

1 SENATE BILL 343

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 James G. Taylor

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8 FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

9
10 AN ACT

11 RELATING TO TAXATION; ALLOWING THE STATUTE OF LIMITATIONS TO BE
12 SUSPENDED DURING A PROCEEDING TO QUASH AN ADMINISTRATIVE
13 SUBPOENA ISSUED BY THE SECRETARY OF TAXATION AND REVENUE;
14 MAKING TECHNICAL CORRECTIONS TO CERTAIN SECTIONS OF THE NMSA
15 1978 FOR TAX ADMINISTRATION AND ENFORCEMENT AND TO AID IN
16 COMPLYING WITH THE TAX REFUND INTERCEPT PROGRAM ACT; PROVIDING
17 FOR ONE SOLAR MARKET DEVELOPMENT TAX CREDIT PER MARRIED COUPLE;
18 RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN
19 LAWS 2005; DECLARING AN EMERGENCY.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 Section 1. Section 7-1-4 NMSA 1978 (being Laws 1965,
23 Chapter 248, Section 10, as amended) is amended to read:

24 "7-1-4. INVESTIGATIVE AUTHORITY AND POWERS.--

25 A. For the purpose of establishing or determining

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1 the extent of the liability of any person for any tax, for the
2 purpose of collecting any tax, for the purpose of enforcing any
3 statute administered under the provisions of the Tax
4 Administration Act or for the purpose of investigating possible
5 criminal violations of the revenue laws of this state,
6 including fraud or other crimes that may affect the taxes due
7 to the state, the secretary or the secretary's delegate is
8 authorized to examine equipment and to examine and require the
9 production of any pertinent records, books, information or
10 evidence, to require the presence of any person and to require
11 that person to testify under oath concerning the subject matter
12 of the inquiry and to make a permanent record of the
13 proceedings.

14 B. As a means for accomplishing the matters
15 referred to in Subsection A of this section, the secretary is
16 hereby invested with the power to issue subpoenas and
17 summonses. In no case shall a subpoena or summons be made
18 returnable less than ten days from the date of service.

19 C. Any subpoena or summons issued by the secretary
20 shall state with reasonable certainty the nature of the
21 evidence required to be produced, the time and place of the
22 hearing, the nature of the inquiry or investigation and the
23 consequences of failure to obey the subpoena or summons; shall
24 bear the seal of the department; and shall be attested by the
25 secretary.

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1 D. After service of a subpoena or summons upon the
2 person, if any person neglects or refuses to appear in response
3 to the summons or neglects or refuses to produce records or
4 other evidence or to allow the inspection of equipment in
5 response to the subpoena or neglects or refuses to give
6 testimony as required, the department may invoke the aid of the
7 court in the enforcement of the subpoena or summons. In
8 appropriate cases, the court shall issue its order requiring
9 the person to appear and testify or produce books or records
10 and may, upon failure of the person to comply with the order,
11 punish the person for contempt.

12 E. If a person, the extent of whose tax liability
13 is being established, or that person's agent, nominee or other
14 person acting under the direction or control of that person,
15 files an action with the court to quash a subpoena or summons
16 issued by the secretary or that court pursuant to this section,
17 the running of the period of limitations pursuant to Sections
18 7-1-18 and 7-1-19 NMSA 1978 or Section 30-1-8 NMSA 1978 with
19 respect to the tax liability under investigation shall be
20 suspended for the period during which a proceeding and related
21 appeals regarding the enforcement of the subpoena or summons is
22 pending."

