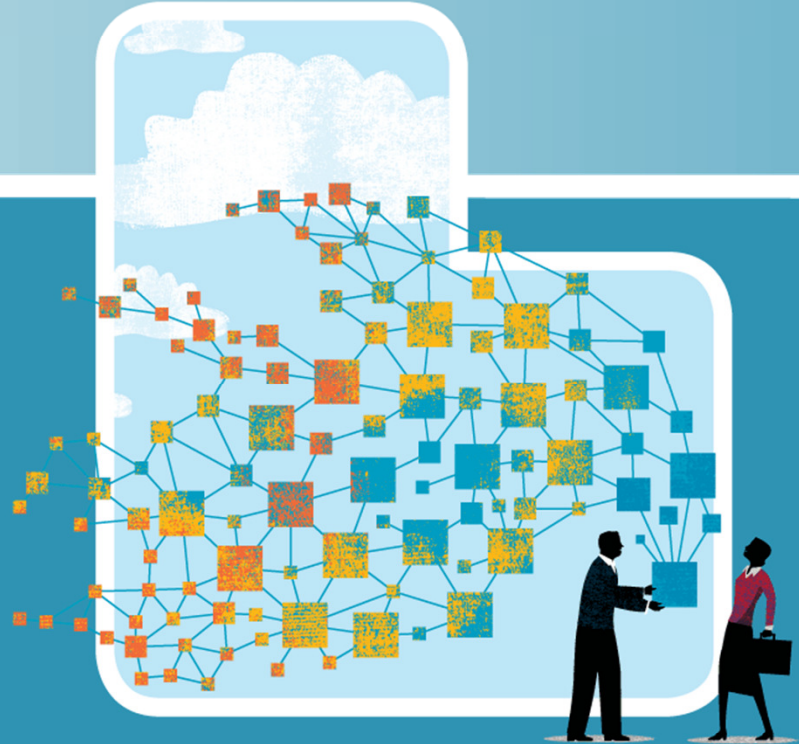


NEW MEXICO STATE TAX AND CREDIT AND INCENTIVES OVERVIEW FOR HEALTH CARE

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AGENDA

- Gross Receipts
- Deductible Health Care Service Receipts
- New Mexico Credits and Incentives

GROSS RECEIPTS TAX

- **“Gross Receipts”**
 - means the total amount of money or other consideration received from:
 - selling property in New Mexico
 - leasing or licensing property in New Mexico
 - granting a right to use a franchise in New Mexico
 - performing services outside of New Mexico the product of which is initially used in New Mexico
 - performing services in New Mexico

GROSS RECEIPTS TAX

- Presumption is that all transactions are taxable unless a statute provides an exemption or deduction
 - **New Mexico Gross Receipts are either:**
 - Taxable
 - Exempt (not reported)
 - Deductible (reported)
 - **What Is a Deduction?**
 - Receipt not subject to tax
 - Must be reported to New Mexico Taxation & Revenue Department (“NMTRD”)
 - Must maintain proof of deduction taken - Non-taxable Transaction Certificate (“NTTC”)



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Deductions:**
 - Receipts from Medicare payments, TRICARE and Indian Health Service (Section 7-9-77.1)
 - Receipts from payments from a Managed Health Care Provider or Health Care Insurer (Section 7-9-93)
- **Other Medical-Related Gross Receipts Tax Deductions**
 - Practitioners
 - Medical Supplies, Prescription Drugs and Equipment
 - Hospitals



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Section 7-9-77.1 allows a deduction for receipts of:**
 - Practitioners from performing **health care services for Medicare patients** (*other than Medicare Part C*).
 - **A third-party administrator of the federal TRICARE program** for providing medical and other health services
 - **Medical doctors and osteopathic physicians from the Indian Health Service (HIS)** for services
 - **Clinical laboratories** for medical services provided to Medicare beneficiaries
 - Receipts of a **health home agency** for medical and health services



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Section 7-9-3 allows a deduction for receipts of:**
 - Certain **health care practitioners** if the receipts are from payments by a:
 - **managed health care provider or**
 - **health care insurer for commercial contract services or**
 - **Medicare Part C services** provided by a health care practitioner
- Receipts from **fee-for-service payments** by a health care insurer do not qualify



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Health care practitioners** are limited to:
 - chiropractic physicians, dentists or dental hygienists, physicians or physician's assistants, podiatrists, registered occupational therapists, osteopathic physicians, osteopathic physician's assistants, physical therapists, psychologists, registered lay midwives, clinical laboratories, optometrists, independent social workers, respiratory care practitioners, doctors of oriental medicine, speech-language, pathologists or audiologists, mental health counselors, marriage and family therapists and art therapists, registered nurses, licensed practical nurses, certified registered nurse anesthetists, nurse practitioners or nurse midwives



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Managed health care providers are:**
 - Entities that deliver comprehensive basic health care services and medically necessary services to persons enrolled in a recognized plan



