sections 15, 20 and 21 : Proposed for Repeal

Section	Name	Rationale for repeal	2022 (\$000)
7-9-105	Penalty Pursuant to Section 7-1-71.2 NMSA 1978 Credit Against GRT, Compensating Tax and Withholding Tax	Credit has not been available since July 1, 2010.	\$0
7-2-18.27	Physician Participating in Cancer Treatment Clinical Trials Credit against PIT	Credit applied to tax years 2014-2016. The time period this credit could have been claimed has expired.	\$0
7-9-86	Sales to Qualified Film Production Company GRT and GGRT Deduction	This deduction cannot be claimed by a film production company if they claim the film production tax credit.	Unknown but small
7-14A-9	Vehicles Titled Before July 1, 1991 Exemption from Leased Vehicle GRT	At this point, this exemption applies to very few, if any, vehicles.	Unknown, but small
7-2D-8.1	Venture Capital Investment Credit against PIT	No taxpayers have claimed this credit. It appears to compete with the net capital gain income deduction.	\$0
7-2-18.28 7-2A-27	Veteran Employment Credit against PIT and CIT	Credit applied to tax years 2012-2016 with carry forward of three years. Credit can no longer be claimed.	\$0
7-2-18.5 7-2A-8.8	Welfare-to-Work Credit against PIT and CIT	Tied to a federal program that no longer exists.	\$0

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Bill Section	Proposal Title	Summary	Fiscal Implications	Consequences of Not Enacting	Existing Sections Amended	Effective/ Applicability Date
1	Prohibit Electronic Sales Suppression for Tax Evasion	Modernize the tax evasion statute to encompass newer electronic tools criminals use to evade taxes.	Possible increase in state and local revenues through tax evasion deterrence and prosecution	Sales suppression devices or software may not be punished as criminal tax evasion	7-1-73	7-1-2023

Bill Section	Proposal Title	Summary	Fiscal Implications	Consequences of Not Enacting	Existing Sections Amended	Effective/ Applicability Date
2 and 3	Protest Venue for State Assessed Property Valuations	Currently, when the TRD State Assessed Bureau values property, unresolved protests may go to both the county assessor and the AHO. Clarify that protests of county assessed property go to county protest boards. Protests of state assessed property go to AHO	NA	Confusion around how to protest state assessed valuations if taxpayer and PTD cannot resolve the protest informally.	7-38-21 and new section 7-38-21.1	7-1-2023
4	State Assessed Property Tax Omitted Assets Protests	Omitted assets are assets not appearing on the property tax rolls because the owner did not report the assets. Clarify that if TRD PTD valued omitted assets, the taxpayer has the same protest rights as the taxpayer has on reported property through PTD, AHO, or suing for refund in district court.	NA	Confusion around how to protest PTD valuation of state assessed omitted assets (protest through PTD or county valuation protest boards)	7-38-22	7-1-2023
5 and 6	State Assessed Property Tax Appeals to Court of Appeals	Currently, if PTD wishes to appeal an adverse AHO Decision & Order on state assessed property valuation, PTD must petition district court for a writ of certiorari, which is not guaranteed. Amend 7-38-28 to apply only to county assessed appeals. Allow PTD to appeal AHO Decisions & Orders to the Court of Appeals. This is the same appeal right TRD has under Tax Administration Act tax programs	NA	TRD's right to appeal an adverse AHO D&O will continue to not be guaranteed, depending on district court granting writ of certiorari.	7-38-28 and new section	7-1-2023