

Interim Revenue Stabilization & Tax Policy

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Gross Receipts Tax on the granting of access for hunting and fishing

In late September 2015 landowners receiving elk authorizations in lieu of wildlife damage received letters from the New Mexico Taxation & Revenue Department (NMTRD) informing them that they were responsible for gross receipts taxes on any granting of access for hunting and fishing. Landowners were encouraged to enter into a Managed Audit to save penalty and interest. If this Managed Audit was not filed by November 19, 2015, landowners “may be subject to a Gross Receipts Tax Audit which includes penalty and interest on any amount of taxes owed.”

Many of those receiving the letter contacted the NMTRD for further information and were told that they could be liable for back taxes, penalties and interest for up to 10 years.

Given that this was the first time that most landowners had heard of this tax, there was a huge outcry in the country. While some landowners may have been paying the tax, the news that the tax was due and could be levied for many years in the past was a shock to the vast majority of them.

Meetings were held with the Secretary and other staff to see if there was some remedy to this situation. Presentations were given at annual agricultural conferences. But confusion continues to reign. The TRD has been unwilling or unable to provide any clear documentation that affirmatively answers the multitude of questions that have arisen.

It has long been sound public policy and recognition that landowners provide the habitat, including water and feed, for the state’s wildlife. In 1998 this body passed a law providing the landowner authorizations when “... *they are necessary to effectively reduce conflicts between humans and wildlife...*”

17-3-14.2. Landowner permits; management of certain big game species.

The director of the department of game and fish may issue landowner permits for the lawful taking of elk, antelope, oryx, and deer. The permits may be issued when, in the determination of the director, they are necessary to effectively reduce conflicts between humans and wildlife and provide sport-hunting opportunities in accordance with regulations of the state game commission.

History: Laws 1998, ch. 12, § 1.

The New Mexico Department of Game & Fish (NMDGF) rules observe both the state law and the contributions to wildlife by landowners stating: “*Landowners who provide meaningful benefit to elk and accept elk on their properties and all elk hunters who wish to recreate on deeded lands or public lands within New Mexico’s exterior boundaries.*”

19.30.5.2 SCOPE: Landowners who provide meaningful benefit to elk and accept elk on their properties and all elk hunters who wish to recreate on deeded lands or public lands within New Mexico’s exterior boundaries.

The landowner elk tag is what the State has granted for many years to landowners to partially compensate them for damages that elk cause.

The value of allowed access for hunting and fishing does little to help pay for the damages and loss of grazing created by wildlife.

New Mexico landowners produce world class elk. Elk hunting is an important part of local rural economies. Hunters purchase gas, groceries and eat at local restaurants.

Wildlife require feed, water and cover to thrive. Much of which is provided by private landowners, the permittees and ranchers who lease and make improvements to federal and state lands. It is important to note, in addition to improvements made on their private lands, wildlife benefit from the same improvements to public lands that ranchers make. For example, on our family's ranch; made up of federal, state and private land, our predecessors and ourselves have plowed sage brush, reseeded over 7,000 acres, and maintained those same acres with subsequent brush treatments. We established 5 wells with drinkers, large storage tanks, miles of pipeline, built and maintain 16 earthen tanks, 2 improved springs, approximately 2 miles of acequias, 97 irrigated acres and thinned about 600 acres of our private forest. All these practices have greatly benefited the areas wildlife so much so that elk utilize this ranch year round causing great resource damage and economic loss to our family.

During the drought of 2013, the BLM and US Forest Service forced stocking reductions and complete removal of cattle from our allotments to prevent range resource damage. We were fortunate to find alternative pasture. Our neighbors were not, one sold out completely, the other sold 2/3 of his entire 300 head herd. I realized this reduction was not all drought induced, but caused by the 1000's of elk grazing our ranches before our entry date. The following winter and spring, I placed cages on the ranch in 3 locations to measure elk utilization of our forage base before we enter in the spring. The elk utilized 70% of the forage before our cattle, which forced the BLM to make us vacate our allotment in 2013 and reduce our stocking rate by 2/3 in 2014.

The expenses in 2013 to haul our cattle to alternative pastures near Fort Sumner cost \$6,470 and the grazing fees cost \$12,740 for a total of \$19,210. We had no hay or irrigated pasture due to elk grazing and were forced to purchase two semi loads of hay for \$13,000. Other losses were incurred from reduced weaning calf weights, reduced pregnancy rates, increased fence repair, extra water pumping costs, expenses for trips to Yeso, NM, motel, fuel and vehicle wear and tear. This expense forced us to ask the NMSU Range Improvement Task Force for help. They completed a study titled *Forage Allocation in Northern New Mexico Competition between Livestock and Elk*.

The study indicated the Northern herd of elk some 24,000 by the Game Department estimates, consume 4.5 million lbs. of forage every six months. This is equivalent to 100 semi loads of alfalfa each weighing 43,200 lbs. costing \$6,500 to \$7,000 each load. Much of this consumption occurs on private range, haystacks and irrigated fields. USFS and BLM allotments are highly impacted and cost ranchers from forced reduced stocking rates caused by over grazing elk. Reduced hay yields and loss of irrigated pasture are also upsetting landowners greatly.

For the last 25 years we have tried to get relief from the Game Department for the excess number of elk in the Northern unit. Only recently have we had a response due to pressure from legislation we have promoted. To date we have not been made aware of any results to reduce the elk herd. To

their credit the Game Department is trying to make efforts to improve habitat on federal lands by expending funds available to them for this purpose.

We are slaves to the nearly 50 miles of fence we must repair annually caused by elk damage.

It makes absolutely no sense that the state gives this compensation for damages and then demands part of it back as gross receipts tax. Many landowners have stated that they will reject future landowner authorizations and demand that the NMDGF remove wildlife from their property before damages occur. Even if it were a fair practice, with no notice, TRD is now claiming that landowners must pay gross receipts tax for the past six to seven years. Could you go back and dig into your pocket to pay taxes for the past seven years?

We fully understand that this bill only addresses the gross receipts tax for coming years. For those who are in jeopardy of taxes, penalties and interest we continue to explore remedies.

Thank you for your time and attention. I will stand for questions.