23 Section 2. Section 7-2-5.8 NMSA 1978 (being Laws 2005,
24 Chapter 104, Section 5) is amended to read:

25 "7-2-5.8. EXEMPTION FOR LOW- AND MIDDLE-INCOME

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1 TAXPAYERS.--

2 A. An individual may claim an exemption in an
3 amount specified in Subsections B through D of this section not
4 to exceed an amount equal to the number of federal exemptions
5 multiplied by two thousand five hundred dollars (\$2,500) of
6 income includable, except for this exemption, in net income.
7 ~~[Individuals having income both within and without this state~~
8 ~~shall apportion this exemption in accordance with regulations~~
9 ~~of the secretary.]~~

10 B. For a married individual filing a separate
11 return with adjusted gross income up to twenty thousand three
12 hundred thirty-three dollars (\$20,333):

13 (1) if the adjusted gross income is not over
14 twelve thousand dollars (\$12,000), the amount of the exemption
15 pursuant to this section shall be two thousand five hundred
16 dollars (\$2,500) for each federal exemption; and

17 (2) if the adjusted gross income is over
18 twelve thousand dollars (\$12,000) but not over twenty thousand
19 three hundred thirty-three dollars (\$20,333), the amount of the
20 exemption pursuant to this section for each federal exemption
21 shall be calculated as follows:

22 (a) two thousand five hundred dollars
23 (\$2,500); less

24 (b) twenty percent of the amount
25 obtained by subtracting twelve thousand dollars (\$12,000) from

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1 the adjusted gross income.

2 C. For single individuals with adjusted gross
3 income up to twenty-seven thousand one hundred ten dollars
4 (\$27,110):

5 (1) if the adjusted gross income is not over
6 sixteen thousand dollars (\$16,000), the amount of the exemption
7 pursuant to this section shall be two thousand five hundred
8 dollars (\$2,500) for each federal exemption; and

9 (2) if the adjusted gross income is over
10 sixteen thousand dollars (\$16,000) but not over twenty-seven
11 thousand one hundred ten dollars (\$27,110), the amount of the
12 exemption pursuant to this section for each federal exemption
13 shall be calculated as follows:

14 (a) two thousand five hundred dollars
15 (\$2,500); less

16 (b) fifteen percent of the amount
17 obtained by subtracting sixteen thousand dollars (\$16,000) from
18 the adjusted gross income.

19 D. For married individuals filing joint returns,
20 surviving spouses or for heads of households with adjusted
21 gross income up to forty thousand six hundred sixty-seven
22 dollars (\$40,667):

23 (1) if the adjusted gross income is not over
24 twenty-four thousand dollars (\$24,000), the amount of the
25 exemption pursuant to this section shall be two thousand five

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1 hundred dollars (\$2,500) for each federal exemption; and

2 (2) if the adjusted gross income is over
3 twenty-four thousand dollars (\$24,000) but not over forty
4 thousand six hundred sixty-seven dollars (\$40,667), the amount
5 of the exemption pursuant to this section for each federal
6 exemption shall be calculated as follows:

7 (a) two thousand five hundred dollars
8 (\$2,500); less

9 (b) ten percent of the amount obtained
10 by subtracting twenty-four thousand dollars (\$24,000) from the
11 adjusted gross income.

12 ~~[E. For the purposes of this section, "federal~~
13 ~~exemption" means an exemption allowable for federal income tax~~
14 ~~purposes for an individual included in the return who is~~
15 ~~domiciled in New Mexico.]"~~

16 Section 3. Section 7-2-18.14 NMSA 1978 (being Laws 2006,
17 Chapter 93, Section 1) is amended to read:

18 "7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--
19 RESIDENTIAL AND SMALL BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC
20 MARKET DEVELOPMENT TAX CREDIT.--

21 A. Except as provided in Subsection B of this
22 section, a taxpayer who files an individual New Mexico income
23 tax return for a taxable year beginning on or after January 1,
24 2006 and who purchases and installs after January 1, 2006 but
25 before December 31, 2015 a solar thermal system or a

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1 photovoltaic system in a residence, business or agricultural
2 enterprise in New Mexico owned by that taxpayer may apply for,
3 and the department may allow, a solar market development tax
4 credit of up to thirty percent of the purchase and installation
5 costs of the system; provided that under no circumstances shall
6 the federal and state tax credits allowed, when combined, total
7 more than thirty percent of the purchase and installation cost
8 of the system. To determine the amount of the state solar
9 market development tax credit due pursuant to this section, the
10 amount of the allowable federal tax credit, whether claimed or
11 not claimed by the taxpayer, shall be deducted from thirty
12 percent of the purchase and installation cost of the system.
13 The total solar market development tax credit allowed for
14 either a photovoltaic system or a solar thermal system shall
15 not exceed nine thousand dollars (\$9,000). The department
16 shall allow solar market development tax credits only for solar
17 thermal systems and photovoltaic systems certified by the
18 energy, minerals and natural resources department.

