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HOUSE BILL 19

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Linda Serrato

AN ACT

RELATING TO TAXATION; ENACTING THE REAL ESTATE TRANSFER TAX  
ACT; EXEMPTING SOCIAL SECURITY INCOME FROM INCOME TAX FOR  
CERTAIN INDIVIDUALS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 3 of this act may be cited as the "Real Estate Transfer  
Tax Act".

SECTION 2. [NEW MATERIAL] REAL ESTATE TRANSFER TAX--  
TRANSFERS OF REAL PROPERTY.--

A. An excise tax is imposed on all instruments  
evidencing a transfer of any interest in real property. The  
rate of tax shall be:

(1) seventy-five hundredths percent of the  
consideration for the interest in real property transferred by

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1 the instrument if the price of the real property was at least  
2 five hundred thousand dollars (\$500,000) and up to seven  
3 hundred fifty thousand dollars (\$750,000); and

4 (2) one and twenty-five hundredths percent of  
5 the consideration for the interest in real property transferred  
6 by the instrument if the price of the real property was at  
7 least seven hundred fifty thousand dollars (\$750,000).

8 B. If the price paid does not represent the value  
9 of the real property, the tax rate shall be applied to the  
10 value of each instrument transferring the interest, which value  
11 shall be based on the prior year's assessed value of the real  
12 property being transferred. In the event the prior year's  
13 assessed value of the real property being transferred is based  
14 on undeveloped land that has since been subdivided or otherwise  
15 developed, the county shall, upon request, assess the value of  
16 the real property since being developed and provide a statement  
17 of the value to the taxpayer.

18 C. A person who obtains more than one deed or other  
19 instrument of conveyance for the same transfer of the same  
20 tract or parcel of real property shall pay the tax imposed by  
21 this section only once with respect to that transfer.

22 D. The tax imposed by this section shall be paid by  
23 the grantee or transferee of the interest in the real property  
24 to the county clerk of the county in which the real property is  
25 located. If the instrument transfers a parcel of real property

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1 lying in two or more counties, the tax shall be paid to the  
2 county clerk of the county in which the greater part of the  
3 real property with respect to value lies. The county clerk  
4 shall not record the transfer until the tax has been paid.

5 E. The tax imposed by this section shall not be  
6 imposed on the transfer of:

7 (1) a leasehold estate; or

8 (2) real property where such transfer is:

9 (a) the creation or dissolution of a  
10 tenancy by the entirety the conveyance from: 1) one spouse to  
11 another; 2) one spouse or both spouses to the original grantor  
12 in the instrument or the original grantor's spouse; or 3) one  
13 spouse or both spouses to a trustee and immediate reconveyance  
14 by the trustee in the same instrument as tenants in common,  
15 tenants in common with right of survivorship, joint tenants or  
16 joint tenants with right of survivorship;

17 (b) a deed of division in kind of real  
18 property formerly held by tenants in common;

19 (c) release of a life estate to the  
20 beneficiaries of the remainder interest;

21 (d) a deed or will executed by an  
22 executor to implement a testamentary devise;

23 (e) a decree or deed that is an  
24 adjustment of property rights between divorcing parties;

25 (f) a transfer by a transferor of real

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1 property to a revocable living trust created by the same  
2 transferor or by a spouse of the transferor, or a transfer by  
3 the trustee of a revocable living trust back to the same  
4 transferor or to the transferor's spouse;

5 (g) a deed executed by the trustee of a  
6 revocable living trust to implement a testamentary devise by  
7 the trustor of the trust;

8 (h) a transfer of real property to an  
9 organization that has been granted exemption from the federal  
10 income tax by the United States commissioner of internal  
11 revenue as an organization described in Section 501(c)(3) of  
12 the United States Internal Revenue Code of 1986, as amended or  
13 renumbered;

14 (i) a transfer of real property to the  
15 state or any of its instrumentalities; or

16 (j) a transfer of real property pursuant  
17 to the Local Economic Development Act.

18 SECTION 3. [NEW MATERIAL] REPORT TO TAXATION AND REVENUE  
19 DEPARTMENT--ADMINISTRATION FEE.--The county clerk shall report  
20 all collections of taxes made pursuant to the Real Estate  
21 Transfer Tax Act on forms prescribed by the taxation and  
22 revenue department and shall submit the proceeds of the taxes  
23 collected to the taxation and revenue department at the end of  
24 each month. A county may withhold an administrative fee of  
25 three percent of the net amount of the tax proceeds collected.

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1           SECTION 4. Section 7-1-2 NMSA 1978 (being Laws 1965,  
2 Chapter 248, Section 2, as amended by Laws 2019, Chapter 47,  
3 Section 1 and by Laws 2019, Chapter 53, Section 10 and also by  
4 Laws 2019, Chapter 270, Section 1) is amended to read:

5           "7-1-2. APPLICABILITY.--The Tax Administration Act  
6 applies to and governs:

7           A. the administration and enforcement of the  
8 following taxes or tax acts as they now exist or may hereafter  
9 be amended:

