

Tax Matters

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FOURTH ANNUAL NMTRI LEGISLATIVE OUTLOOK CONFERENCE

HOLD THE DATE and REGISTER NOW for the Fourth Annual New Mexico Tax Research Institute Legislative Outlook Conference: December 18 at the Hotel Albuquerque in Old Town. Members of NMTRI and government/academics may attend and have lunch for \$32.00 per person. Not-yet-members attendees may attend and have lunch for \$45.00.

Reservations and payment should be received no later than December 16, 2008. The program will begin promptly at 9:00 a.m. (registration begins at 8:30). Continuing Professional Education (CPE) credits are available (currently 3 hours but the agenda is subject to change).

DECEMBER 18, 2009



The program will include a greeting and opening comments by Albuquerque's new Mayor, R. J. Berry (tentative), a revenue/budget overview by Legislative Finance Committee Director David Abbey, perspectives of influential legislators, and comments from interested groups on the current topics, the potential for general state tax increases and property tax lightning. Take the opportunity to hear from these elected officials who drive New Mexico tax policy: House Minority Leader and Taxation and Revenue Committee ("HTRC") member Tom Taylor, HTRC Chair Ed Sandoval (invited), Senate President Tim Jennings, Senate Minority Leader Stuart Ingle, Deputy Chair of the House Appropriations Committee Luciano "Lucky" Varela. Property tax discussions will include Senators Mark Boitano and former Bernalillo County Assessor and NMTRD Property Tax Division Director Tim Eichenberg, along with Jim O'Neil, the property tax economist Dr. Al Maury, Stephanie Dzur, and Bernalillo County Assessor Karen Montoya.

A separate notice with a complete agenda, presenters, and other details will be forthcoming. Registration is currently available through the NMTRI website (under *Conferences* click *Upcoming Events*, or click [here](#)), or you can call (505) 842-5833.

Don't miss your chance to hear from your legislators and other interested stakeholders and contribute to good tax policy in New Mexico. Seriously – REGISTER NOW!



Governor and Legislature Talk About Tax Increases

Governor Richardson met his deadline for action by vetoing some of the major provisions in the bills sent to him during the special session and vowing to limit expenditures administratively to achieve the necessary budget reductions to keep the state out of red ink. In a statement, the Governor said “Since the session ended, I have heard from hundreds to New Mexicans, including many legislators – who want me to exercise my veto pen to preserve those services,” He went on to say “I understand and share their concerns, particularly in light of the previous budget cuts. However, it would be fiscally irresponsible to simply veto this bill and wait for the Legislature to meet again in January – more than halfway through the fiscal year. Instead, I am signing an Executive Order today that directs more responsible budget cuts across state government.” The governor also vowed to eliminate 84 exempt positions in his administration, rather than the 120 the legislature mandated in the vetoed legislation. The Governor went on to furlough most state employees for up to five days as a part of cost saving efforts. More recently at an LFC hearing, Department of Finance and Administration Secretary Katherine Miller said she thinks they can rebuild reserves to 5% with the spending reductions in the Executive Order and with capital outlay voids that will have to be approved by the Legislature. She did not give any indication of how the fiscal year 2011 budget gap would be addressed. There is some legal question as to the abridgement of appropriation authority, which has not set well with some members of the Legislature, however the Governor’s efforts are likely to go unchallenged and most hope he will be as successful as possible in his efforts.

The governor did make good on his promise made during the special session to look at tax increase options before the next regular session. The “Balanced Budget Task Force” was formed in November. Comprised of 42 members representing virtually every interest with an ox to gore (or protect from goring) is represented. The group has met three times and will meet two more times (December 10th in Farmington and December 17th in Santa Fe). The meetings are open to the public, and written or spoken commentary is encouraged. Comments can also be submitted electronically.

The group has or will be discussing various tax increase including increased “sin” taxes, gasoline and diesel taxes, mandating combined reporting for corporate income tax purposes, increasing personal income taxes directly and indirectly, as well as increasing gross receipts and compensating taxes, the motor vehicle excise tax, the severance tax on oil, imposing a new franchise tax, as well as eliminating the coal surtax exemption. Administrative measures such as expanding pass through entity (“PTE”) and oil and gas proceeds withholding, requiring state and local governments to withhold and remit gross receipts taxes on behalf of their vendors, and giving the Taxation and Revenue Department (TRD) authority to reallocate income and deductions among entities for property tax purposes.

The effort is being staffed by the TRD as well as an NMTRI executive committee member and tax policy veteran Jim O’Neil. TRD Cabinet Secretary Rick Homans is the group’s chair. While no recommendations will be made, the review, to include the preparation of what are essentially fiscal impact reports, should give the TRD a head-start going into the next regular session. It also provides interested parties some insight and information regarding the kinds of proposals likely to be seen in the upcoming January 30-day legislative session.

