

***Tax and Motor Vehicle Legislation
Enacted or Taking Effect in 2008***

**Rick Homans, Secretary
Ken Ortiz, Motor Vehicle Division Director
and
Jim Nunns, Tax Policy Director
N.M. Taxation and Revenue Department**

**Presented to the
Revenue Stabilization and Tax Policy Committee**

**First Meeting in 2008
June 5, 2008**

2008 Tax Legislation Effective in 2008

Charitable Care Property Tax Valuation (House Bill 324; Laws 2008, Chapter 46)

- Provides an exemption from valuation for property taxation purposes for property operated as a community to which the Continuing Care Act applies, or as a facility licensed by the Department of Health to operate as a nursing facility, skilled nursing facility, adult residential care facility, intermediate care facility or intermediate care facility for the developmentally disabled.
- To qualify for the exemption, the property must be owned by a charitable nursing, retirement or long-term care organization that is a 501(c)(3) organization, donates or renders gratuitously a portion of its services and uses all funds remaining after payment of its usual and necessary operating expenses to further its charitable purpose.
- Effective February 28, 2008 (applicable to tax years beginning January 1, 2008)

Locomotive Fuel Tax Exemption Effective Dates (House Bill 387; Laws 2008, Chapter 11)

- Provides an alternative to the contingent effective date currently in place for gross receipts and compensating tax exemptions for locomotive fuel. The current effective date for the exemptions is July 1, 2009, if, prior to January 1, 2009, the Economic Development Department certifies to the Taxation and Revenue Department that construction of a railroad locomotive refueling facility project in Dona Ana County has commenced, including land acquisition, acquisition of all necessary permits and commencement of actual construction.
- If the above condition cannot be met by January 1, 2009, the exemptions shall go into effect on July 1, 2010, if the same condition can be met by January 1, 2010.
- Effective May 14, 2008

Tax Refund Contributions Corrections (House Bill 599; Laws 2008, Chapter 13)

- Amends Section 7-1-6.50 of the Tax Administration Act, changing the recipient of the distribution of voluntary contributions made under Section 7-2-30.3 of the Income Tax Act from the Secretary of Veterans' Services to the Department of Military Affairs.
- The voluntary contribution of a personal income tax refund made pursuant to Section 7-2-30.3 is to assist members of the New Mexico National Guard activated for service in the global war on terrorism and their families.
- This law also contains a temporary provision that transfers to the Department of Military Affairs all money in the temporary suspense account of the Secretary of Veterans Services attributable to contributions made pursuant to Section 7-2-30.3.
- Effective February 22, 2008

Distributions to Sole Community Provider Fund (House Bill 615; Laws 2008, Chapter 51)

- Amends the process for distributing county gross receipts tax revenue pursuant to Section 7-1-6.13. The law provides an additional distribution from revenue attributable to the second one-eighth increment of the county gross receipts tax imposed by a county to the Sole Community Provider Fund.
- The new distribution each month is equal to 1/12 of the amount of the county's approved contribution for support of sole community provider payments. Revenue in excess of the amount approved must be transferred to the county as required by Subsection A of Section 7-1-6.13.
- Effective February 28, 2008

Property Tax Valuation Factors (House Bill 661; Laws 2008, Chapter 77)

- Valuation authorities (the Department and county assessors) must apply generally accepted appraisal techniques when appraising property for property tax purposes (Section 7-36-15[B] of the Property Tax Code).
- This legislation amends the statute to state that when appraising “residential housing,” the authorities must consider any decrease in the value that would be realized by the owner in a sale due to effects of any housing subsidy, covenant or encumbrance imposed pursuant to a federal, state or local affordable housing program.
- Effective February 29, 2008 (Applicable to Tax Years Beginning January 1, 2008)

High-Wage Jobs Tax Credit Eligibility (Senate Bill 174; Laws 2008, Chapter 27)

- Extends by six years, from July 1, 2009, until July 1, 2015, the period of time during which a new high-wage economic-based job can be created.
- Requires the Economic Development Department to report to the appropriate interim legislative committee each year the cost of this tax credit to the state and its impact on company recruitment and job creation.
- Effective May 14, 2008

Native American Veteran Tax Refunds (Senate Bill 574; Laws 2008, Chapter 89)

- Native American veterans domiciled on tribal lands during their periods of active military service may have been exempt from paying state personal income taxes on their military income, but may have had state personal income taxes improperly withheld from their military income.
- The legislation directs that the Secretary of the Veterans’ Services Department conduct a study in cooperation with the Taxation and Revenue Department to determine whether Native American veterans who were domiciled on tribal lands during the period of their active military duty had state income taxes improperly withheld from their pay and, if so, to determine the amount improperly withheld and the number and identity of Native American veterans or survivors affected by the improper withholdings.
- The Secretary of Veterans’ Services Department must promulgate rules for a state program to compensate Native American veterans or their survivors for state personal income taxes improperly withheld and report to the appropriate interim legislative committee no later than October 1 of each year.
- Effective March 4, 2008

