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AN ACT
RELATING TO TAXATION; PROVIDING A PAYMENT DATE FOR THE FIRST
QUARTERLY PAYMENT OF ESTIMATED CORPORATE INCOME TAX;
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN
LAWS 2003; DECLARING AN EMERGENCY.

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 by Laws 2003, Chapter 86,
Section 2 and by Laws 2003, Chapter 295, Section 1) 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 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 following methods:

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

(2) using as the estimate an amount equal to
one hundred percent of the tax due for the previous taxable

1 year, if the previous taxable year was a full twelve-month
2 year;

3 (3) using as the estimate an amount equal to
4 one hundred ten percent of the tax due for the taxable year
5 immediately preceding the previous taxable year, if the
6 taxable year immediately preceding the previous taxable year
7 was a full twelve-month year and the return for the previous
8 taxable year has not been filed and the extended due date for
9 filing that return has not occurred at the time the first
10 installment is due for the taxable year; or

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

15 B. If Subsection A of this section applies, the
16 amount of estimated tax shall be paid in installments as
17 provided in this subsection. Twenty-five percent of the
18 estimated tax calculated under Paragraph (1), (2) or (3) of
19 Subsection A of this section or one hundred percent of the
20 estimated tax calculated under Paragraph (4) of Subsection A
21 of this section is due on or before the following dates: the
22 fifteenth day of the fourth month of the taxable year, the
23 fifteenth day of the sixth month of the taxable year, the
24 fifteenth day of the ninth month of the taxable year and the
25 fifteenth day of the twelfth month of the taxable year.

1 Application of this subsection to a taxable year that is a
2 fractional part of a year shall be determined by regulation
3 of the secretary.

4 C. Every taxpayer to which Subsection A of this
5 section applies that fails to pay the estimated tax when due
6 or that makes estimated tax payments during the taxable year
7 that are less than the lesser of eighty percent of the income
8 tax imposed on the taxpayer under the Corporate Income and
9 Franchise Tax Act or the amount required by Paragraph (2),
10 (3) or (4) of Subsection A of this section shall be subject
11 to the interest and penalty provisions of Sections 7-1-67 and
12 7-1-69 NMSA 1978 on the underpayment.

13 D. For purposes of this section, the amount of
14 underpayment shall be the excess of the amount of the
15 installment that would be required to be paid if the
16 estimated tax were equal to eighty percent of the tax shown
17 on the return for the taxable year or the amount required by
18 Paragraph (2), (3) or (4) of Subsection A of this section or,
19 if no return was filed, eighty percent of the tax for the
20 taxable year for which the estimated tax is due less the
21 amount, if any, of the installment paid on or before the last
22 date prescribed for payment.

23 E. For purposes of this section, the period of
24 underpayment shall run from the date the installment was
25 required to be paid to whichever of the following dates is

1 earlier:

2 (1) the fifteenth day of the third month
3 following the end of the taxable year; or

4 (2) with respect to any portion of the
5 underpayment, the date on which such portion is paid. For
6 the purposes of this paragraph, a payment of estimated tax on
7 any installment date shall be applied as a payment of any
8 previous underpayment only to the extent such payment exceeds
9 the amount of the installment determined under Subsection D
10 of this section due on such installment date.

11 F. For the purposes of this section, the amount of
12 tax deducted and withheld with respect to a taxpayer under
13 the Withholding Tax Act or the Oil and Gas Proceeds
14 Withholding Tax Act shall be deemed a payment of estimated
15 tax. An equal amount of the amount of withheld tax shall be
16 deemed paid on each due date for the applicable taxable year
17 unless the taxpayer establishes the dates on which all
18 amounts were actually withheld, in which case the amounts
19 withheld shall be deemed payments of estimated tax on the
20 dates on which the amounts were actually withheld. The
21 taxpayer may apply the provisions of this subsection
22 separately to amounts withheld under the Withholding Tax Act
23 or the Oil and Gas Proceeds Withholding Tax Act."

24 Section 2. TEMPORARY PROVISION.--For estimated payments
25 due on or before April 15, 2009, pursuant to Section 7-2A-9.1

1 NMSA 1978, a taxpayer shall remit at least one-eighth of the
2 annual estimated taxes due for the taxable year in lieu of
3 the one-fourth that is required in that section. The
4 remainder of the annual estimated taxes due in the first
5 quarter shall be remitted in addition to the taxpayer's
6 second-quarter payment by June 15, 2009.

7 Section 3. APPLICABILITY.--The provisions of Section 1
8 of this act are applicable to taxable years beginning on or
9 after January 1, 2009.

10 Section 4. EMERGENCY.--It is necessary for the public
11 peace, health and safety that this act take effect
12 immediately. _____

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