The website where task force agendas, documents, and other material presented to the task force (including a tax system overview prepared by NMTRI) is at www.nmrevenueoptions.com. NMTRI president and executive director Richard Anklam is serving on the committee. He can be reached for questions or comments at 505.269.6791.

Meanwhile, the legislature has gotten more active in trying to review budget and revenue options in parallel with the governor's task force, while still carrying on its usual business. At the November meeting of the Interim Revenue Stabilization and Tax Policy Committee, several topics were heard including a proposal by the New Mexico Department of Tourism to increase taxes on meals and beverages provided by the hospitality industry with the revenues earmarked for purposes of promoting tourism in New Mexico. The Taxation Revenue Department presented more of their administrative proposals (found [here](#)), to include expanded pass-through entity and oil and gas withholding, personal income tax simplification, requiring surety bonds on in-state contractors, and technical changes to the Tax Increment Development District statutes. Also presented was a revised presentation on business incentives (found [here](#)). (Note: the TRD's Policy Office is very good of late at posting their interim committee and other presentations to their website. The aforementioned presentations, as well as fiscal estimates and other presentations can be found on the TRD website [here](#)). NMTRI also provided a requested presentation on not-for-profit taxation in New Mexico. It can be found [here](#).

The last day of the Revenue Stabilization and Tax Policy Committee meeting was filled with discussions of revenue forecasts and revenue raising options - and reactions to them from expert/stakeholder panels, including NMML Director Bill Fulginiti, BBER Director Dr. Lee Reynis, former BBER Director and NMTRI Board President Dr. Brian McDonald, BBER's Dr. Larry Waldman, DFA's Chief Economist Laird Graeser, former UNM law school dean Robert Desiderio, NMTRI Director Richard Anklam, and attorneys Tim VanValen and Dick Minzner. Discussions were broken into categories of personal income taxes, corporate income taxes, gross receipts and compensating taxes, and the state of the economy in general. Legislative Finance Committee staff noted that for FY2003 – FY2010, NM spending rose 39% while revenues increase only 24% over the same period. The point clearly being something has to give as the state must reconcile spending and revenue. The economists ranged from mildly optimistic that things are just now starting to improve (Laird Graeser), to the more pessimistic perspectives of Dr. Clifford and Waldman (no reason for optimism yet). An overview of the October consensus revenue forecast was presented and can be found [here](#). The introduction and revenue options prepared and presented by LFC staff can be found [here](#) and [here](#), respectively.

{NMTRI note: subsequent to this meeting, the December revised consensus revenue forecast was issued and is discussed below in the following section.}

More Bad Economic News for New Mexico and the Other States



The Legislative Finance Committee heard the December revised consensus revenue forecast on last Thursday. As the cynics would have guessed, the numbers got a little worse since the October forecast issued just prior to the Special Session. In summary, the revised estimate reduced revenue expectation from the prior October forecast \$10 million in FY10 and by \$53 million in FY11. It went on to note that after solvency initiatives, FY10 appropriations exceed revenue by \$279 million and that FY10 ending reserves are less than 1 percent of appropriations. If all announced savings from Executive Orders are realized,

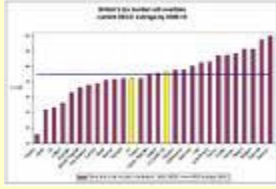
reserves increase to 2.6 percent. Also noted was the fact that long-term revenue growth is now expected to be 5.1 percent, below the 5.5 percent growth of personal income.

The revised forecast seemed to confirm the findings of other recent reports that the economy and state budgets in general remain in dire straits, despite the recent discussion of turning corners and more optimistic job loss reports. A copy of the December revised revenue forecast can be accessed [here](#).

One study, recently released by the Pew Center on the States, looks at the ten states that they identified as “particularly affected” by the current crisis. California, the “poster-child” for state budget woes, has an unbelievable 49.3% revenue shortfall according to the study. In other words, the state has slightly more than half of the revenue it needs to fund projected expenditures. In addition to California, the “top 10” include Arizona, Illinois, Michigan and New Jersey, and Nevada among others. An appendix to the report ranks all 50 states in terms of the severity of their budget problems. While obviously not in great shape, New Mexico fared better than most, earning a mediocre score of 12 (with 30, California’s score base on the Pew methodology being worst), and a grade of B-. The Pew report can be accessed [here](#).

A report titled “Fiscal Survey of States,” produced by the National Governors Association (NGA) and the National Association of State Budget Officers (NASBO), also paints a grim picture for state policymakers. State “general fund” expenditures declined by 4.8% in FY2009 and are set to decline again in the current budget year, FY2010, by 4.0%. Overall declines in general fund expenditures for two consecutive years is unheard of. Also according to the data, the states increased taxes by nearly \$24 billion this year. Click [here](#) to see the NGA/NASBO information.

