

**Uranium mine development costs** are tangible property costs subject to taxation. *Kerr-McGee Nuclear Corp. v. Property Tax Div.*, 1980-NMCA-063, 95 N.M. 685, 625 P.2d 1202.

Such things as labor, engineer and geological analysis, utility bills and equipment rental fees relating to the development and operation of a uranium mine are tangible property costs under this section. *Kerr-McGee Nuclear Corp. v. Property Tax Div.*, 1980-NMCA-063, 95 N.M. 685, 625 P.2d 1202.

**Negative mineral property production figure disallowed.** — The statutory requirement of allocating the net taxable value of each item of property used in connection with mineral property prevents the use of the negative value for mineral property production to reduce the valuation of property valued under this section; therefore, the taxpayer cannot use a negative figure for mineral property production to reduce the positive value of property used in connection with mineral property. *U.V. Indus., Inc. v. Property Tax Div. of Taxation & Revenue Dep't*, 1979-NMCA-147, 93 N.M. 651, 603 P.2d 1108.

**Showing required for claim of obsolescence.** — Not every decision to abandon property gives rise to a claim for obsolescence: a taxpayer must show that ordinary depreciation will not sufficiently restore the cost of the property before its usefulness is over. *Anaconda Co. v. Property Tax Dep't*, 1979-NMCA-158, 94 N.M. 202, 608 P.2d 514, cert. denied, 94 N.M. 628, 614 P.2d 545 (1980).

**Burden is on taxpayer to prove amount of deduction for obsolescence** to which it is entitled; such a deduction will not be granted when the taxpayer fails to prove the connection between the degree of obsolescence and the amount of the deduction claimed. *Anaconda Co. v. Property Tax Dep't*, 1979-NMCA-158, 94 N.M. 202, 608 P.2d 514, cert. denied, 94 N.M. 628, 614 P.2d 545 (1980).

## ARTICLE 37

### Imposition of Property Tax

#### 7-37-1. Provisions for imposition of tax; applicability.

The provisions of Chapter 7, Article 37 NMSA 1978 apply to and govern the imposition of the property tax. Except for Sections 7-37-7 and 7-37-7.1 NMSA 1978, the provisions of that article do not apply to:

A. impositions or levies of taxes on specific classes of property authorized by laws outside of the Property Tax Code; and

B. special benefit assessments authorized by laws outside of the Property Tax Code.

**History:** 1953 Comp., § 72-30-1, enacted by Laws 1973, ch. 258, § 34; 1986, ch. 32, § 7.

## ANNOTATIONS

**Cross references.** — For elderly homeowners' maximum property tax liability and income tax credit or refund for excess, see 7-2-18 NMSA 1978.

For exclusive ad valorem taxes on interests in oil, natural gas or liquid hydrocarbon production units, see 7-32-5, 7-34-5 NMSA 1978.

**Law reviews.** — For comment, "Coal Taxation in the Western States: The Need for a Regional Tax Policy," see 16 Nat. Resources J. 415 (1976).

For article, "New Mexico Taxes: Taking Another Look," see 32 N.M.L. Rev. 351 (2002).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — What are educational institutions or schools within state property tax exemption provisions, 34 A.L.R.4th 698.

## 7-37-2. Imposition of the tax.

A tax is imposed upon all property subject to valuation for property taxation purposes under Article 36 of Chapter 7 NMSA 1978. The tax shall be imposed at the rates authorized and in the manner and for the purposes specified in this article.

**History:** 1953 Comp., § 72-30-2, enacted by Laws 1973, ch. 258, § 35; 1982, ch. 28, § 6.

## ANNOTATIONS

**Temporary provisions.** — Laws 2020 (1st S.S.). ch. 4, § 4, effective June 29, 2020, provided:

A. Notwithstanding Sections 7-1-67 and 7-1-69 NMSA 1978, no interest shall accrue and no penalty shall be assessed to a taxpayer for:

(1) tax liabilities pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act for failure to pay the tax that became due April 15, 2020 through July 15, 2020; provided that the failure to pay the tax was made without intent to evade or defeat the tax; and provided further that payment for the unpaid payments is made in full on or before April 15, 2021;

(2) tax liabilities pursuant to the Withholding Tax Act for failure to pay the tax that became due March 25, 2020 through July 25, 2020; provided that the failure to pay the tax was made without intent to evade or defeat the tax; and provided further that payment for the unpaid taxes is made in full on or before April 25, 2021;

(3) gross receipts tax, local option gross receipts tax or compensating tax liabilities for failure to pay any of those taxes that became due March 25, 2020 through July 25, 2020; provided that the failure to pay the tax was made without intent to evade or defeat the tax; and provided further that payment for the unpaid taxes is made in full on or before April 25, 2021; and

(4) tax liabilities assessed between September 3, 2019 and January 3, 2020 as the result of a managed audit performed in accordance with a managed audit agreement pursuant to Section 7-1-11.1 NMSA 1978; provided that payment for those liabilities is made pursuant to terms of the managed audit agreement on or before December 31, 2020.

