

1 SENATE BILL 166

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Sue Wilson Beffort

5
6
7
8
9
10 AN ACT

11 RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT FOR
12 CLAWBACK REPAYMENTS OF AMOUNTS PREVIOUSLY REPORTED AS INCOME.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. A new section of the Income Tax Act is enacted
16 to read:

17 "[NEW MATERIAL] CLAWBACK REPAYMENT INCOME TAX CREDIT.--

18 A. A taxpayer who is not a dependent of another
19 individual, who in a taxable year has made a clawback repayment
20 of amounts previously reported as income and who has taken a
21 credit pursuant to Section 1341 of the Internal Revenue Code
22 for the taxable year in which the taxpayer made the clawback
23 repayment, may claim a credit against the taxpayer's tax
24 liability imposed pursuant to the Income Tax Act. The credit
25 provided by this section may be referred to as the "clawback

.203093.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 repayment income tax credit".

2 B. The amount of a clawback repayment income tax
3 credit shall be calculated as follows:

4 (1) determine the amount of tax due for the
5 taxable year in which the clawback repayment is made, without
6 deducting the amount repaid; then

7 (2) determine the amount of tax due for the
8 taxable year in which the amounts were reported as income,
9 without including in income the amount repaid in the year of
10 repayment; and then

11 (3) determine the amount of credit by
12 subtracting the amount of tax in Paragraph (2) of this
13 subsection from the amount of tax in Paragraph (1) of this
14 subsection.

15 C. A taxpayer shall claim the clawback repayment
16 income tax credit on an original or amended tax return for the
17 taxable year in which the clawback repayment was made. That
18 portion of a clawback repayment income tax credit that exceeds
19 a taxpayer's tax liability in the taxable year in which the
20 credit is claimed shall be refunded to the taxpayer.

21 D. Married individuals filing separate returns for
22 a taxable year for which they could have filed a joint return
23 may each claim only one-half of the credit that would have been
24 claimed on a joint return.

25 E. As used in this section, "clawback repayment"

.203093.1

underscoring material = new
~~[bracketed material] = delete~~

1 means that amount of income, reported by a taxpayer in a prior
2 taxable year because it appeared that the taxpayer had an
3 unrestricted right to the income, that the taxpayer was
4 subsequently required to repay because it was established after
5 the close of the prior taxable year that the taxpayer did not
6 have an unrestricted right to the income."

7 SECTION 2. APPLICABILITY.--The provisions of this act
8 apply to taxable years beginning on or after January 1, 2016.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25