District of Columbia Tax Burden Study



The District of Columbia's Office of Revenue Analysis recently issued its September 2009 report on 2008 tax burdens titled "Tax Rates and Tax Burdens in the District of Columbia: A Nationwide Comparison." Like the prior years' study discussed in a previous newsletter, the study compares tax burdens on a hypothetical family of three (two wage earning spouses and a school aged child), at five different gross income levels (\$25K, 50K, 75K, 100K, and 150K), and making certain consistent assumptions regarding spending, modeled the relative state and local tax burden of the District of Columbia compared to the largest city in each state. Taxes included in the study were sales, property, personal income, and automobile taxes. With a rank of 1 being the highest burden, the District found itself in the lower middle of the pack with scores in the 30's across income levels modeled except for the \$150K category where they scored a 28. This year, Philadelphia lost its title as the city offering the highest tax burden to residents by giving up its rank of number one in all income categories except the \$25K (apparently rewarding them with the title of most regressive as a consolation). Other states making it into the top five in some income category included Detroit, New York, Columbus, Portland, Chicago, Atlanta, Louisville, and Birmingham. Anchorage lost some ground by losing its title as the city with the lowest burden in the lowest three income categories. (Billings had the lowest in two income categories and Cheyenne in the \$75K category with the rank of 51). Also faring well were residents of Jacksonville, Sioux Falls, Manchester, Las Vegas and Fargo.

Albuquerque fared better than last year (and better than the District in contrast to last year) with a ranking of 37th highest burden in the \$25K gross income category (down from 23 in prior year study), 26th highest in the \$50K category (down from 20), 32th in the \$75K category (down from 24), 36th in the \$100K category (down from 24), and 35th highest in the \$150K category (down from 28). Surrounding states' largest cities of Houston, Phoenix, and Denver still tend to offer lower tax burdens to residents in the upper income categories, but not always in the lower. Salt Lake City and Oklahoma City ranked more burdensome at the \$25K level, but were less burdensome at the \$50K level. At the \$75K level, Oklahoma City's tax burden was higher than Albuquerque's, with Salt Lake City's slightly lower. Albuquerque was less burdensome at the remaining upper income categories. On a combined basis, Albuquerque ranked 36th least burdensome, behind neighboring states Las Vegas, Houston, Phoenix and Denver, but ahead of Salt Lake and Oklahoma City.

The changes in rankings from the prior year were remarkable. With the exception of the final phase-in of the personal income tax reductions. The \$50K income category, showed the least improvement, which still ranked in the 20's (as opposed to 30's) and showed the least relative improvement.

The publication also includes a second report that compares tax rates of the fifty states and the District from sixteen tax program categories. The study can be found on the District's website [here](#).

{NMTRI note: the study cautions that "readers are advised not to compare the hypothetical tax burdens across years; any number of small changes in state and/or local tax policy or in the

assumptions of the study can result in misleading information under such comparisons. The purpose of the study remains to compare tax burdens on a hypothetical household in different jurisdictions in a specific year, and not over time.” This is particularly true at times like these with tax laws and rates in such a state of flux in so many jurisdictions. This study is a version of the “representative-firm” model in the context of families. As one can see, it is quite detailed and labor intensive, but limited as a result in the spectrum of variables it can explore (one family size/type and five gross income levels). As the authors point out, and are always true with this approach, the results are in part determined by the assumptions given and used, and the results may differ significantly with seemingly minor changes to those assumptions.}

Who Pays? Regressivity Report Issued

The report went on to say the least regressive states were Delaware, District of Columbia, New York, and Vermont, crediting varying combinations of low reliance on consumption taxes and greater reliance on income taxes, as well as refundable income tax credits. The report goes on to say that excise taxes, such as those on gasoline, alcohol and cigarettes tend to be the most regressive taxes of all, followed by sales taxes and then to a lesser extent, property taxes (further noting that property taxes with homestead exemptions tend to be less regressive). Only income taxes have effective tax rates that increase with income the report went on to note. A copy can be found on the ITEP website [here](#).