B. Notwithstanding Sections 7-38-49 and 7-38-50 NMSA 1978, no interest shall accrue and no penalty shall be assessed to a property owner for unpaid property taxes that became due April 10, 2020 pursuant to Section 7-38-38 NMSA 1978; provided that:

(1) the unpaid property taxes did not become delinquent because of an intent to defraud by the property owner;

(2) payment for the unpaid property taxes is made in full on or before May 10, 2021; and

(3) the subject property does not have property taxes that became delinquent pursuant to Section 7-38-46 NMSA 1978 prior to May 10, 2020.

**Department found in contempt for failing to value and assess high-voltage transmission lines for property taxes.** — Where petitioners petitioned for a writ of mandamus to compel the New Mexico taxation and revenue department (department) to establish values for two high-voltage transmission lines in Harding county and report those values to the Harding county assessor so that property taxes could be assessed on the lines, and where the district court issued the peremptory writ, determining that the transmission lines were taxable, and ordered the department to complete the valuation processes for the two transmission lines, timely conclude any protests, and certify the values to the county assessor for preparation of a bill for the property tax due, and where, following an administrative hearing officer's conclusion that the transmission lines did not have any value for tax assessment purposes, the department certified that the transmission lines were not taxable, which was contrary to the district court's order, and certified to the district court that the department complied with the court's order, and where petitioners then filed a motion for an order to show cause, arguing that the department had not complied with the peremptory writ, the district court did not abuse its discretion in holding the department in contempt and in awarding petitioners attorney fees as sanctions, because the department admittedly failed to act in accordance with the dictates of the law after the district court ordered the department to act and after the department was given notice and an opportunity to be heard. *Harding Cnty. Bd. of Comm'rs v. N.M. Tax'n & Revenue Dep't*, 2021-NMSC-007, *aff'g* A-1-CA-36305, mem. op. (May 24, 2019) (nonprecedential).

### **7-37-3. Tax ratio established.**

The tax ratio is thirty-three and one-third percent.

**History:** 1953 Comp., § 72-30-3, enacted by Laws 1973, ch. 258, § 36.

### **7-37-4. Head-of-family exemption.**

A. Up to two thousand dollars (\$2,000) of the taxable value of residential property subject to the tax is exempt from the imposition of the tax if the property is owned by the head of a family who is a New Mexico resident or if the property is held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a head of a family who is a New Mexico resident. The exemption allowed shall be in the following amounts for the specified property tax years:

(1) for the property tax years 1989 and 1990, the exemption shall be eight hundred dollars (\$800);

(2) for the property tax years 1991 and 1992, the exemption shall be one thousand four hundred dollars (\$1,400); and

(3) for the 1993 and subsequent tax years, the exemption shall be two thousand dollars (\$2,000).

B. The exemption shall be deducted from taxable value of property to determine net taxable value of property.

C. The head-of-family exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and regulations of the department.

D. As used in this section, "head of a family" means an individual New Mexico resident who is either:

(1) a married person, but only one spouse in a household may qualify as a head of a family;

(2) a widow or a widower;

(3) a head of household furnishing more than one-half the cost of support of any related person;

(4) a single person, but only one person in a household may qualify as a head of family; or

(5) a member of a condominium association or like entity who pays property tax through the association.

E. A head of a family is entitled to the exemption allowed by this section only once in any tax year and may claim the exemption in only one county in any tax year even though the claimant may own property subject to valuation for property taxation purposes in more than one county.

**History:** 1953 Comp., § 72-30-4, enacted by Laws 1973, ch. 258, § 37; 1983, ch. 219, § 1; 1989, ch. 81, § 1; 1991, ch. 228, § 1; 1993, ch. 343, § 1.

## ANNOTATIONS

**Cross references.** — For constitutional provision as to head of family exemption, see N.M. Const., art. VIII, § 5.

For Sections 671 to 677 of the Internal Revenue Code, see 26 U.S.C. §§ 671 to 677.

**The 1993 amendment,** effective June 18, 1993, added Paragraph (5) of Subsection D.

**The 1991 amendment,** effective June 14, 1991, added the language beginning "or if the property" at the end of the first sentence in Subsection A.