Weight Distance Tax Compliance Penalties (Senate Bill 438; Laws 2008, Chapter 31)

- Imposes a new type of penalty assessment (fine) for failure to comply with the requirements of the Weight Distance Tax Act specified in Section 65-1-26.
- The penalty assessment for a first conviction is \$300.
- For a second conviction occurring within 10 years of the first conviction, the penalty assessment is \$500.
- For a third conviction occurring within 10 years of the first conviction, the penalty assessment is \$1,000.
- Effective May 14, 2008

Amend Small Counties Assistance Act (House Bill 218; Laws 2008, Chapter 39)

- The Tax Administration Act requires that ten percent (10%) of net receipts from the compensating tax be distributed to the Small Counties Assistance Fund. Qualifying counties receive distributions based upon their population and total assessed value for property tax purposes.
- Under former law, the term “inflation factor” was defined as a fraction where the numerator is the annual implicit price deflator index for state and local government purchases of goods and services for the calendar year one year prior to the year in which the distribution is to be made, and the denominator is the same index for the year two years prior to the year in which the distribution is to be made, *i.e.*: (Index Last Year)/(Index Two Years Ago)
- This legislation amends the definition of “inflation factor” in the Small counties Assistance Act to set the inflation factor in the denominator to the factor in a fixed base year (2004).
- Effective July 1, 2008

Winery Definitions & Taxation (Senate Bill 43; Laws 2008, Chapter 82)

- Reorganizes the definition section of the Liquor Excise Tax Act and adds a definition of “winegrower”. It also increases, from fewer than 560,000 liters to fewer than 950,000 liters, the amount of production that qualifies a winegrower as a “small winegrower”.
- The reduction in the excise tax rate on wine from \$.45 per liter to \$.10 per liter is retained for the first 80,000 liters sold in New Mexico by a small winegrower, but the limit on such sales over 80,000 liters that qualify for the reduced rate of \$.20 per liter is increased from 560,000 liters to 950,000 liters.
- The law also adds new rules related to the tax liability on wine transfers between winegrowers and between winegrowers and wholesalers.
- Effective July 1, 2008

2008 MVD Legislation Effective in 2008**Ignition Interlock Tampering Penalties (House Bill 100; Laws 2008, Chapter 67)**

- Amends sections of the Motor Vehicle Code to establish that a person with an ignition interlock license who tampers with or causes another to tamper with an ignition interlock device may be subject to the penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or for a violation of the Implied Consent Act.
- Effective February 29, 2008

License Plates

- City of Las Cruces License Plates (House Bill 168; Laws 2008, Chapter 85)
 - Creates a new “City of Las Cruces” special registration plate with a logo indicating that the vehicle owner is a resident of the city of Las Cruces.
 - Effective May 14, 2008
- Breast Cancer Awareness License Plates (Senate Bill 178; Laws 2008, Chapter 34)
 - Creates a new license plate promoting awareness and funding breast cancer research and education.
 - Effective May 14, 2008

- Distinctiveness of Purple Heart License Plate (Senate Bill 492; Laws 2008, Chapter 32)
 - Requires that the special registration plates for Purple Heart recipients have a distinctive design that is different from other special registration plates issued to armed forces veterans pursuant to Section 66-3-419, and that the plate must emphasize that the veteran is a Purple Heart recipient.
 - Effective May 14, 2008

Eliminate Commercial Driver's License Waivers (House Bill 215; Laws 2008, Chapter 72)

- Brings New Mexico into compliance with the Federal Motor Carrier Safety Administration requirements regarding Commercial Driver's Licenses by:
 - eliminating the Motor Vehicle Division's authority to waive the commercial driver's license test even when the applicant complies with other provisions of the Commercial Driver's License Act;
 - expanding the Department's authority to disqualify persons from driving a commercial motor vehicle if the individual is required to hold a commercial driver's license. The Department also may disqualify a person from driving a commercial motor vehicle for a period of not more than one year if the person is convicted of a first violation of an out-of-service order, and
 - reconciling multiple amendments to Section 66-8-102 made in 2007.
- Effective May 14, 2008

Vehicle Port-Of-Entry Requirements (Senate Bill 551; Laws 2008, Chapter 63)

- Enacts a new section of the Motor Vehicle Code to provide multiple trip special permits for agricultural product transport vehicles.
- Allows an exception to the requirement that agricultural product transport vehicles stop at every port of entry, provided the vehicle has cleared the port of entry at least once and has successfully passed a commercial vehicle safety alliance level 1 inspection during the current harvest season.
- Requires the owners or operators of agricultural transport vehicles to have in their possession a copy of the restrictions imposed by the State Transportation Commission regarding the size and weight of vehicles operated on a highway under the jurisdiction of that commission.
- Specifies that the agricultural products being transported must have been harvested in an agricultural area in New Mexico or in New Mexico and an adjacent state.
- Effective May 14, 2008

