2017 New Mexico Tax Reform Act

Background and Objective

The purpose of this reform is to solve substantial problems in the New Mexico Gross Receipts Tax (GRT) structure. The NM GRT is routinely rated as one of the worst state consumption taxes in the nation by respected national tax policy groups [1]. These low ratings are attributed to: i) significant erosion of the base (great increase in the number of exemptions, deductions, credits), ii) taxation of every step of production (pyramiding), iii) significant increases in the tax rate from the original 2% (compounding the pyramiding problem), iv) complexity and challenges with compliance (e.g. Non-Taxable Taxation Certificate complexity), v) recent removal of consumption and other revenue that adjusts with inflation from the base, vi) unusual structure compared to nearly all other states (e.g. the term 'GRT' scares away businesses considering relocation to NM), and vii) lack of transparency.

The NM GRT is a hybrid of a true GRT and a true Retail Sales Tax (RST). An objective analysis of NM GRT concludes that this hybrid comprises the worst attributes of a true GRT, and the worst attributes of a RST [2].

The objective of this reform is to create a new hybrid that contains the best attributes of a true GRT, and the best attributes of a true RST. This will result in a new consumption tax structure that complements the modern economy, and is well equipped to handle future economic changes. This reform will also improve stability of revenues, restore uniformity and fairness of the tax, simplify administration and compliance, increase transparency, broaden the base, and lower all rates.

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1. "Facts & Figures 2016: How Does Your State Compare," Tax Foundation. NM Sales Tax ranked 48th in the State Business Climate Index; NM Sales Tax ranked the 7th highest sales tax collection per capita.
2. "Reforming the Gross Receipts" Helen Hecht, Tax Counsel, Federation of Tax Administrators and Richard Anklam, Executive Director, New Mexico Tax Research Institute. Presentation to the Revenue Stabilization and Tax Policy Committee, 2013.

Summary of Tax Code Changes

Gross Receipts Tax (GRT)

- Broadening the tax base by removing nearly all exemptions, deductions, and credits:
  - Significantly lowers state and local tax rates
  - Improves uniformity
  - Improves stability of revenue and restores revenue streams that grow with inflation
- Removes the most egregious form of pyramiding (business-to-business professional services and inputs)
- Simplifies compliance and improves administration by reducing number of Non-Taxable Transaction Certificates (NTTCs)
- Increases fairness
  - Provides for alternative evidence in the case of a missing NTTC during audit
  - Levels the playing field for local brick and mortar businesses by taxing internet sales transactions
- Removing the non-profit exemption to GRT:
  - Increases fairness and uniformity in the medical industry by treating non-profit and for-profit facilities the same
  - Guards against future Federal Laboratory structure changes
- Improves transparency by correctly attributing the 1.225% municipal share of the state tax to the municipalities tax rate
- Provides flexibility to local governments by converting all county and municipal earmarks to general purpose
- Eliminates the need for Hold Harmless payments by re-imposing the sales tax on food and healthcare practitioners
- Re-brands GRT as ‘Sales Tax’
- Only three classes of exemptions, deductions and credits remain:
  - Anti-pyramiding – consolidated and rolled into a new anti-pyramiding section
  - Recent economic incentives that resulted in substantial investment in the state
    - NM does not need the reputation of ‘giving a good deal and then pulling out the rug’
    - Sunsets added to these remaining deductions and credits
  - Federal preemption doctrine: the state is not allowed to impose a tax because federal law prohibits it

Compensating Tax

- Removes perverse incentive to purchase out of state by aligning with GRT (now sales tax) base, and requiring that the rate be the same as the sales tax rate (as opposed to lower which is currently the case)

Low-Income Comprehensive Tax Rebate (LICTR)

- Guards against regressivity of the new sales tax by updating and realigning distributions to the federal poverty level and the new sales tax rate

Supplemental Nutrition Assistance Program (SNAP)

- Guards against regressivity of the new sales tax by removing the sales tax on all food purchased by a qualified SNAP program recipient (including food purchased with non-SNAP dollars)

Liquor Excise Tax

- Distributes Liquor Excise Tax revenue to state and county DWI treatment and prevention programs (60%), drug court programs (10%), and to the state as a match for Medicaid expenditures (30%)
    - When the Liquor Excise Tax was adopted, the liquor industry agreed to support it in exchange for the revenue being dedicated to specific programs but the state has been putting most of it in the General Fund; this makes good on the deal

Motor Vehicle Excise Tax (MVET)

- Addresses significant statewide road infrastructure problems by sending 30% ($42 mil) of MVET to the state road fund, and 30% to the local road fund, as has been done in the past; the remaining 40% will continue to go to the General Fund

Personal Income Tax (PIT)

- Provides for a single PIT bracket at 5%

Corporate Income Tax (CIT)

- Provides for a single CIT bracket, and aligns the CIT bracket with the top state personal income tax bracket (5%)
    - This single 5% PIT and 5% CIT bracket structure is the same structure as used in Utah, which is consistently rated in the top 10 of state tax structures
- Increases fairness and uniformity by requiring market-based sourcing for intangibles, not just tangibles

Property Tax – Tax Lightning

- Removes the provision in state law that requires the assessed value of a property to immediately adjust to current and correct when a property changes ownership, resulting in significantly higher property tax (tax lightning)
- Removes the annual cap on property valuation increases which will allow yield control to work effectively
- Ensures low income families who have lived in a home for many years are not priced out of their home when values go up