**The 1989 amendment,** effective June 16, 1989, in Subsection A substituted "up to two thousand dollars (\$2,000)" for "Two hundred dollars (\$200)" in the first sentence of the introductory paragraph, added the second sentence of the introductory paragraph, and added Paragraphs (1) and (3); designated the former second sentence of Subsection A as Subsection B; redesignated former Subsection B as Subsection C, while substituting "department" for "division"; and redesignated former Subsections C and D as Subsections D and E.

## 7-37-5. Veteran exemption.

A. Up to four thousand dollars (\$4,000) of the taxable value of property, including the community or joint property of husband and wife, subject to the tax is exempt from the imposition of the tax if the property is owned by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident or if the property is held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident. The exemption shall be deducted from the taxable value of the property to determine the net taxable value of the property. The exemption allowed shall be in the following amounts for the specified tax years:

(1) for tax year 2004, the exemption shall be three thousand dollars (\$3,000);

(2) for tax year 2005, the exemption shall be three thousand five hundred dollars (\$3,500); and

(3) for tax year 2006 and each subsequent tax year, the exemption shall be four thousand dollars (\$4,000).

B. The veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and regulations of the department. For taxpayers who became eligible for a veteran exemption due to the approval of the amendment to Article 8, Section 5 of the constitution of New Mexico in November 2004, a county assessor shall, at the time of determining the net taxable value of the taxpayer's property for the 2005 property tax year, in addition to complying with the provisions of Section 7-38-17 NMSA 1978, determine the net taxable value of the taxpayer's property that would result from the application of the veteran exemption for the 2004 property tax year had the deadline for applying for the veteran exemption in 2004 occurred after the amendment was certified. The veteran exemption for 2004 shall not be credited against the 2005 property value of a taxpayer until the taxpayer has paid in full the taxpayer's property tax liability for the 2004 property tax year.

C. As used in this section, "veteran" means an individual who:

(1) has been honorably discharged from membership in the armed forces of the United States; and

(2) except as provided in this section, served in the armed forces of the United States on active duty continuously for ninety days.

D. For the purposes of Subsection C of this section, a person who would otherwise be entitled to status as a veteran except for failure to have served in the armed forces continuously for ninety days is considered to have met that qualification if the person served for less than ninety days and the reason for not having served for ninety days was a discharge brought about by service-connected disablement.

E. For the purposes of Subsection C of this section, a person has been "honorably discharged" unless the person received either a dishonorable discharge or a discharge for misconduct.

F. For the purposes of this section, a person whose civilian service has been recognized as service in the armed forces of the United States under federal law and who has been issued a discharge certificate by a branch of the armed forces of the United States shall be considered to have served in the armed forces of the United States.

**History:** 1953 Comp., § 72-30-5, enacted by Laws 1973, ch. 258, § 38; 1975, ch. 3, § 1; 1975, ch. 77, § 1; 1977, ch. 140, § 1; 1977, ch. 168, § 1; 1981, ch. 187, § 1; 1983, ch.

330, § 1; 1986, ch. 104, § 1; 1989, ch. 236, § 1; 1989, ch. 353, § 1; 1991, ch. 228, § 2; 1992, ch. 68, § 1; 2000, ch. 17, § 1; 2003, ch. 57, § 1; 2005, ch. 230, § 1.

## ANNOTATIONS

**Cross references.** — For definition of "department", see 7-35-2 NMSA 1978.

For constitutional provision as to veteran exemption, see N.M. Const., art. VIII, § 5.

For Sections 671 to 677 of the Internal Revenue Code, see 26 U.S.C. §§ 671 to 677.

**The 2005 amendment**, effective April 6, 2005, in Subsection A, deleted the former exemptions for tax years 2003 and prior years; in Subsection B, provided that for taxpayers who have become eligible for a veteran exemption under Article 8, Section 5 of the New Mexico constitution as amended in November 2004, a county assessor shall, when determining the net taxable value of property for 2005, determine the veteran exemption for 2004 under the constitutional amendment and credit the 2004 exemption against the 2005 property value after the taxpayer has paid the tax liability for 2004; in Subsection C(2), added the exception ; and in Subsection C(3), deleted the former provision that a "veteran" was defined to mean a person who served in the armed forces during an armed conflict prior to World War I, World War I, World War II, the Korean conflict, the Vietnam conflict, the Grenada conflict or the Persian gulf conflict.

**The 2003 amendment**, effective March 20, 2003, in Subsection A, substituted "Up to four thousand dollars (\$4,000)" for "Two thousand dollars (\$2,000)" at the beginning, in the introductory paragraph, added the last sentence; and added Paragraphs (1) to (5).

**The 2000 amendment**, effective May 17, 2000, inserted new Subsection C(3)(f), and redesignated former Subsection C(3)(f) as C(3)(g).