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Managed health care providers** include, but are not limited to:
 - Health maintenance organizations (HMOs)
 - Preferred provider organizations (PPOs)
 - Individual practice associations (IPAs)
 - Competitive medical plans
 - Exclusive provider organizations (EPOs)
 - Integrated delivery systems
 - Independent physician-provider organizations
 - Physician hospital-provider organizations
 - Managed care service organizations



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Health care insurer is:**
 - A person who has a valid certificate of authority in good standing according to the New Mexico Insurance Code to act as an insurer, health maintenance organization or nonprofit health care plan or prepaid dental plan and who contracts to reimburse licensed health care practitioners for providing basic health services to the insured parties at negotiated fee rates



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Commercial contract services** are:
 - Health care services performed by a health care practitioner under a contract with a managed health care provider or health care insurer



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Medicare Part C services are:**
 - Services performed according to a contract with a managed health care provider for Medicare patients pursuant to Title 18 of the federal Social Security Act



DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- In order to qualify for the deduction under Section 7-9-93, receipts must meet all four of the following conditions:
 1. The health care services must be provided by a **health care practitioner**;
 2. The health care services must be within the practitioner's recognized **scope of practice**;
 3. The receipts must be from a **managed health care provider** or **health care insurer**; and
 4. The payment must be made for either **commercial contract services** or **Medicare Part C services**

DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Receipts that do not qualify for the deduction under Section 7-9-93:**
 - Receipts from **fee-for service payments** by a health care insurer
 - Fee-for-service payment is a payment made by a provider under an indemnity insurance plan for each service rendered after the services have been received by the patient.
 - Receipts **deductible under any other section** of the Gross Receipts and Compensating Tax Act do not qualify for this deduction
 - Receipts from **co-payments, deductibles** or any other payments made by a patient according to a medical plan do not qualify for this deduction



OTHER DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Section 7-9-48** allows a deduction for receipts from **health care services sold to a hospital** or other person **for resale** with respect to which the practitioner has accepted a Type 5 nontaxable transaction certificate executed by the buyer
- **Section 7-9-96.2** allows a licensed medical doctor or licensed osteopathic physician to claim a credit against gross receipts taxes due



OTHER DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS

- **Section 7-9-73** allows a deduction for receipts from **sales of prosthetic devices** to health care practitioners for resale to patients
- **Section 7-9-73.2** allows a deduction for receipts from sales of **prescription drugs, oxygen and oxygen services** provided by licensed Medicare durable medical equipment providers
- **Section 7-9-111** allows a deduction for receipts from **sales of vision aids or hearing aids** and **services** required to fit or dispense those aids



OTHER DEDUCTIBLE HEALTH CARE SERVICE RECEIPTS FOR HOSPITALS

- **Section 7-9-29** exempts receipts of hospitals which the IRS has classified as **501(c)(3)** organizations
- **Section 7-9-13** exempts receipts of a **federal or New Mexico government** owned hospital
- **Section 7-9-73.1** allows a deduction of fifty percent of the receipts of hospitals **licensed by the Department of Health**
- **Section 7-9-96.1** allows a **hospital licensed by the Department of Health** to claim a credit against gross receipts tax



NEW MEXICO INCENTIVES AND CREDITS

- Overview and Update
- High Wage Jobs Tax Credit
- Job Training Incentive Program (JTIP)
- Managed Audit
- Rural Jobs Tax Credit



NEW MEXICO CREDITS

BENEFITS

- Most NM credits are not income tax credits
- Credits are applied against CRS-1 taxes
- New Mexico credits generally can be monetized
- NM credits can be used by all businesses including start-ups
- Taxpayers can take multiple credits at once
- High Wage, Manufacturers Investment Credit, Technology Jobs Credit



NEW MEXICO CREDITS

CHALLENGES

- Unlike most state credits, NM credits are audited by NMTRD before they are approved
- Audit process is very rigorous and labor intensive
- Credits are somewhat vague
- NMTRD takes very aggressive and constantly changing positions



HIGH WAGE JOBS TAX CREDIT CONDITIONS

- Qualified employers are those that:
 - Make more than 50% of its annual sales outside NM or
 - Are eligible for Job Training Incentive Program assistance; and
 - Are increasing in employment in NM
- Eligible employees must be a resident of NM and cannot be relatives of the employer or own more than 50% of the company
- Qualified job means a position created on or after July 1, 2004 that is occupied for at least 48 weeks



HIGH WAGE JOBS TAX CREDIT BENEFITS

- A credit equal to 10% of the wages and benefits paid for each new job created that:
 - Pays at least \$28,000 in wages in 48 weeks in a rural community with population of 40,000 or less or in unincorporated area
 - Pays at least \$40,000 in wages in 48 weeks in an urban community with population of 40,000 or more (i.e. Albuquerque)
- Qualified employers can take the credit for 4 qualifying periods per position
- Credit shall not exceed \$12,000 per period, per position
- Credit is first applied to the state portion of the gross receipts tax, compensating tax and withholding tax, and any excess credit will be refunded to the taxpayer
- Currently no statute of limitations



