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HOUSE BILL 762

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Anna M. Crook

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE CORPORATE
INCOME AND FRANCHISE TAX ACT TO CHANGE CERTAIN PREREQUISITES
FOR FILING ESTIMATED TAX PAYMENTS.

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

Section 1. Section 7-2A-9.1 NMSA 1978 (being Laws 1986,
Chapter 5, Section 1, as amended) is amended to read:

"7-2A-9.1. ESTIMATED TAX DUE--PAYMENT OF ESTIMATED TAX--
PENALTY--EXEMPTION. --

A. Every taxpayer shall pay estimated corporate
income tax to the state of New Mexico during its taxable year
if its tax after applicable credits [~~for such taxable year can~~
~~reasonably be expected to be~~] is five thousand dollars (\$5,000)
or more in the current taxable year. A taxpayer to which this
section applies shall calculate estimated tax by one of the

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1 following methods:

2 (1) estimating the amount of tax due, net of
3 any credits, for the current taxable year, provided that the
4 estimated amount is at least eighty percent of the amount
5 determined to be due for the taxable year;

6 (2) using as the estimate an amount equal to
7 one hundred percent of the tax due for the previous taxable
8 year, if the previous taxable year was a full twelve-month year
9 [and if the amount due for that previous taxable year was at
10 least five thousand dollars (\$5,000); or];

11 (3) using as the estimate an amount equal to
12 one hundred ten percent of the tax due for the taxable year
13 immediately preceding the previous taxable year, if the taxable
14 year immediately preceding the previous taxable year was a full
15 twelve-month year [the amount due for the taxable year
16 immediately preceding the previous taxable year was at least
17 five thousand dollars (\$5,000)] and the return for the previous
18 taxable year has not been filed and the extended due date for
19 filing that return has not occurred at the time the first
20 installment is due for the taxable year; or

21 (4) estimating the amount of tax due, net of
22 any credits, for each fiscal quarter of the current taxable
23 year, provided that the estimated amount is at least eighty
24 percent of the amount determined to be due for that quarter.

25 B. If Subsection A of this section applies, the

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1 amount of estimated tax shall be paid in installments as
2 ~~[follows: twenty five percent of the estimated tax is due on~~
3 ~~or before the fifteenth day of the fourth month of the taxable~~
4 ~~year, another twenty five percent is due on or before]~~ provided
5 in this subsection. Twenty-five percent of the estimated tax
6 calculated under Paragraph (1), (2) or (3) of Subsection A of
7 this section or one hundred percent of the estimated tax
8 calculated under Paragraph (4) of Subsection A of this section
9 is due on or before the following dates: the fifteenth day of
10 the sixth month of the taxable year, [another twenty-five
11 percent is due on or before] the fifteenth day of the ninth
12 month of the taxable year and [the final twenty-five percent is
13 due on or before] the fifteenth day of the twelfth month of the
14 taxable year. Application of this subsection to a taxable year
15 that is a fractional part of a year shall be determined by
16 regulation of the secretary.

17 C. Every taxpayer to which Subsection A of this
18 section applies that fails to pay the estimated tax when due or
19 that makes estimated tax payments during the taxable year that
20 are less than the lesser of eighty percent of the income tax
21 imposed on the taxpayer under the Corporate Income and
22 Franchise Tax Act or the amount required by Paragraph (2), ~~[or]~~
23 (3) or (4) of Subsection A of this section shall be subject to
24 the interest and penalty provisions of Sections 7-1-67 and
25 7-1-69 NMSA 1978 on the underpayment.

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1 D. For purposes of this section, the amount of
2 underpayment shall be the excess of the amount of the
3 installment that would be required to be paid if the estimated
4 tax were equal to eighty percent of the tax shown on the return
5 for the taxable year or the amount required by Paragraph (2),
6 [~~or~~] (3) or (4) of Subsection A of this section or, if no
7 return was filed, eighty percent of the tax for the taxable
8 year for which the estimated tax is due less the amount, if
9 any, of the installment paid on or before the last date
10 prescribed for payment.

11 E. For purposes of this section, the period of
12 underpayment shall run from the date the installment was
13 required to be paid to whichever of the following dates is
14 earlier:

15 (1) the fifteenth day of the third month
16 following the end of the taxable year; or

17 (2) with respect to any portion of the
18 underpayment, the date on which such portion is paid. For the
19 purposes of this paragraph, a payment of estimated tax on any
20 installment date shall be applied as a payment of any previous
21 underpayment only to the extent such payment exceeds the amount
22 of the installment determined under Subsection D of this
23 section due on such installment date."

24 Section 2. APPLICABILITY.--The provisions of this act
25 apply to taxable years beginning on or after January 1, 2003.

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