**The 1992 amendment**, effective May 20, 1992, added Subsection C(3)(f).

**The 1991 amendment**, effective June 14, 1991, added the language beginning "or if the property" at the end of the first sentence in Subsection A.

**The 1989 amendment**, effective June 16, 1989, in Subsection B, substituted "department" for "division"; in Subsection C, corrected a misspelling in Paragraph (2); and added Subsection F.

**This section violates equal protection clause** of the fourteenth amendment by limiting a tax exemption to those Vietnam veterans who resided in the state before May 8, 1976. *Hooper v. Bernalillo Cnty. Assessor*, 472 U.S. 612, 105 S. Ct. 2862, 86 L. Ed. 2d 487 (1985) (decided under prior law).

**Law reviews.** — For note, "New Mexico Vietnam Veterans' Property Tax Exemption and Judicial Review in Equal Protection Analysis: Hooper v. Bernalillo Cnty. Assessor," see 15 N.M.L. Rev. 389 (1985).

For article, "More Equal Than Others: The Burger Court and the Newly Arrived State Resident," see 19 N.M.L. Rev. 329 (1989).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 71 Am. Jur. 2d State and Local Taxation § 334.

Constitutionality, construction and application of state statutes relating to exemption from taxation of amounts paid as pensions, car risk insurance, compensation, bonus or other relief for veterans of World War, 116 A.L.R. 1437.

4 C.J.S. Taxation § 261 et seq.

### **7-37-5.1. Disabled veteran exemption.**

A. As used in this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability; and

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge.

B. The property of a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from property taxation if it is occupied by the disabled veteran as the veteran's principal place of residence. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from property taxation if the property otherwise meets the requirements for exemption in this subsection or Subsection C of this section.

C. The property of the surviving spouse of a disabled veteran is exempt from property taxation if:



(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death; and

(2) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence.

D. Upon the transfer of the principal place of residence of a disabled veteran or of a surviving spouse of a disabled veteran entitled to and granted a disabled veteran exemption, the disabled veteran or the surviving spouse may choose to:

(1) maintain the exemption for that residence for the remainder of the year, even if the residence is transferred during the year; or

(2) remove the exemption for that residence and apply it to the disabled veteran's or the disabled veteran's surviving spouse's new principal place of residence, regardless of whether the exemption was applied for and claimed within thirty days of the mailing of the county assessor's notice of valuation made pursuant to the provisions of Section 7-38-20 NMSA 1978.

E. The exemption provided by this section may be referred to as the "disabled veteran exemption".

F. The disabled veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and the rules of the department.

G. The veterans' services department shall assist the department and the county assessors in determining which veterans qualify for the disabled veteran exemption.

**History:** Laws 2000, ch. 92, § 1; 2000, ch. 94, § 1; 2003, ch. 29, § 1; 2003, ch. 57, § 2; 2004, ch. 19, § 21; 2015, ch. 126, § 1.

## **ANNOTATIONS**

**Cross references.** — For the veteran's services department, see 9-22-4 NMSA 1978.

For the authorization of tax rates, see 7-37-7 NMSA 1978.

For claiming exemptions, see 7-38-17 NMSA 1978.

For constitutional provision as to disabled veteran exemption, see N.M. Const., art. VIII, § 15.

For Sections 671 to 677 of the Internal Revenue Code, see 26 U.S.C. §§ 671 to 677.

**The 2015 amendment**, effective June 19, 2015, provided that a disabled veteran's property tax exemption may remain on a transferred residence for the remainder of the

year or may be applied to the disabled veteran's or the disabled veteran's surviving spouse's new principal place of residence; in Subsection B, after "occupied by the disabled veteran as", deleted "his" and added "the veteran's"; and added a new Subsection D and redesignated the succeeding subsections accordingly.

**Applicability.** — Laws 2015, ch. 126, § 2 provided that the provisions of Laws 2015, ch. 126, § 1 apply to taxable years beginning on or after January 1, 2016.

**The 2004 amendment**, effective May 19, 2004, amended Subsection F of this section to change "veterans' service commission" to "veterans' services department".

**The 2003 amendment**, effective March 20, 2003, and applicable to the 2003 and subsequent tax years, in Subparagraph A(1)(b), inserted "one hundred percent"; and in Subsection B, deleted "and has been especially adapted to his disability using a grant for specially adapted housing granted to the veteran by the federal government based on his permanent and total service-connected disability" at the end of the first sentence.