19 B. Solar market development tax credits may not be
20 claimed or allowed for:

21 (1) a heating system for a swimming pool or a
22 hot tub; or

23 (2) a commercial or industrial photovoltaic
24 system other than an agricultural photovoltaic system on a farm
25 or ranch that is not connected to an electric utility

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1 transmission or distribution system.

2 C. The department may allow a maximum annual
3 aggregate of:

4 (1) two million dollars (\$2,000,000) in solar
5 market development tax credits for solar thermal systems; and

6 (2) three million dollars (\$3,000,000) in
7 solar market development tax credits for photovoltaic systems.

8 D. A portion of the solar market development tax
9 credit that remains unused in a taxable year may be carried
10 forward for a maximum of ten consecutive taxable years
11 following the taxable year in which the credit originates until
12 fully expended.

13 E. Prior to July 1, 2006, the energy, minerals and
14 natural resources department shall adopt rules establishing
15 procedures to provide certification of solar thermal systems
16 and photovoltaic systems for purposes of obtaining a solar
17 market development tax credit. The rules shall address
18 technical specifications and requirements relating to safety,
19 code and standards compliance, solar collector orientation and
20 sun exposure, minimum system sizes, system applications and
21 lists of eligible components. The energy, minerals and natural
22 resources department may modify the specifications and
23 requirements as necessary to maintain a high level of system
24 quality and performance.

25 F. A husband and a wife who file separate returns

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

4 [F-] G. As used in this section:

5 (1) "photovoltaic system" means an energy
6 system that collects or absorbs sunlight for conversion into
7 electricity; and

8 (2) "solar thermal system" means an energy
9 system that collects or absorbs solar energy for conversion
10 into heat for the purposes of space heating, space cooling or
11 water heating."

12 Section 4. Section 7-2C-5 NMSA 1978 (being Laws 1985,
13 Chapter 106, Section 5, as amended) is amended to read:

14 "7-2C-5. DEPARTMENT TO AID IN COLLECTION OF DEBTS
15 THROUGH SETOFF.--Subject to the limitations contained in the
16 Tax Refund Intercept Program Act, the department, upon request,
17 shall render assistance in the collection of any debt owed to a
18 claimant agency or any debt that a claimant agency is obligated
19 by law to collect. This assistance shall be provided by
20 withholding from any refund due to the debtor pursuant to the
21 Income Tax Act or the Corporate Income and Franchise Tax Act
22 the amount of debt meeting the requirements of the Tax Refund
23 Intercept Program Act and paying over to the claimant agency
24 the amount withheld."

25 Section 5. Section 9-11-4 NMSA 1978 (being Laws 1977,

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1 Chapter 249, Section 4, as amended by Laws 2005, Chapter 108,
2 Section 5 and by Laws 2005, Chapter 110, Section 6) is amended
3 to read:

4 "9-11-4. DEPARTMENT ESTABLISHED.--There is created in
5 the executive branch the "taxation and revenue department".
6 The department shall be a cabinet department and shall consist
7 of, but not be limited to, [~~six~~] seven divisions as follows:

- 8 A. the audit and compliance division;
- 9 B. the property tax division;
- 10 C. the revenue processing division;
- 11 D. the tax fraud investigations division; [~~and~~
- 12 ~~D.~~] E. the motor vehicle division;
- 13 [~~E.~~] F. the administrative services division; and
- 14 [~~F.~~] G. the information technology division."

15 Section 6. APPLICABILITY.--The provisions of Sections 2,
16 3 and 4 of this act shall be applicable to taxable years
17 beginning on or after January 1, 2007.

18 Section 7. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect immediately.