

1 SENATE BILL 448

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Anthony L. Thornton and Jay C. Block and Nicole Tobiassen

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10 AN ACT

11 RELATING TO TAXATION; ALLOWING EMPLOYERS WITH FIFTY OR FEWER
12 EMPLOYEES TO ELECT TO NOT WITHHOLD THOSE EMPLOYEES' WAGES FOR
13 PAYMENT OF INCOME TAX.

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

16 SECTION 1. Section 7-3-3 NMSA 1978 (being Laws 1961,
17 Chapter 243, Section 3, as amended) is amended to read:

18 "7-3-3. TAX WITHHELD AT SOURCE.--

19 A. Every employer who deducts and withholds a
20 portion of an employee's wages for payment of income tax under
21 the provisions of the Internal Revenue Code shall deduct and
22 withhold an amount for each payroll period computed from a
23 state withholding tax table furnished by the department;
24 provided:

25 (1) if the employee instructs the employer to

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1 withhold a greater amount, the employer shall deduct and
2 withhold the greater amount;

3 (2) if the employee is not a resident of New
4 Mexico and is to perform services in New Mexico for fifteen or
5 fewer days cumulatively during the calendar year, the employer
6 is not required to deduct and withhold an amount from that
7 employee's wages; ~~and~~

8 (3) if the aggregate monthly amount withheld
9 under this section would be less than one dollar (\$1.00) for an
10 employee, the employer shall not be required to deduct and
11 withhold wages in regard to that employee; and

12 (4) if the employer has fifty employees or
13 fewer, the employer may elect not to withhold an amount from
14 those employees' wages. An employer who makes this election
15 shall notify the department, on a form and in a manner
16 prescribed by the department, and shall notify each employee of
17 this election and the employee's responsibility to make
18 quarterly estimated payments pursuant to Section 7-2-12.2 NMSA
19 1978.

20 B. The department shall devise and furnish a state
21 withholding tax table based on statutes made and provided to
22 employers required to withhold amounts under this section.
23 This table shall be devised to provide for a yearly aggregate
24 withholding that will approximate the state income tax
25 liability of average taxpayers in each exemption category.

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C. If an individual requests in writing that the payor deduct and withhold an amount from the amount of the pension or annuity due the individual, the payor making payment of a pension or annuity to an individual domiciled in New Mexico shall deduct and withhold the amount requested to be deducted and withheld, provided that the payor is not required to deduct and withhold any amount less than ten dollars (\$10.00) per payment. The written request shall include the payee's name, current address, taxpayer identification number and, if applicable, the contract, policy or account number to which the request applies.

D. Every person in New Mexico who is required by the provisions of the Internal Revenue Code to deduct and withhold federal tax from payment of winnings that are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to six percent of the winnings, except that an Indian nation, tribe or pueblo or an agency, department, subdivision or instrumentality thereof is not required to deduct or withhold from payments made to members or spouses of members of that Indian nation, tribe or pueblo."

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2026.