## **7-37-5.2. Deleted.**

### **ANNOTATIONS**

**Compiler's notes.** — Section 7-37-5.2 NMSA 1978, as enacted by Laws 2007, ch. 167, § 1, which provided that the property of a veterans' organization was exempt from property tax, was deleted by the compiler. Laws 2007, ch. 167, § 3 provided that the act would become effective upon the certification by the secretary of state that the constitution of New Mexico was amended as proposed by a joint resolution of the first session of the forty-eighth legislature entitled, "A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE 8 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE A PROPERTY TAX EXEMPTION FOR PROPERTY OF A VETERANS' ORGANIZATION CHARTERED BY THE UNITED STATES CONGRESS AND USED BY A LOCAL, STATE OR FEDERAL GOVERNMENTAL ENTITY FOR EVENTS OR BY NONPROFIT COMMUNITY ORGANIZATIONS OR OTHER VETERANS' ORGANIZATIONS" (Laws 2007, H.J.R. No. 16). That joint resolution was not passed by the legislature. Therefore, Laws 2007, ch. 167, § 1 did not become effective.

## **7-37-5.3. Veterans' organization exemption.**

The property of a veterans' organization chartered by the United States congress and that is used primarily for the benefit of veterans and their families is exempt from property taxation. The exemption provided by this section may be referred to as the "veterans' organization exemption". The veterans' organization exemption shall be applied only if claimed and allowed pursuant to Section 7-38-17 NMSA 1978 and the rules of the department. The veterans' services department shall assist the taxation and revenue department and the county assessors in determining which veterans' organizations qualify for the veterans' organization exemption.

**History:** Laws 2011, ch. 102, § 1.

## **ANNOTATIONS**

**Effective dates.** — Laws 2011, ch. contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 17, 2011, 90 days after the adjournment of the legislature.

**Applicability.** — Laws 2011, ch. 102, § 3 provided that the provisions of Laws 2011, ch. 102, § 1 apply to taxable years beginning on or after January 1, 2012.

### **7-37-5.4. Property owned by a disabled veteran is exempt from a special benefit assessment.**

A. Property owned by a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from the imposition of a special benefit assessment if the property is occupied by the disabled veteran as the veteran's principal place of residence. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from the imposition of a special benefit assessment if the property otherwise meets the requirements for exemption in this subsection or Subsection B of this section.

B. The property of the surviving spouse of a disabled veteran is exempt from the imposition of a special benefit assessment if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death;

(2) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence; and

(3) the surviving spouse has remained unmarried since the time of the disabled veteran's death.

C. For purposes of this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability;

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge; and

(3) "special benefit assessment" means an assessment or levy authorized by law for benefits, damages, construction, improvements or maintenance on property that is specially benefited by the benefits, damages, construction, improvements or maintenance; and includes an assessment or levy authorized by The Conservancy Act of New Mexico [73-14-1 NMSA 1978], the Public Improvement District Act [Chapter 5, Article 11 NMSA 1978], the Tax Increment for Development Act [Chapter 5, Article 15 NMSA 1978] and other similar laws outside the Property Tax Code.

**History:** Laws 2015, ch. 115, § 1.

## **ANNOTATIONS**

**Cross references.** — For the Internal Revenue Code of 1986, see 26 U.S.C.

**Effective dates.** — Laws 2015, ch. 115 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 19, 2015, 90 days after the adjournment of the legislature.

### **7-37-6. Rate of tax cumulative; determination; governmental units' entitlement to tax.**

A. The rate of the tax is cumulative and shall be determined for application against any property in a tax year by adding all of the rates authorized by this article and set by the department of finance and administration for the use of the governmental units to which the net taxable value of the property is allocated.

B. Each governmental unit that is authorized a rate under this article is entitled to that portion of the tax collected by applying the governmental unit's rate set for the tax year to the net taxable value of property allocated to the governmental unit.

C. For the purposes of this section and Section 7-37-7 NMSA 1978, the net taxable value of all property subject to the tax is considered allocated to the state when determining or applying tax rates authorized for the use of the state.

**History:** 1953 Comp., § 72-30-6, enacted by Laws 1973, ch. 258, § 39.

## **ANNOTATIONS**

**Law reviews.** — For comment, "Coal Taxation in the Western States: The Need for a Regional Tax Policy," see 16 Nat. Resources J. 415 (1976).

