

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 6, 2024

Bill: HB-248

Sponsor: Representatives Cathrynn R. Brown and Gail Armstrong

Short Title: Social Security Income Tax Exemption Cap

Description: This bill amends Section 7-2-5.14 NMSA 1978, the personal income tax exemption for social security income, to remove the limitation based on the adjusted gross income of the taxpayer.

Effective Date: Not specified; 90 days following adjournment (May 15, 2024). Applicability – The provisions of this act apply to taxable years beginning on or after January 1, 2024.

Taxation and Revenue Department Analyst: Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	(\$27,000)	(\$27,000)	(\$28,000)	(\$29,000)	R	General Fund

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

Methodology for Estimated Revenue Impact: Section 7-2-5.14 NMSA 1978 was enacted for tax year 2022 and approximately 127,400 taxpayers have claimed the exemption with a total tax relief of \$76.5 million. The current maximum adjusted gross income (AGI) is applicable to low- and middle-income taxpayers – for individuals the cap is \$100,000, for married joint filers it is \$150,000, and for married filing separately it is \$75,000 -- and the average tax savings per taxpayer is \$601. By removing the maximum AGI limits in New Mexico, this bill allows higher-income social security earners to claim the exemption.

The Internal Revenue Service’s (IRS) Statistics of Income tabulates the number of social security recipients of taxable income and the amount of social security income by AGI brackets. Tax & Rev calculated the weighted average annual social security income and number of taxpayers with AGIs over \$150,000 by AGI ranges¹. Tax & Rev then estimated the tax due using the effective tax rate for tax year 2022 and assumes taxpayers will claim this amount against personal income taxes.

Tax & Rev grew the number of higher-income eligible taxpayers by the average growth rate from 2019 to 2020 of the number of New Mexico recipients of taxable social security income at 2.3%².

Policy Issues: Personal income tax (PIT) represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 25% of the state’s recurring General Fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). Like several states, New Mexico computes its income tax based on the federal definition of taxable income and ties to other statutes in the federal tax code. This is referred to as “conformity” to the federal tax code. The PIT is an important tax policy tool that has the potential to further both horizontal equity, by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers’

¹ www.irs.gov/statistics

² https://www.ssa.gov/policy/docs/factsheets/cong_stats/

ability to pay.

Removing the current cap and exempting all social security income will principally benefit high-income individuals who do not depend solely on social security benefits for their income, and who have other sources of income as well.

With the adoption of this bill, New Mexico would join most of the states that do not tax social security benefits at all. Excluding types of retirement income from the taxable base is seen as eroding horizontal equity in state income taxes. By excluding income based on age, taxpayers in similar economic circumstances are no longer treated equally, with older taxpayers receiving a benefit not available to younger taxpayers at the same level of income.

There are many other reasons why states may exempt some income for those over 65, such as lessening the economic burdens for individuals on fixed incomes and trying to attract retirees to the state. As far as attracting more retirees to the state is concerned, exempting social security from income taxation may not necessarily help in achieving that goal. For example, Texas does not tax any income, social security or otherwise, at all. Yet, the state features as one of the least tax friendly states for retirees in the country because of its high property and sales taxes³. Notably, New Mexico's property taxes are amongst the lowest in the nation. It is, therefore, necessary to take a holistic look at New Mexico's tax code, and attempts should be made to make the tax structure more simple, broad based, and equitable, without being punitive to any segment of the population.

Reducing a taxpayer's New Mexico taxable income may result in a taxpayer's income bracket falling. As this bill applies to higher-income taxpayers, there may be a secondary effect of more pronounced reduction in overall aggregate personal income taxes.

Additional analysis of Section 7-2-5.14 NMSA 1978 can be found in the 2023 New Mexico Tax Expenditure Report⁴.

Technical Issues: A period after "income" on line 22 of page 1 of the bill is suggested.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will make information system changes and update forms, instructions, and publications annually. This bill will have a low impact on the Information Technology Division (ITD), approximately 220 hours or about one month for an estimated staff workload cost of \$12,210. The implementation will be included in the annual tax year changes.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$12.2	--	\$12.2	NR	Tax & Rev – ITD staffing

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

Related Bills: Similar to HB-192 (2023 Session)

³ https://www.kiplinger.com/kiplinger-tools/retirement/t055-s001-state-by-state-guide-to-taxes-on-retirees/index.php?state_id=44#

⁴ See <https://www.tax.newmexico.gov/forms-publications/>