2008 Tax Legislation Effective After 2008

Raise Property Tax Limitation Income Limit (Senate Bill 116; Laws 2008, Chapter 26)

- Changes the eligibility requirements for limitations on increases in assessed value of property owned by low-income taxpayer who are 65 years of age or older or disabled.
- Formerly, the statute (Section 7-36-21.3) stipulated that taxpayers with modified gross income (MGI) in excess of \$18,000, adjusted for inflation, qualified for the exemption. Under prior law the MGI limit would be \$21,600 for tax year 2008.
- This legislation allows person who are 65 years of age or older or disabled with MGI that does not exceed \$32,000, adjusted for inflation, to receive the valuation increase limitation.
- Applicable to Tax Years Beginning January 1, 2009

Additional Liquor Tax Distribution (Senate Bill 164; Laws 2008, Chapter 93)

- Provides a distribution to a municipality which is located in a Class A County and has a population, according to the most recent federal decennial census, of more than 30,000 but less than 60,000.
- The distribution is \$20,750 per month, and is made from the net receipts attributable to the liquor excise tax. The distribution may be used only for the provision of alcohol treatment and rehabilitation services for street inebriates.
- Farmington is the only municipality that qualifies for the distribution.
- Effective July 1, 2009 (Applicable to Revenue Earned on a Modified Accrual Basis After June 30, 2009)

Monthly Property Tax Prepayments (Senate Bill 177; Laws 2008, Chapter 33)

- Allows owners of property to repay their property taxes in monthly installment if county commissioners approve the prepayment plan.
- County commissioners may provide the option of prepayments in 10 monthly payments, beginning July 1 of the year in which the tax bill is prepared and ending March 1 of the following year. The first nine monthly payments must be 10% of the prior year's property tax bill. The final March 1st payment is for the balance remaining.
- The measure also requires property tax bills to include the total amount of any monthly prepayments made and the amount of the final monthly payment needed to pay the liability in full.
- The prepayment option may not be exercised if taxes are escrowed for the property owner and included in the property owner's monthly mortgage payment.
- Applicable to tax years beginning January 1, 2009.

General Fund Revenue Effects

The following table shows the General Fund impact of legislation enacted in the 2008 regular session. The revenue impacts are all positive but quite small. The largest impact, \$6 million, occurs in FY10 and is primarily due to the one-year delay in the locomotive fuels tax exemption.

Tax- Related Legislation Enacted in 2008 Legislative Session				
	Estimated General Fund Impact by Fiscal Year (\$ millions)			
Title/Description	2009	2010	2011	2012
TRD Enhanced Audit	2.00	2.00	2.00	2.00
Locomotive Fuel Tax Exemption Effective Dates		5.0		
Additional Liquor Tax Distribution		(.25)	(.25)	(.25)
High-Wage Job Credit Eligibility Extension			(.11)	(.21)
Small Winery Definitions and Taxation	(.12)	(.13)	(.14)	(.15)
Small County Assistance Act Amendments	(.46)	(.48)	(.53)	(.55)
Totals	1.42	6.14	.97	.84

Prior Year Tax Legislation Effective in 2008

Income Tax Exemption for Certain Taxpayers (House Bill 410; Laws 2005, Chapter 104, Section 4)

- Reduced the top personal income tax rate from 5.3% to 4.9%
- Effective January 1, 2008

Working Families Tax Credit (House Bill 436; Laws 2007, Chapter 45, Sections 1-6)

- Amended the penalty and interest provisions of the Tax Administration Act:
 - The minimum amount assessed for unpaid taxes is increased from \$10 to \$25.
 - Interest charged on underpayments of tax--and that paid on overpayments--is reduced from 15 percent per year to the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC). The IRC rate is currently 6 percent.
 - The Taxation and Revenue Department is allowed up to 120 days to process a claim for refund before interest will accrue. This provision applies to the Resources Excise Tax, the (hard minerals) Severance Tax, the Oil and Gas Severance Tax, the Oil and Gas Conservation Tax, the Oil and Gas Emergency School Tax, the Oil and Gas Ad Valorem Production Tax, the Natural Gas Processors Tax and the Oil and Gas Ad Valorem Production Equipment Tax.
 - Maximum penalty for failure to pay tax or to file a return due to negligence or disregard of Department rules or regulations is increased from 10 percent to 20 percent of the tax due.
 - The \$50 penalty for failure to file an information return under the Gasoline and Special Fuels Excise Taxes applies to wholesalers, retailers and rack operators, as well as to the taxpayer liable for payment of tax.
- Effective January 1, 2008