### **7-37-7. Tax rates authorized; limitations.**

A. The tax rates specified in Subsection B of this section are the maximum rates that may be set by the department of finance and administration for the use of the stated governmental units for the purposes stated in that subsection. The tax rates set for residential property for county, school district or municipal general purposes or for the purposes authorized in Paragraph (2) of Subsection C of this section shall be the same as the tax rates set for nonresidential property for those governmental units for those purposes unless different rates are required because of limitations imposed by Section 7-37-7.1 NMSA 1978. The department of finance and administration may set a rate at less than the maximum in any tax year. In addition to the rates authorized in Subsection B of this section, the department of finance and administration shall also determine and set the necessary rates authorized in Subsection C of this section. The tax rates authorized in Paragraphs (1), (3) and (4) of Subsection C of this section shall be set at the same rate for both residential and nonresidential property. Rates shall be set after the governmental units' budget-making and approval process is completed and shall be set in accordance with Section 7-38-33 NMSA 1978. Orders imposing the rates set for all units of government shall be made by the boards of county commissioners after rates are set and certified to the boards by the department of finance and administration. The department of finance and administration shall also certify the rates set for nonresidential property in governmental units to the department for use in collecting taxes imposed under the Oil and Gas Ad Valorem Production Tax Act [Chapter 7, Article 32 NMSA 1978], the Oil and Gas Production Equipment Ad Valorem Tax Act [Chapter 7, Article 34 NMSA 1978] and the Copper Production Ad Valorem Tax Act [Chapter 7, Article 39 NMSA 1978].

B. The following tax rates for the indicated purposes are authorized:

(1) for the use of each county for general purposes for the 1987 and subsequent property tax years, a rate of eleven dollars eighty-five cents (\$11.85) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the county;

(2) for the use of each school district for general operating purposes, a rate of fifty cents (\$.50) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the school district; and

(3) for the use of each municipality for general purposes for the 1987 and subsequent property tax years, a rate of seven dollars sixty-five cents (\$7.65) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the municipality.

C. In addition to the rates authorized in Subsection B of this section, there are also authorized:

(1) those rates or impositions authorized under provisions of law outside of the Property Tax Code that are for the use of the governmental units indicated in those

provisions and are for the stated purpose of paying principal and interest on a public general obligation debt incurred under those provisions of law;

(2) those rates or impositions authorized under provisions of law outside of the Property Tax Code that are for the use of the governmental units indicated in those provisions, are for the stated purposes authorized by those provisions and have been approved by the voters of the governmental unit in the manner required by law;

(3) those rates or impositions necessary for the use of a governmental unit to pay a tort or workers' compensation judgment for which a county, municipality or school district is liable, subject to the limitations in Subsection B of Section 41-4-25 NMSA 1978, but, except as provided in Paragraph (4) of this subsection, no rate or imposition shall be authorized to pay any judgment other than one arising from a tort or workers' compensation claim; and

(4) those rates or impositions ordered by a court pursuant to Section 22-24-5.5 NMSA 1978 and for the use of a school district to pay a judgment pursuant to that section.

D. The rates and impositions authorized under Subsection C of this section shall be on the net taxable value of both residential and nonresidential property allocated to the unit of government specified in the provisions of the other laws or the judgments.

**History:** 1953 Comp., § 72-30-7, enacted by Laws 1973, ch. 258, § 40; 1974, ch. 92, § 6; 1975, ch. 132, § 1; 1981, ch. 176, § 2; 1986, ch. 20, § 110; 1990, ch. 125, § 5; 2004, ch. 125, § 3.

## ANNOTATIONS

**Cross references.** — For constitutional provision as to property tax limits and exceptions, see N.M. Const., art. VIII, § 2.

**The 2004 amendment**, effective May 19, 2004, in Subsection A, deleted "and" after "Paragraph (1)," and added a reference to Paragraph (4) of Subsection C of this section after the reference to Paragraph (3); in Subsection C, Paragraph (3), added a reference to Paragraph (4) and added a new Paragraph (4); and in Subsection D, added "or the judgments" at the end of the subsection.

**The 1990 amendment**, effective March 7, 1990, in Subsection A, inserted "school district" and "or for the purposes authorized in Paragraph (2) of Subsection C of this section" in the second sentence, "Paragraphs (1) and (3) of" in the fifth sentence, and "and the Copper Production Ad Valorem Tax Act" in the last sentence; in Paragraphs (1) and (3) of Subsection B, deleted former Subparagraph (a) in both paragraphs, relating to the tax rate for the 1986 property tax year and deleted the former Subparagraph (b) designations; and, in Subsection C, substituted "workers' compensation" for "workmen's compensation" in two places in Paragraph (3).

