BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 21, 2024

Bill: HB-79 **Sponsor:** Representatives John Block, Stefani Lord, and Tanya Mirabel Moya

Short Title: Firearm & Ammo Gross Receipts

Description: This bill creates a new deduction of 25% from the gross receipts tax for receipts from the sale of firearms and ammunition, and a new distribution to hold municipalities and counties harmless from that deduction.

Effective Date: July 1, 2024

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	**FY2025**	**FY2026**	**FY2027**	**FY2028**		
--	($3,100)	($3,200)	($3,300)	($3,400)	R	Section 1: General Fund - Hold Harmless
--	$3,100	$3,200	$3,300	$3,400	R	Section 1: Local Governments - Hold Harmless
--	($2,700)	($2,800)	($2,900)	($3,000)	R	Section 2: General Fund – GRT Deduction
--	($1,800)	($1,900)	($1,900)	($2,000)	R	Section 2: Local Governments – GRT Deduction

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Section 2: Per information released by the Alcohol and Tobacco Tax and Trade Bureau on the amount of federal firearms and ammunition excise tax (FAET) collected[1] and the Bureau of Alcohol, Tobacco, Firearms and Explosives data on registered weapons,[2] the Taxation and Revenue Department (Tax & Rev) estimated the FAET paid by New Mexicans. Using an average federal excise tax on producers and importers,[3] the economy-wide markup, and assuming taxes on producers are fully passed through to prices,[4] Tax & Rev calculated the tax base for firearms and ammunition in New Mexico. The fiscal impact used the gross receipts tax (GRT) revenue growth from the December 2023 Consensus Revenue Estimating Group (CREG) forecast and is based on the effective statewide gross receipts tax rate.

Section1: The fiscal impact also includes the new distribution under Section 7-1-6.1 NMSA 1978 to hold local governments harmless for the revenue lost due to the GRT deduction under Section 2 of the bill.

Policy Issues: Allowing taxpayers to deduct a part of their tax liability for selling firearms and

[1] https://www.ttb.gov/tax-audit/tax-collections
[2] https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download
[3] The federal excise tax on the import and production of firearms and ammunition is of 10–11%.
[4] In competitive markets taxes are fully passed through to prices. This assumption is supported by the 2,288 US-based firearms and ammunition producers and the fact that these producers have come under considerable import competition pressure not unlike that experienced by other branches of US manufacturing.

ammunition could stimulate this sector. Firearms and ammunition manufacturers, distributors, and retailers will lower prices, increase profits, or a mix of both as the tax on these items decreases. If they lower prices, they could experience increased demand. If these businesses become more profitable, more of them may enter the market. A reduction in prices could make firearms and ammunition more accessible, resulting in increased sales.

This bill raises concerns related to public safety, regulation, and gun violence. Reducing tax liabilities and potentially prices on firearms and ammunition could increase gun ownership, which in turn may contribute to an escalation in gun-related accidents and violent crimes. Considering the linkages between legal and illegal markets for firearms and ammunition, a lower price in the formal market will reduce the price in the illegal market also.

GRT rests upon the general presumption that all receipts of a person engaged in business in New Mexico are subject to the gross receipts tax and that this rate represents the rate upon which the State collects taxes on transactions.[5] GRT represents the largest recurring revenue source for the state General Fund at around 34%, about 80% of municipal revenue, and 30% of county revenue.

While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures or narrowing the tax base, with a negative impact on the General Fund; and (2) increases the burden of compliance on both taxpayers and Tax & Rev. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy. Tax incentives are also properly used to stimulate developing markets in goods and services. The firearms industry and market are mature, and there is no evidence that they require economic stimulation.

The hold harmless payments to local governments contained in this bill complicate Tax & Rev's distributions extensively in an effort to shift a relatively small amount of revenue to local governments. The proliferation of new distributions required to be automated in GenTax puts Tax & Rev's mission at risk. Errors in distributions can create costly litigation between the state and local governments. Similarly, local hold harmless payments make filing tax returns more complex for GRT taxpayers, adding risk that taxpayers will file incorrectly and eventually cause revenue clawbacks that can be disastrous to local governments.

The state General Fund currently transfers payments to local governments. Under Section 7-1-6.4 NMSA 1978, State gross receipts tax revenues are already shared with all municipalities. Section 7-1-6.5 NMSA 1978 provides a distribution to the Small County's Assistance Fund; Section 7-1-6.16 NMSA 1978 provides for a county equalization distribution; and pursuant to Sections 7-1-6.46 and 7-1-6.47 NMSA 1978, distributions are made to certain municipalities and counties, respectively, to offset the cost of food and health care practitioner deductions. In addition, local governments have their own GRT and compensating taxing authority.

Technical Issues: Section 1: The placement of Section 1 should be in the Tax Administration Act and not in the Gross Receipts and Compensating Tax Act. The change will need to be made on page 1, lines 17 and 18.

Tax & Rev suggests changing "January 1, 2024" dates to "July 1, 2024" on page 2, lines 14 and 18 for consistency and to align dates with the effective date of the provision of July 1, 2024.

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[5] Section 7-9-3.5(A)(1) NMSA 1978.

Tax & Rev is now required by Section 7-1-84 NMSA 1978 to compile and present a tax expenditure budget, which includes the number of taxpayers that claim and the amount of claims for a tax expenditure. Credits and deductions are seen as a tax expenditure and will be included on this report. For that reason, Tax & Rev recommends that on page 4, lines 6 through 14 are stricken in full.

Tax & Rev notes that the deduction is applicable to gross receipts taxes, but not compensating taxes. Some sales of firearms and ammunition may be subject to compensating tax, and Tax & Rev recommends that any deductions apply equally to both taxes, which are complementary.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. The new deduction may require an additional publication to fully explain who can claim the deduction and the best way to report the 25% as it is not common for gross receipts tax deductions to be based on percentages of the gross receipts from transactions.

Tax & Rev's Administrative Services Division (ASD) anticipates this bill will take approximately 60 hours, split between two existing full-time employees, to be implemented. Tax & Rev's Information Technology Division (ITD) estimates that implementing the bill will require approximately 600 hours or over three months and $132,000 of contractual costs.

Tax & Rev suggests that the effective date be moved to January 1, 2025, to allow for proper implementation and testing of the changes in the system since the distributions under the bill's Section 1 add additional complexity to the implementation.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2024	**FY2025**	**FY2026**	**3 Year Total Cost**		
--	$3.5	--	$3.5	NR	Tax & Rev – ASD - Operating
$132	--	--	$132	NR	Tax & Rev – ITD - Contractual Cost

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).