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HOUSE BILL 15

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Robert M. Burpo

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT TO PROVIDE A DEDUCTION FOR NET CAPITAL GAIN INCOME FROM THE SALE OF A CLOSELY HELD BUSINESS.

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

Section 1. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection ~~[B]~~ C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed one thousand dollars (\$1,000); or

(2) the taxpayer's net capital gain income attributable to the sale of a closely held business if the income is included in net income and allocated or apportioned to New Mexico.

B. A husband and wife who file separate returns

underscored material = new
[bracketed material] = delete

1 for a taxable year in which they could have filed a joint
2 return may each claim only one-half of the deduction provided
3 by this section that would have been allowed on the joint
4 return.

5 ~~[B.]~~ C. A taxpayer may not claim the deduction
6 provided in Subsection A of this section if the taxpayer has
7 claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

8 ~~[C.]~~ D. As used in this section:

9 (1) "closely held business" means a trade or
10 business:

11 (a) operated as a sole proprietorship;
12 or

13 (b) operated by a legal entity whose
14 outstanding equity interests are owned by seventy-five or
15 fewer individuals;

16 (2) "equity interest" means the equity of a
17 legal entity, including the capital stock of a corporation,
18 the interest of a general or limited partner in a partnership
19 or the interest of a member of a limited liability company;

20 (3) "net capital gain" means "net capital
21 gain" as defined in Section 1222 (11) of the Internal Revenue
22 Code; and

23 (4) "sale of a closely held business" means
24 the sale or exchange of:

25 (a) substantially all of the assets of
a closely held business; or

(b) a taxpayer's entire equity interest
in a closely held business in a transaction in which
substantially all of the equity interests of the closely held

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~~[bracketed material] = delete~~

1 business are sold or exchanged."

2 Section 2. APPLICABILITY.--The provisions of this act
3 apply to taxable years beginning on or after January 1, 2002.

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