Tax Policy Center Issues More Interesting One-Pagers

The Tax Policy Center, a joint venture of the Urban and Brookings Institutes, continues to issue short papers on topics of current interest. In an article titled “[The Homebuyer Tax Credit: When Will They Ever Learn?](#)” referred to the First-Time Homeowner’s Tax Credit as being a “bigger boondoggle than expected.” The author notes that the IRS is auditing over one hundred thousand claims for the First-Time Homebuyer’s Tax Credit... contrasted with the typical audit rate of less than one percent. More interesting are the results of the audits. Close to 74% of people owned a home within the last three years (credit eligibility criteria defined new home buyers as those who had not owned a home in the previous three years) – one give-away – 12,000 of those claimants had claimed a residential energy credit in the last three years. Interestingly, 25,000 credits were claimed by people who reported no income at all, and 165,000 credits were claimed by those earning \$25,000 or less. A total of 580 credits were claimed on behalf of children. According to a Brookings Institute estimate, 85% of the people receiving the credit would have bought a house anyway. If true, the credit’s return on investment and real housing market stimulus will be much lower than hoped.

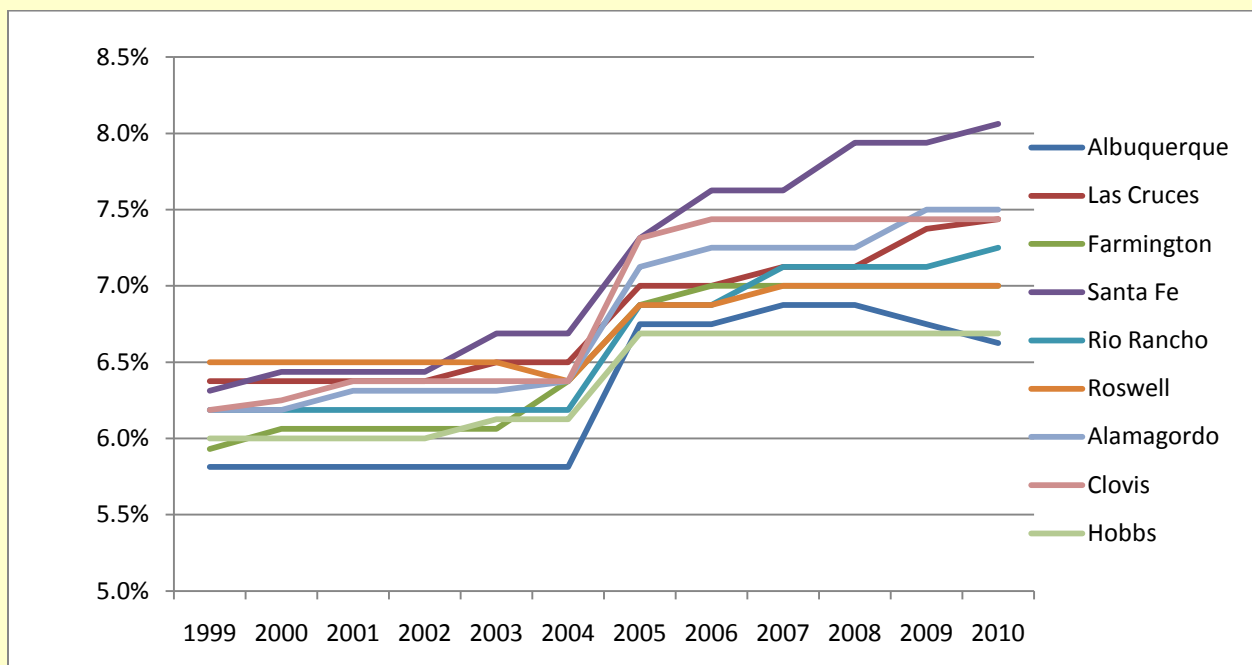
New Mexico Gross Receipts Tax Rates Released



The New Mexico Taxation and Revenue Department just released its gross receipts tax (“GRT”) rate tables applicable for the six months beginning January 1, 2010. A year ago at this time we mentioned that “For the first time in history, New Mexico has not just one, but five jurisdictions that will see rates **in excess of 8%.**” This year the number of jurisdictions imposing rates in excess of 8% has **tripled** to fifteen, with Santa Fe, Questa, parts of Espanola, and water districts of El Prado and El Valle De Los Rancho joining the now less exclusive club. Taos Ski Valley still leads the pack -

increasing from 8.4375 to 8.5625. While rates have historically been higher in tourist destinations, the higher rates seem to be more contagious to other locales lately. That said, Albuquerque rates have actually fallen to 6.625% (due to the expiration of local option tax increments); however that's still 18% higher than in 2003 when purchasers in the state's largest city enjoyed rates below 6%. New rate schedules are on the Taxation and Revenue Department's website's homepage: <http://www.tax.state.nm.us>, or click [here](#).

New Mexico's gross receipts tax rates have been climbing steadily upward for the last several years, accelerated by the repeal of the .5% municipal credit (to pay for the food and medical tax deductions enacted in 2004), which had the effect of raising GRT rates in all municipal areas by a half percent, and new local option taxes accounted for most of the increases in recent years. Tax are ensured to continue climbing when the new regional tax to support the Spaceport (first ever "regional" tax increment and currently only slated to be in effect in Dona Ana and Sierra County although it can be imposed in others) goes on line along with the future increment to support the RailRunner operations in the middle Rio Grande corridor.