**Law reviews.** — For article, "An Inter-governmental Approach to Tax Reform," see 4 N.M. L. Rev. 189 (1974).

### **7-37-7.1. Additional limitations on property tax rates.**

A. Except as provided in Subsections D and E of this section, in setting the general property tax rates for residential and nonresidential property authorized in Subsection B of Section 7-37-7 NMSA 1978, the other rates and impositions authorized in Paragraphs (2) and (3) of Subsection C of Section 7-37-7 NMSA 1978, except the portion of the rate authorized in Paragraph (1) of Subsection A of Section 4-48B-12 NMSA 1978 used to meet the requirements of Section 27-10-4 NMSA 1978, and benefit assessments authorized by law to be levied upon net taxable value of property, assessed value or a similar term, neither the department of finance and administration nor any other entity authorized to set or impose a rate or assessment shall set a rate or impose a tax or assessment that will produce revenue from either residential or nonresidential property in a particular governmental unit in excess of the sum of a dollar amount derived by multiplying the appropriate growth control factor by the revenue due from the imposition on residential or nonresidential property, as appropriate, for the prior property tax year in the governmental unit of the rate, imposition or assessment for the specified purpose plus, for the calculation for the rate authorized for county operating purposes by Subsection B of Section 7-37-7 NMSA 1978 with respect to residential property, any applicable tax rebate adjustment. The calculation described in this subsection shall be separately made for residential and nonresidential property. Except as provided in Subsections D and E of this section, no tax rate or benefit assessment that will produce revenue from either class of property in a particular governmental unit in excess of the dollar amount allowed by the calculation shall be set or imposed. The rates imposed pursuant to Sections 7-32-4 and 7-34-4 NMSA 1978 shall be the rates for nonresidential property that would have been imposed but for the limitations in this section. As used in this section, "growth control factor" is a percentage equal to the sum of "percent change I" plus V where:

$$(1) \quad V = \frac{(\text{base year value} + \text{net new value}),}{\text{base year value}}$$

expressed as a percentage, but if the percentage calculated is less than one hundred percent, then V shall be set and used as one hundred percent;

(2) "base year value" means the value for property taxation purposes of all residential or nonresidential property, as appropriate, subject to valuation under the Property Tax Code in the governmental unit for the specified purpose in the prior property tax year;

(3) "net new value" means the additional value of residential or nonresidential property, as appropriate, for property taxation purposes placed on the property tax schedule in the current year resulting from the elements in Subparagraphs (a) through

(d) of this paragraph reduced by the value of residential or nonresidential property, as appropriate, removed from the property tax schedule in the current year and, if applicable, the reductions described in Subparagraph (e) of this paragraph:

(a) residential or nonresidential property, as appropriate, valued in the current year that was not valued at all in the prior year;

(b) improvements to existing residential or nonresidential property, as appropriate;

(c) additions to residential or nonresidential property, as appropriate, or values that were omitted from previous years' property tax schedules even if part or all of the property was included on the schedule, but no additions of values attributable to valuation maintenance programs or reappraisal programs shall be included;

(d) additions to nonresidential property due to increases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978 or due to increases in market value of mineral property valued in accordance with Section 7-36-24 NMSA 1978; and

(e) reductions to nonresidential property due to decreases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978 or due to decreases in market value of mineral property valued in accordance with Section 7-36-24 NMSA 1978; and

(4) "percent change I" means a percent not in excess of five percent that is derived by dividing the annual implicit price deflator index for state and local government purchases of goods and services, as published in the United States department of commerce monthly publication entitled "survey of current business" or any successor publication, for the calendar year next preceding the prior calendar year into the difference between the prior year's comparable annual index and that next preceding year's annual index if that difference is an increase, and if the difference is a decrease, the "percent change I" is zero. In the event that the annual implicit price deflator index for state and local government purchases of goods and services is no longer prepared or published by the United States department of commerce, the department shall adopt by regulation the use of any comparable index prepared by any agency of the United States.

B. If, as a result of the application of the limitation imposed under Subsection A of this section, a property tax rate for residential or nonresidential property, as appropriate, authorized in Subsection B of Section 7-37-7 NMSA 1978 is reduced below the maximum rate authorized in that subsection, no governmental unit or entity authorized to impose a tax rate under Paragraph (2) of Subsection C of Section 7-37-7 NMSA 1978 shall impose any portion of the rate representing the difference between a maximum rate authorized under Subsection B of Section 7-37-7 NMSA 1978 and the reduced rate



resulting from the application of the limitation imposed under Subsection A of this section.

C. If the net new values necessary to make the computation required under Subsection A of this section are not available for any governmental unit at the time the calculation must be made, the department of finance and administration shall use a zero amount for net new values when making the computation for the governmental unit.

D. Any part of the maximum tax rate authorized for each governmental unit for residential and nonresidential property by Subsection B of Section 7-37-7 NMSA 1978 that is not imposed for a governmental unit for any property tax year for reasons other than the limitation required under Subsection A of this section may be authorized by the department of finance and administration to be imposed for that governmental unit for residential and nonresidential property for the following tax year subject to the restriction of Subsection D of Section 7-38-33 NMSA 1978.

