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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/14

SPONSOR Caballero LAST UPDATED _____ HB 168

SHORT TITLE Phased-In Supplemental Income Tax SB _____

ANALYST Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	\$18,000.0 - \$178,000.0	\$30,000.0 - \$305,000.0	\$50,000.0 - \$502,000.0	\$64,000.0 - \$646,000.0	Recurring	General Fund
See “Fiscal Implications” and “Technical Issues”						

Parenthesis () indicate revenue decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 168 creates a new section of the Income Tax Act to create the “individual income tax supplemental tax.” The tax is phased-in beginning in tax year 2015 for the following taxpayer categories:

- For married individuals filing separate returns for taxable income in excess of \$100,000;
- For heads of households, surviving spouses, and married individuals filing joint returns for taxable income in excess of \$150,000; and
- For single individuals and for estates and trusts filing a return for taxable income in excess of \$100,000

Income Tax Supplemental Tax Rates

Taxable Year	2015	2016	2017	2018 Onward
Percentage Rate	0.3	0.5	0.8	1

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) reports it estimated the fiscal impact of this bill by applying the proposed phased-in “income tax supplemental tax” schedule to 2012 New Mexico personal income tax data. The department assumed a 3 percent annual growth rate starting in 2016 (2015 accruals).

TRD collects income tax from taxpayers whose income is earned in New Mexico. Some personal income taxpayers also earn income in other states, and these taxpayers are known as B-filers. B-filers apportion the tax they owe to New Mexico by filing a PIT-B form, which apportions tax to New Mexico based on the ratio of New Mexico income to total federal income.

TRD provides two different interpretations of HB168, leading to the range in the revenue table.

If the bill is read as requiring B-filers to pay the supplemental tax on their total taxable income, not just their New Mexico apportioned income, the higher fiscal impact applies. However, both TRD and LFC staff are not clear if this is the intention of the bill.

If the bill were scored on B-filers’ New Mexico apportioned income, the fiscal impact would be significantly reduced, representing the lower range in the revenue box. TRD

For the purpose of determining a plausible range of impact, LFC staff has calculated an approximate fiscal impact as shown in table 1. The calculation used consensus revenue estimating group forecast for PIT between 2015 and 2019 and actual PIT data provided by TRD for tax year 2011. Roughly, FY18 total PIT forecast will be 1.46 billion dollars if 80 percent of all PIT is paid by the taxpayers affected by the provisions of this bill and the average tax rate of this group is 4.7 percent. Then a 1 percent of supplemental income tax will generate approximately 240 million dollars for FY19. LFC then applied the relative proportions to the FY18 estimated total.

Table 1.

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	\$72,000.0	\$125,000.0	\$200,000.0	\$250,000.0	Recurring	General Fund

Parenthesis () indicate revenue decreases

SIGNIFICANT ISSUES

TRD notes “The supplemental tax would be imposed on income that is not taxable to New Mexico according to the Uniform Division of Income for Tax Purposes Act and according to the Soldiers and Sailors Relief Act. Imposing a tax on taxable income based on the existing definition of taxable income will require a change to the income tax forms.”

ADMINISTRATIVE IMPLICATIONS

According to TRD, the bill has a moderate impact because a new line item, and perhaps even a schedule, will need to be added to the income tax form for persons who exceed the taxable income in order to apply the supplemental tax. The forms, instructions, publications, GenTax, web applications, and fed/state applications will need to be modified according to TRD.

The changes can occur at no extra cost as part of the annual renewal of the income tax programs. Taxpayer and TRD personnel education will be needed and should be provided to taxpayers early, so they can tax plan and avoid underpayment penalties.

TECHNICAL ISSUES

Clarifying the phrase “taxable income” and replacing it with “taxable income apportioned to New Mexico” may clarify the uncertainty highlighted in “Fiscal Implications,” above.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

HD/svb