Tax Rate Growth

New Mexico GRT rates begin at 5%, and increase thereafter depending on where a taxpayer's gross receipts are reported to (or "sourced"), and on which additional tax increments are imposed there by the local jurisdictions. *Local option* taxes are imposed mostly by county and city governments as well as a few special districts. Some local option taxes require voter approval, while others do not. New Mexico's gross receipts tax is the state's primary general fund revenue source, is the primary funding source for municipal governments, and is a significant revenue source for county governments. Compared to a "normal" sales tax, the GRT is broader in base, historically lower in rate, and more stable as a revenue source given its breadth, although the trend in recent years has been to narrow the scope of the tax, resulting in higher rates on those things remaining in the tax base.

Implications of Higher GRT Rates:

(1) Regressivity

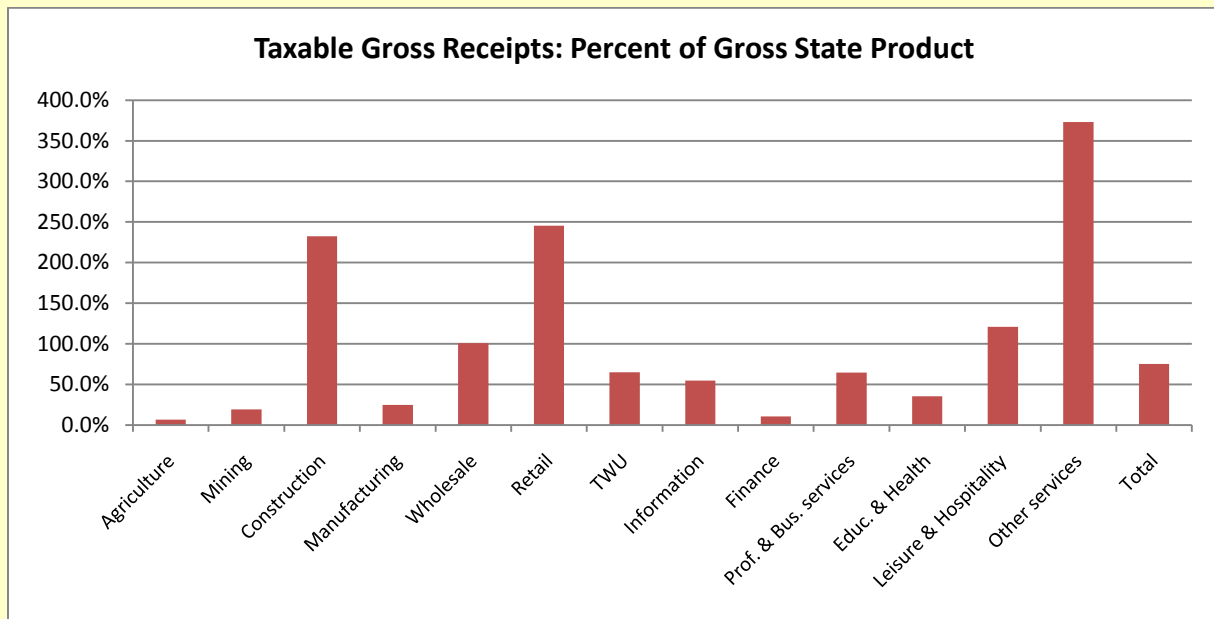
Transactional taxes like the GRT seem to be relatively popular with politicians as they seem to be somewhat less hated than income or property taxes, and large amounts of revenue can be raised with small percentage increases. However, unlike income and property taxes transactional taxes are regressive by nature. That is, they command a larger portion of taxpayers' income as you move down the income scale. Although the GRT has a broader base and is therefore less regressive than most sales taxes, it is regressive nevertheless and upward pressure on rates hits poor households harder than others.

(2) Pyramiding

New Mexico's GRT applies to far more transactions than most retail sales taxes, but is imposed at a substantially higher rate than broad-based business activity taxes in other states. The result is a hybrid, and a tax that brings in substantially more revenue than most states' sales taxes. Much of the broader tax base is due to "pyramiding" of the GRT. Pyramiding is the term given to sales taxes imposed on business inputs. Pyramiding is both unfair and inefficient because some transactions are taxed more heavily than others simply because of the way a business is structured. For example, a company that elects to purchase certain services from an out of state supplier rather than from an in-state supplier can reduce its tax burden without changing the economic substance of its activities. Economic decisions are distorted, not by considerations of efficiency, but by the uneven imposition of taxes. NMTRI has estimated that as much as 1/3 of the GRT base is derived from business-to-business transactions. A 1997 study of business taxes concluded that the GRT on business inputs more than doubles the effective tax rate on business – from less than 4% to more than 8%. New Mexico had the highest sales tax burden of any of the western states, and its sales tax burden caused the overall tax burden to be significantly above the regional average.¹