HIGH WAGE JOBS TAX CREDIT

GETTING IT APPROVED

- Must use original payroll registers
- Provide benefit rate schedules
- Screen shots showing hire and term dates
- Proof of residency
- Increase in headcount
- Employment increase must be high wage employees only
- Documentation to support JTIP approval or 50% of sales outside NM
- Credit claim has to be approved by Audit & Compliance Division, refund claim has to be approved by Revenue Processing Division and Attorney General
- Lengthy audit process - generally, one year process to get refund check



JOB TRAINING INCENTIVE PROGRAM (JTIP)

- Benefits
 - Depends on funding
 - The program reimburses 30 to 70 percent of employee wages and travel expenses (up to 5% of the wage reimbursement project)
 - Allows taxpayer to qualify for other Credits
- Who Qualifies
 - Companies that manufacture or produce a product in NM
 - Non-retail service companies that export a substantial percentage of services out of state (50% + of revenues and/or customer base)



JTIP

- Job Eligibility
 - Full time (minimum of 32 hours per week)
 - Year-round
 - Directly related to the creation of the product or service
- Trainee Eligibility
 - New hires to the company
 - Residents of NM for at least one year at any time prior to employment in an eligible position



JTIP

- JTIP Funds three types of training:
 - Custom classroom training at a public educational institution
 - Structured on-the-job training (“OJT”)
 - A combination of classroom training and OJT
- The following are eligible for reimbursement
 - A significant portion of trainee wages (30-70%) for up to six months
 - Cost of custom classroom training at public educational institution (100%)
 - Percentage of approved travel expenses (50-65%)
 - Expenses are reimbursed after training is completed



NEW MEXICO MANAGED AUDIT

- NM version of a Voluntary Disclosure Agreement
- Taxpayer can enter into Program if not yet being notified of audit by the NMTRD
- Managed Audit program waives penalty and interest if paid within 180 days of date of assessment
- Taxpayer has 90 days to complete managed audit



NEW MEXICO MANAGED AUDIT

- Can choose between two options
 - Assignment of auditor
 - Self audit
- Taxpayer can choose tax program and audit period
- NMTRD allows one managed audit per taxpayer



RURAL JOBS TAX CREDIT

- “Eligible employer” means an employer who has been approved for JTIP
- Employers in rural areas approved for JTIP assistance may apply for a rural job tax credit for each qualifying job the employer creates
- Jobs must be created after JTIP approval date
- Amount of credit varies depending on the location of the taxpayer
 - \$4000 per job in Tier 1 area
 - \$2000 per job in Tier 2 area



RURAL JOBS TAX CREDIT

- Non rural areas: Los Alamos County, Albuquerque, Los Ranchos, Corrales, Rio Rancho, Tijeras, Santa Fe, or Las Cruces and any area within a ten-mile zone around any of these municipalities
- **Tier 2:** Roswell, Clovis, Carlsbad, Hobbs, Gallup, Alamogordo and Farmington
- **Tier 1:** Any part of New Mexico not listed above
- Credit is transferable

DEFINITIONS OF “RURAL”

High Wage Jobs Tax Credit

- Rural area: “a municipality with a population of less than 40,000 or in the unincorporated area of a county.”

Rural Jobs Tax Credit

- Rural area: “Any part of the state other than: an incorporated municipality within a MSA if the municipality population is 30,000 or more...”
- Non rural areas: Los Alamos County, Albuquerque, Los Ranchos, Corrales, Rio Rancho, Tijeras, Santa Fe, or Las Cruces and any area within a ten-mile zone around any of these municipalities
 - Tier 2: Roswell, Clovis, Carlsbad, Hobbs, Gallup, Alamogordo and Farmington
 - Tier 1: Any part of New Mexico not listed above



Questions and Answers

ABOUT THE PRESENTER



Everett Trujillo is a senior manager with Moss Adams' State and Local Tax practice in Albuquerque, New Mexico. He has over 14 years of experience in various areas of state and local tax, including multi-state experience in sales and use taxes, incentives and credits, state cost segregations, gross receipts and compensating taxes, income taxes, managed audits, voluntary disclosure agreements, audit defense, refund claims and property tax. Everett's tax experience includes extensive knowledge in various state tax laws, numerous audit defense cases, refund analysis, and client representation regarding state and local tax issues. Prior to working with Moss Adams, Everett worked for the New Mexico Taxation and Revenue Department for 8 years in numerous positions including audit supervisor, computer/technology auditor, and out of state auditor. Prior to working with the Department, Everett worked for a Fortune 500 Company for 3 years as a Project Cost Accountant.