Renewable Energy Production Tax Credit Amendments (Senate Bill 463; Laws 2007, Chapter 204, Sections 1-2)

- Made the following changes to the renewable energy production tax credit:
 - The credit is allowed only for facilities that first produce electricity before January 1, 2018.
 - A variable rate of credit applies for electricity produced using solar energy. Instead of the 1 cent per kilowatt hour ("kWh") under former law, the rate starts at 1.5 cents in the first year of operation and increases in increments of ½ cent each of the next five years, to a maximum of four cents, and then will decline by ½ cent per year in the next four years to two cents in the tenth year of operations.
 - The definition of "biomass" was amended to include a variety of organic materials that are available on a renewable basis, including landfill gas and municipal solid waste.
 - The minimum size of an eligible facility for the credit is reduced from 10 megawatts to one megawatt.
 - The maximum amount of electricity that can be certified as eligible for the credit is increased for solar facilities only. An additional 500,000 megawatt hours (MWh) of solar-generated power -- in addition to the two million MWh from all power sources under present law -- can be approved for credits.

- Taxpayers who have received approval for tax credits for facilities that first produced electricity on or after October 1, 2007, can claim a refund for any credits in excess of their tax liability.
- A new personal income tax credit is created which parallels exactly the provisions of the corporate income tax credit as amended by the bill.
- The total amount of electricity that can qualify for the corporate and individual income tax credits is two million MWh, plus an additional 500,000 MWh for solar facilities.
- Chapter 104, Section 7 of Laws 2005 is repealed. This section had been superceded by another statute and therefore had never taken effect. Its repeal is simply a clean-up of an obsolete statute.
- Applicable to Tax Years Beginning January 1, 2008

Agricultural Water Conservation Expenses (Senate Bill 463; Laws 2007, Chapter 204, Section 5)

- Created corporate and individual income tax credits for agricultural water conservation expenses.
- The credit amount is 35 percent of eligible expenses incurred in calendar year 2008, and 50 percent of expenses in subsequent years. The credits would be limited to a maximum of \$10,000 per year per taxpayer.
- The tax credit provisions are repealed, effective January 1, 2013.
- Applicable to tax years beginning January 1, 2008

Oil & Gas Property Alternative Unit Valuation (Senate Bill 340; Laws 2007, Chapter 273)

- Amended the Property Tax Code to specify how properties associated with oil and natural gas transmission are to be assessed for property tax purposes. The legislation added definitions of functional and economic obsolescence for appraisal purposes.
- Specified that a claim of reduced value by a taxpayer due to economic or functional obsolescence must contain an “obsolescence factor” and a brief statement of facts supporting the claim and supporting documentation.
- Applicable to tax years beginning January 1, 2008

Prior Year MVD Legislation Effective in 2008

License Plates

- Child Adoption Awareness License Plates (House Bill 160; Laws 2007, Chapter 87)
 - Authorizes the issuance of a special registration plate with an artwork logo promoting child adoption awareness.
 - Effective July 1, 2008
- Cumbres and Toltec Railroad License Plates (House Bill 244; Laws 2007, Chapter 136)
 - Authorizes the issuance of a special registration plate with an artwork logo featuring the Cumbres Toltec scenic railroad.
 - Effective July 1, 2008
- Female Veteran’s License Plates (House Bill 365; Laws 2007, Chapter 48)
 - Authorizes the issuance of a special registration plate for vehicles and motorcycles to honor female veterans of the armed services.
 - Effective July 1, 2008

Driver Contributions to Children's Sight Fund (House Bill 1283; Laws 2007, Chapter 353 and Senate Bill 1149; Laws 2007, Chapter 357)

- Established the Save Our Children's Sight Fund and allow drivers to donate \$1 or \$5 to the fund at the time they register their vehicles.
- Effective January 1, 2008

Gross Receipts Tax Districts Formed in 2008

Tax Increment Development Districts (TIDD)

- Mesa Del Sol
 - Tax increments dedicated by the City of Albuquerque and the State
 - Effective January 1, 2008
- Upper Petroglyphs (SunCal)
 - Tax increments dedicated by Bernalillo County and the State
 - Effective July 1, 2008

Regional Spaceport District

- Dona Ana County adopted the regional spaceport gross receipts tax on April 3, 2007.
- Sierra County adopted the regional spaceport gross receipts tax on April 22, 2008.
- Once the Regional Spaceport District is formed and certified by the Spaceport Authority, the Taxation and Revenue Department will begin collecting the regional spaceport gross receipts tax adopted by Dona Ana and Sierra Counties.

Water and Sanitation Districts

- El Prado Water and Sanitation District (Taos County)
- El Valle de Los Ranchos Water and Sanitation District (Taos County)
- Valley Water and Sanitation District (San Juan County)
- All are effective January 1, 2008