The following chart provides an indication of the extent of pyramiding by industry. The ratio of taxable gross receipts ("TGR") to gross state product ("GSP") by industry is illustrated. GSP is the market value of final goods and services produced by each industry. Thus, GSP excludes the value of intermediate goods and services. Industries with a high ratio of TGR to GSP are those in which a substantial amount of intermediate sales are being taxed, i.e. those with substantial amounts of pyramiding. As illustrated, this includes the construction industry, the retail trade sector and especially the "Other Services" sector, in which their TGR is almost four times the value of their final products.

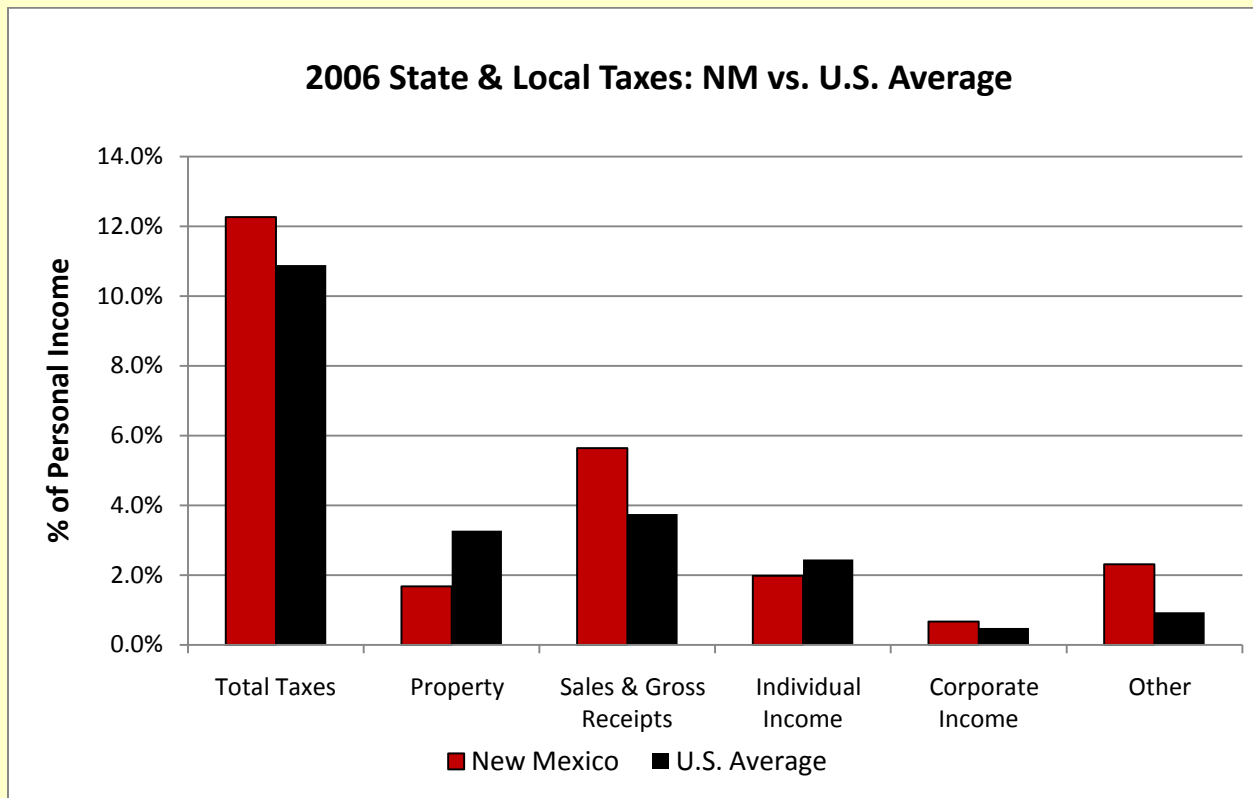
¹ "New Mexico Business Tax Competitiveness Study," Policy Economics Practice, Barents Group, LLC, May 1997



(3) Total tax burden

For many years, a commonly-stated goal guiding the development of GRT policy was the “broad-base, low-rate” rule. By minimizing exclusions from the tax base, the hope was to be able to raise adequate revenue at relatively low tax rates. These goals conform with conclusions of economic analysis that the state can do no better than provide a “level playing field” with its tax base, and that it should strive to hold tax rates as low as possible. Unfortunately, the accretion of local option GRT increments and the elimination of the .5% credit in municipal areas have pushed total GRT collections up significantly in recent years. The result is a sales tax burden that is significantly higher than most other states’, as illustrated in the following figure. New Mexico’s burden -- almost 6% of personal income compares with an average of less than 4% in other states. Personal income in New Mexico is now approximately \$65 billion, so the extra 2% translates into \$1.3 billion² more in annual sales tax collections. Two other features of the New Mexico tax system are distinctive. One is lower than average property taxes and the other is higher “Other” taxes, a category that includes the severance taxes on mineral production. Overall New Mexico taxes are higher than the national average by 1.4% of personal income.