E. If the base year value necessary to make the computation required under Subsection A of this section is not available for any governmental unit at the time the calculation must be made, the department of finance and administration shall set a rate for residential and nonresidential property that will produce in that governmental unit a dollar amount that is not in excess of the property tax revenue due for all property for the prior property tax year for the specified purpose of that rate in that governmental unit.

F. For the purposes of this section:

(1) "nonresidential property" does not include any property upon which taxes are imposed pursuant to the Oil and Gas Ad Valorem Production Tax Act [Chapter 7, Article 32 NMSA 1978], the Oil and Gas Production Equipment Ad Valorem Tax Act [Chapter 7, Article 34 NMSA 1978] or the Copper Production Ad Valorem Tax Act [Chapter 7, Article 39 NMSA 1978]; and

(2) "tax rebate adjustment" means, for those counties that have an ordinance in effect providing the property tax rebate pursuant to the Income Tax Act [Chapter 7, Article 2 NMSA 1978] for the property tax year and that have not imposed for the property tax year either a property tax, the revenue from which is pledged for payment of the income tax revenue reduction resulting from the provision of the property tax rebate, or a property transfer tax, the estimated amount of the property tax rebate to be allowed with respect to the property tax year, and for any other governmental unit or purpose, zero; provided that any estimate of property tax rebate to be allowed is subject to review for appropriateness and approval by the department of finance and administration.

**History:** 1978 Comp., § 7-37-7.1, enacted by Laws 1979, ch. 268, § 1; 1981, ch. 37, § 66; 1983, ch. 213, § 23; 1985 (1st S.S.), ch. 12, § 1; 1986, ch. 32, § 8; 1989, ch. 198, § 2; 1990, ch. 125, § 6; 1991, ch. 212, § 17; 1994, ch. 111, § 4.

## ANNOTATIONS

**The 1994 amendment**, effective July 1, 1994, in Subsection A, substituted "27-10-4 NMSA 1978" for "4 of the Statewide Health Care Act," substituted "either residential or" for "residential and," added "the sum of" preceding "a dollar amount," added "appropriate" preceding "growth control factor," substituted "or nonresidential property, as appropriate" for "and nonresidential property," added language from "plus, for" to the end of the first sentence, and substituted "made for" for "applied to" in the second sentence; substituted "or nonresidential property, as appropriate" for "and nonresidential property," in Paragraph A(2), twice in Paragraph A(3), and once each in Subparagraphs A(3)(a), A(3)(b) and A(3)(c); added "to nonresidential property" in Subparagraphs A(3)(d) and A(3)(e); substituted "or nonresidential property, as appropriate" for "and nonresidential property," in Paragraph B; redesignated language in Subsection F as Paragraph F(1) and added "; and" at the end of the paragraph; and added Paragraph F(2).

**The 1991 amendment**, effective July 1, 1991, inserted "except the portion of the rate authorized in Paragraph (1) of Subsection A of Section 4-48B-12 NMSA 1978 used to meet the requirements of Section 4 of the Statewide Health Care Act" in the first sentence in Subsection A.

**The 1990 amendment**, effective March 7, 1990, inserted "or the Copper Production Ad Valorem Tax Act" in Subsection F and made several minor stylistic changes throughout the section.

**The 1989 amendment**, effective June 16, 1989, in Subsection A substituted "the rates for nonresidential property" for "those" in the fourth sentence of the introductory paragraph, rewrote the former fifth and sixth sentences of the introductory paragraph so as to constitute the fifth sentence and Paragraph (1), redesignated former Paragraphs (1) through (3) as Paragraphs (2) through (4), in Paragraph (3) inserted "if applicable, the reductions described in" in the introductory paragraph, and in Paragraph (4) substituted "implicit price deflator" for "general business indicator" in the first and second sentences and substituted "department" for "division" in the second sentence; twice substituted "impose" for "levy" in Subsection B; and added all of the language of Subsection D beginning with "subject".

**Application to 1979 tax year not unconstitutionally retroactive.** — Application of this section, which became law on April 4, 1979, to the 1979 tax year, when notice of taxes due and payable were required to be mailed by April 1, 1979, is not unconstitutionally retroactive. *Hansman v. Bernalillo Cnty. Assessor*, 1980-NMCA-088, 95 N.M. 697, 625 P.2d 1214.

**Comparative sales of nonresidential properties not basis for valuation.** — This section precludes valuation of residential property for tax purposes based on comparative sales of nonresidential properties. *Landmark, Ltd. v. Bernalillo Cnty.*