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PRELIMINARY FISCAL IMPACT REPORT

SPONSOR: Cervantes DATE TYPED: 11/04/03 HB 20/aHTRC/aHF1#1
SHORT TITLE: Amend Tax Administration Act SB _____
ANALYST: Taylor, Neel, Valenzuela

SOURCES OF INFORMATION

NM Taxation and Revenue Department (TRD)
NM Department of Transportation (DOT)
NM Finance Authority (NMFA)

Related Bills:

SB 5, SB 21, HB 15, HB 14

SUMMARY

SYNOPSIS OF HOUSE FLOOR AMENDMENT

Streamlined Sales Tax. The amendment adds Sections 1 through 9 as the “Sales and Use Tax Administration Act”. The amendment finds that simplified sales and use taxes will serve to preserve and strengthen these taxes as a revenue source for state and local government and will reduce the administrative burden on sellers. The amendment allows the state, represented by the Taxation and Revenue Department (TRD) Secretary, to participate with other states that have sales taxes in negotiating the streamline sales tax initiative. Implementation of the agreement requires adoption by the state legislature.

Additionally, the amendment increases the civil penalty for bad checks from ten dollars \$10 to twenty-five \$25.0 and makes other technical nontaxable transaction certificates (NTTC) changes.

SYNOPSIS OF HOUSE TAXATION AND REVENUE AMENDMENT

The HTRC amendment deletes section 5 that reduces the interest rate charged and paid by TRD on tax deficiencies and overpayments. The current 15 percent rate would have been changed to 10 percent on July 1, 2004. Starting January 2006, the rate would have been set equal to the IRS underpayment rate—a floating rate that reflects market interest rates.

SYNOPSIS OF ORIGINAL BILL

Tax Administration Issues. Sections 1 through 23 address tax administration matters. Section 1 increases the minimum tax liability threshold after which TRD must assess the taxpayer from ten dollars (\$10.00) to twenty-five dollars (\$25.00). Section 2 allows taxpayers to elect the “Rules of Civil Procedures for the District Courts” in TRD administrative hearings. Section 3 provides taxpayers with the right to designate certain refund claims as a protective claim. A protective claim is a claim for refund filed by someone based upon the arguments advanced by another person in a previously filed claim that has not been resolved. TRD would not take action on the protective claim until the previously filed claim is resolved. Section 4 and 5 change the interest rate charged and paid by TRD on tax deficiencies and overpayments. The current 15 percent rate would be changed to 10 percent on July 1, 2004. Starting January 2006, the rate would be set equal to the IRS underpayment rate—a floating rate that reflects market interest rates. Section 6 increases the minimum penalty for failing to pay or file a tax return by the date due from five dollars (\$5.00) to one hundred and fifty dollars (\$150.00). Effective Date: July 1, 2004.

Nontaxable Transaction Certificates (NTTCs). Section 7 changes the law associated with NTTC’s. It eliminates the requirement that taxpayers be in possession of an NTTC within 60 days from the date required to allow for a deduction. It also provides use of other evidence in certain circumstances, including bankruptcy, death or an entity no longer existing as a business. Effective date: July 1, 2004.

Tax Administration—Request for Regulations. Section 8 allows taxpayers or other interested parties to request TRD regulations. Effective date: July 1, 2004.

Emergency Clause. The act takes effect immediately.

SIGNIFICANT REVENUE ISSUES

Tax Administrative Issues. The fiscal impact of reducing the interest rate on tax delinquencies will be higher in later years. In FY07, the rate is reduced to the IRS rate, which corresponds to market interest rates. This could increase the cost in those years to more than \$5 million.

FISCAL IMPLICATIONS BY FUND AND GOVERNMENT ENTITY

The HTRC amendment eliminates the fiscal impact of HB 20a.

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