- 10                           (1) Income Tax Act;
- 11                           (2) Withholding Tax Act;
- 12                           (3) Oil and Gas Proceeds and Pass-Through  
13 Entity Withholding Tax Act;
- 14                           (4) Gross Receipts and Compensating Tax Act,  
15 Interstate Telecommunications Gross Receipts Tax Act and Leased  
16 Vehicle Gross Receipts Tax Act;
- 17                           (5) Liquor Excise Tax Act;
- 18                           (6) Local Liquor Excise Tax Act;
- 19                           (7) any municipal local option gross receipts  
20 tax or municipal compensating tax;
- 21                           (8) any county local option gross receipts tax  
22 or county compensating tax;
- 23                           (9) Special Fuels Supplier Tax Act;
- 24                           (10) Gasoline Tax Act;
- 25                           (11) petroleum products loading fee, which fee

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1 shall be considered a tax for the purpose of the Tax  
2 Administration Act;

3 (12) Alternative Fuel Tax Act;

4 (13) Cigarette Tax Act;

5 (14) Estate Tax Act;

6 (15) Railroad Car Company Tax Act;

7 (16) Investment Credit Act, rural job tax  
8 credit, Laboratory Partnership with Small Business Tax Credit  
9 Act, Technology Jobs and Research and Development Tax Credit  
10 Act, Film Production Tax Credit Act, Affordable Housing Tax  
11 Credit Act and high-wage jobs tax credit;

12 (17) Corporate Income and Franchise Tax Act;

13 (18) Uniform Division of Income for Tax  
14 Purposes Act;

15 (19) Multistate Tax Compact;

16 (20) Tobacco Products Tax Act;

17 (21) the telecommunications relay service  
18 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
19 surcharge shall be considered a tax for the purposes of the Tax  
20 Administration Act; ~~and~~

21 (22) the Insurance Premium Tax Act;

22 (23) the Health Care Quality Surcharge Act;

23 and

24 (24) the Real Estate Transfer Tax Act;

25 B. the administration and enforcement of the

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1 following taxes, surtaxes, advanced payments or tax acts as  
2 they now exist or may hereafter be amended:

- 3 (1) Resources Excise Tax Act;
- 4 (2) Severance Tax Act;
- 5 (3) any severance surtax;
- 6 (4) Oil and Gas Severance Tax Act;
- 7 (5) Oil and Gas Conservation Tax Act;
- 8 (6) Oil and Gas Emergency School Tax Act;
- 9 (7) Oil and Gas Ad Valorem Production Tax Act;
- 10 (8) Natural Gas Processors Tax Act;
- 11 (9) Oil and Gas Production Equipment Ad

12 Valorem Tax Act;

- 13 (10) Copper Production Ad Valorem Tax Act;
- 14 (11) any advance payment required to be made  
15 by any act specified in this subsection, which advance payment  
16 shall be considered a tax for the purposes of the Tax

17 Administration Act;

- 18 (12) Enhanced Oil Recovery Act;
- 19 (13) Natural Gas and Crude Oil Production  
20 Incentive Act; and

- 21 (14) intergovernmental production tax credit  
22 and intergovernmental production equipment tax credit;

23 C. the administration and enforcement of the  
24 following taxes, surcharges, fees or acts as they now exist or  
25 may hereafter be amended:

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- 1 (1) Weight Distance Tax Act;
- 2 (2) the workers' compensation fee authorized
- 3 by Section 52-5-19 NMSA 1978, which fee shall be considered a
- 4 tax for purposes of the Tax Administration Act;
- 5 (3) Uniform Unclaimed Property Act (1995);
- 6 (4) 911 emergency surcharge and the network
- 7 and database surcharge, which surcharges shall be considered
- 8 taxes for purposes of the Tax Administration Act;
- 9 (5) the solid waste assessment fee authorized
- 10 by the Solid Waste Act, which fee shall be considered a tax for
- 11 purposes of the Tax Administration Act;
- 12 (6) the water conservation fee imposed by
- 13 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
- 14 for the purposes of the Tax Administration Act; and
- 15 (7) the gaming tax imposed pursuant to the
- 16 Gaming Control Act; and

17 D. the administration and enforcement of all other  
18 laws, with respect to which the department is charged with  
19 responsibilities pursuant to the Tax Administration Act, but  
20 only to the extent that the other laws do not conflict with the  
21 Tax Administration Act."

22 SECTION 5. A new section of the Income Tax Act is enacted  
23 to read:

24 "[NEW MATERIAL] EXEMPTION--SOCIAL SECURITY INCOME.--

25 A. The following individuals may claim an exemption

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1 in an amount equal to the amount included in adjusted gross  
2 income pursuant to Section 86 of the Internal Revenue Code, as  
3 that section may be amended or renumbered, of income includable  
4 except for this exemption in net income; provided that the  
5 exempted amount shall not exceed the individual's net income:

6 (1) married individuals filing separate  
7 returns with an adjusted gross income of sixty thousand dollars  
8 (\$60,000) or less;

9 (2) heads of household, surviving spouses and  
10 married individuals filing joint returns with an adjusted gross  
11 income of one hundred twenty thousand dollars (\$120,000) or  
12 less; and

13 (3) single individuals with an adjusted gross  
14 income of seventy-two thousand dollars (\$72,000) or less.

15 B. An individual who claims an exemption pursuant  
16 to this section shall not claim the exemption pursuant to  
17 Section 7-2-5.2 NMSA 1978."

18 SECTION 6. APPLICABILITY.--The provisions of Section 5 of  
19 this act apply to taxable years beginning on or after January  
20 1, 2021.

21 SECTION 7. EFFECTIVE DATE.--The effective date of the  
22 provisions of Sections 1 through 3 of this act is July 1, 2021.