² Interestingly, this figure, which comprises about 1/3 of annual GRT collections, corresponds with NMTRI’s estimates of the share of the GRT that is pyramided.



Conclusions

The good tax policy principles for which NMTRI was founded argue that the trend toward higher tax rates and more exclusions in the GRT are gradually creating a tax system that is more and more inefficient, and a greater and greater burden on the state’s economy. The two effects are related because higher rates can lead to a *narrowing* of the base as special interests lobby for exemptions from increasingly-burdensome tax rates. In a world that everyone agrees will feature more and more competition between jurisdictions -- both within the U.S. and internationally -- the state can do itself significant harm by continuing the trend toward a less and less inefficient tax system. The combined concerns about regressivity, pyramiding and economic inefficiency suggests that the GRT is not the most appropriate place for the state to look when it is in search of additional tax revenue.

Knick Knacks

New Mexico Loses Ute Mountain Oil and Gas Tax Case

As summarized by Helen Hecht, tax counsel for the Federation of Tax Administrators:

The federal district court in New Mexico has ruled that the state may not levy tax on non-Tribal operators extracting oil and gas for the Ute Mountain Ute Tribe (Tribe) on tribal lands in the state. The case involved the complex question of whether the state, under the particular facts and circumstances presented, had jurisdiction over activities on the tribal lands or whether, under conflicting federal Indian law and precedent, the Tribe could assert sovereign immunity to the

state's imposition of tax on those lands. The court here found that it must consider the particular interests of the federal government, the Tribe and the state in the activities at issue.

The court looked specifically to the U.S. Supreme Court's ruling in *Ramah* contrasted with its ruling in *Cotton Petroleum*. In *Ramah*, the Court had held that the state's gross receipts tax could not be imposed on the construction of a school for Indian children on the reservation because of the burden imposed on both federal and tribal interests. In *Cotton Petroleum*, the court had been faced with the same taxes at issue in this case, imposed on non-Indian operators of oil and gas rigs on the Jicarilla Apache Reservation. In that case, the Court found the tax could be applied since there was no burden shown on the tribal interests. (The Jicarilla Tribe was also not a party to the suit.) The district court considered the different interests and the burdens imposed by the taxes at issue under the guidelines set out in both *Ramah* and *Cotton Petroleum*. *Ramah* involved balancing of the three sovereign interests particular to the circumstances and considered both the federal and tribal interests that might be opposed to the state's interest. There, it was critical that the state had little interest in the school while the federal government (which provided the funds) and the tribe had significant interests, which were burdened by the tax imposed on the non-tribal contractor. In *Cotton Petroleum*, the Court found that little if any economic burden from the taxes fell on the tribe and that the state had both a clear interest in taxing and regulating the activities and had sought to exercise its authority to do so.

The district court here also looked at decisions subsequent to *Cotton Petroleum*, and found that in one case, at least, *Blaze Construction*, the state supreme court's decision "rests on shaky grounds" because it appeared to expand the scope of state interests that could be considered. The court also noted that the U.S. Supreme Court had given weight to "special factors" in *Ramah* that should also be considered in this case, including abdication by the state in any involvement in the on-reservation activity, economic burdens on the tribe and whether federal or tribal regulations should be considered exclusive. Critically, the court found that the state, in actuality, provided very little if any services to the activities in question on tribal lands. The court further found that state services provided generally off tribal lands are not to be taken into account in balancing the interests of the state with the tribe since presumably the state can extract sufficient tax from off-tribal lands to support these services. The court found that since the burden of the tax fell squarely on the Tribe in this case, the tax would be barred by tribal sovereign immunity. *Ute Mountain Ute Tribe v. Homans*, Federal District Court for New Mexico, CIV 07-772, 10/2/2009.

{NMTRI Note: While the decision weighs relative interests in the context of specific facts and circumstances - and the case is on appeal, it is possible a sustained decision could have significant and broader implications to other oil and gas tax revenues as well as other state taxes levied on non-tribal activities occurring on tribal land.}

New Mexico Proposes New Tax Regulations

The New Mexico Taxation and Revenue Department has proposed new regulations pertaining to the Advanced Energy credits (combined reporting, personal and corporate income tax credits), impacting the Other Tax Credits Act, as well as the Corporate and Personal Income Tax Acts. The proposed regulation attempts to clarify the statutory provisions in the recently combined versions of the credits. A hearing on these regulations was held December 3, 2009.

Another hearing was held on proposed regulations on December 8, 2009. These regulations pertain to gross receipts and weight distance taxes. The proposal attempts to clarify that recently enhanced civil penalties for understatement of weight will only be imposed upon audit, but not to include managed audits and amended returns. The proposed gross receipts tax regulation expands a current regulation pertaining to boards of directors' fees to equate those with fees of boards of trustees. The changes also provide that the reimbursements of compensated directors or trustees for travel and other expenses incurred in their capacity as a board or trustee member while in New Mexico are subject to the gross receipts tax.

Finally, a third set of proposed regulations has been set for public hearing on January 6, 2010 at 9:30. The proposal cleans up language in the regulations pertaining to the use of Border State's and Multijurisdictional Uniform Sales and Use Tax certificates (aka "BSC's" and MTC's), by eliminating reference to specific NTTC types (which were changed and consolidated in 2004) and referencing instead the related statutory deductions. The regulation also clarifies that gases, such as natural gas, nitrogen, oxygen, acetylene, etc. are tangible personal property for purposes of the deductions provided for the sale of tangible personal property to governmental and non-profit entities.

Copies of these proposed regulations can be found on the New Mexico Register website or on the Taxation and Revenue Department's website by clicking [here](#) (for Advanced Energy Credits), [here](#) (for Weight Distance and Gross Receipts Tax), and [here](#) (for sales/use tax certificates and gasses as tangibles).

Interim Revenue Stabilization and Tax Policy Committee meets in December

The Interim Revenue Stabilization and Tax Policy Committee will meet in Santa Fe for three days from December 14-16. The meeting is scheduled to be held in the room 307 of the State Capitol building. The agenda includes Secretaries Rick Homans (Taxation and Revenue Department) and Katherine Miller (Department of Finance and Administration), along with Legislative Finance Committee Director David Abbey who will be presenting the revised general fund revenue forecast. LFC chief economist Dr. Tom Clifford will be giving an overview of excise taxes, and moderating a panel discussion and review of economic development incentives. TRD's Dr. Jim Nunns will be providing an update on the status of the efforts of the Governor's Balanced Budget Task Force, and he and Secretary Homans will provide fiscal impact reports on the draft legislation brought to the committee in the interim. Also of note on the agenda is a presentation by Senator Tim Keller on bi-annual budgeting, discussion of dairy biomass for fuel, a proposal to simulcast dog races at the state's racinos, and a panel discussing property taxes. The agenda for the meeting can be found on the Legislative Council Service website by clicking [here](#).

Green Chile Cheeseburgers Galore

While having almost nothing to do with taxes (except that they are usually taxable), the NMTRI staff would be remiss in not mentioning that the New Mexico Tourism Department has a list and map of over one hundred establishments prideful of their green chile cheeseburgers. Sparked by a Bobby Flay "Throwdown" episode on the Food Network where the Buckhorn Tavern in San Antonio, NM was challenged... and beat down the "Iron Chef" himself in a burger cooking competition, Governor Richardson called for a burger cooking challenge at this year's state fair. Since then, Tourism built a website and N interactive map to help those in search of the best

green chile cheeseburger find one. While Santa Fe visitors could take comfort in seeing old standbys like the Bobcat Bite and Bert's Burger Bowl, Dave's Not Here Restaurant was notably absent. The Tourism Department website paying homage to the green chile cheeseburger, complete with links to the interactive map, can be accessed [here](#).

{NMTRI note: for those readers unfamiliar, green chile is New Mexico's most notable agricultural crop, and along with its derivative, red chile, is one of the primary symbols of New Mexico culture – prompting the official state question "red or green?". Although shocking to some, New Mexicans eat chile on almost everything – we even eat green chile bagels with green chile schmeer!}

TAX QUOTABLE:

“Whatever you tax, you get less of. “
~Alan Greenspan



COMMENTS: Your suggestions and comments on this newsletter, the conferences (past or future), the Distinguished Lectures Series, our research or any aspect of NMTRI's operation and programs are welcome. Please send them to richard.anklam@nmtri.org, call 505-269-6791 or mail them to P.O. Box 91657, Albuquerque, New Mexico 87199-1657. We genuinely solicit your input and thank you for your support.



"The power to tax involves the power to destroy" - McCulloch v. Maryland, 17 U.S. 316 (1819), Chief Justice John Marshall.

"Taxes are what we pay for civilized society" Campaña General de Tabacos v. Collector, 275 U.S. 87, 100 (1927), Justice Oliver Wendell Holmes, dissenting.

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