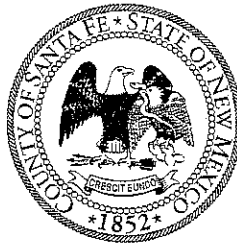


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

Office of the County Attorney

To: Board of County Commissioners

From: Gregory S. Shaffer, County Attorney *GS*

Date: May 23, 2017

Re: **Public Hearing and Possible Action on the Following Proposed Ordinances:**
(i) Ordinance No. 2017-__ , An Ordinance Adopting a County Hold Harmless Gross Receipts Tax, and (ii) Ordinance No. 2017-__ , An Ordinance Adopting a County Gross Receipts Tax

Issue. At its May 9, 2017, FY 2018 Budget Study Session, the Board of County Commissioners (BCC) of Santa Fe County (County) authorized County staff to publish the title and general summary of the above-referenced ordinances, which would enact different Local Option Gross Receipts Taxes authorized by the County Local Option Gross Receipts Taxes Act, NMSA 1978, Chapter 7, Article 20E. Unless otherwise directed by the BCC, May 30, 2017, will be the first and only public hearing on the two ordinances.

As used in this memo, the Ordinance Adopting a County Hold Harmless Gross Receipts Tax is referred to as the "Hold Harmless GRT Ordinance"; the Ordinance Adopting a County Gross Receipts Tax is referred to as the "County GRT Ordinance". The Hold Harmless GRT Ordinance is attached as Exhibit A; the County GRT Ordinance is attached as Exhibit B.

Background.

Hold Harmless GRT Ordinance. By way of general background, the county hold harmless gross receipts tax:

- Is not subject to negative or positive referendum, meaning it is not subject to voter approval;
- May be used for any County purpose, though the enacting ordinance may dedicate revenue to specific purposes; and
- May be enacted in increments of one-eighth percent, not to exceed three-eighths percent.

The Hold Harmless GRT Ordinance would enact the second one-eighth increment of the county hold harmless gross receipts tax authorized by Section 7-20E-28 NMSA 1978.¹ More technically, it would impose on any person engaging in business in the County an excise tax equal to one-eighth of one percent (.125%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act,

¹ Section 7-20E-28(A) provides that "[a] tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of gross receipts tax rate increments, but the total gross receipts tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Counties may impose increments of one-eighth of one percent." The BCC enacted the first one-eighth increment of the county hold harmless gross receipts tax on March 24, 2015, via Ordinance No. 2015-3. The effective date of that increment was July 1, 2015.

as it now exists or as it may be amended. This amounts to \$0.125 on a \$100 purchase of taxable goods or services.

The proposed ordinance would dedicate revenue from the second increment of the county hold harmless gross receipts tax to:

- A. Capital, maintenance, and operating expenditures for the Sheriff's Office, Fire Department, Corrections Division, and behavioral health services; and
- B. The payment of the principal, interest on, and other costs, including costs of issuance, related to revenue bonds issued for any purpose.

The second increment of the county hold harmless gross receipts tax would be effective either January 1 or July 1, whichever date occurs first after the expiration of three months from the date the proposed ordinance is adopted. If the Hold Harmless GRT Ordinance is adopted on May 30, 2017, this means that the tax would be effective on January 1, 2018.

County GRT Ordinance. Until June 30, 2017, the BCC has the authority to enact an ordinance imposing an additional increment of the county gross receipts tax. Specifically, Section 7-20E-9(E) NMSA 1978 provides as follows:

E. Until June 30, 2017, in addition to the increments authorized pursuant to Subsection A of this section, the majority of the members of the governing body of a county, except a class A county with a hospital that is operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, may enact an ordinance imposing an excise tax of one-sixteenth percent or one-twelfth percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county.

This additional increment of the county gross receipts tax:

- Is not subject to negative or positive referendum, meaning it is not subject to voter approval;
- May be used for any County purpose, though the enacting ordinance may dedicate revenue to specific purposes; and
- May be enacted either at the rate of one-sixteenth percent or one-twelfth percent.

The County GRT Ordinance would enact the additional one-sixteenth of the county gross receipts tax.² More technically, it would impose on any person engaging in business in Santa Fe County, for the privilege of engaging in business in the County, an excise tax equal to one-sixteenth of one percent (.0625%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists

² Another item on the BCC's May 30, 2017, agenda would allow the BCC to consider enacting an ordinance imposing the additional one-twelfth of the county gross receipts tax. Specifically, Item No. IX(B) would authorize staff to publish title and general summary of an ordinance adopting the one-twelfth increment. This item was added to provide the BCC the flexibility to consider the one-twelfth increment at a future meeting. Adopting the County GRT Ordinance would preclude consideration of this, since the BCC can only enact the additional one-twelfth or the additional one-sixteenth of the county gross receipts tax.

or as it may be amended. This amounts to \$0.0625 on a \$100 purchase of taxable goods or services.

The proposed ordinance would dedicate revenue from the additional one-sixteenth of the county gross receipts tax to:

- A. County general purposes; and
- B. The payment of the principal, interest on, and other costs, including costs of issuance, related to revenue bonds issued for any purpose.

The additional one-sixteenth of the county gross receipts tax would be effective either January 1 or July 1, whichever date occurs first after the expiration of three months from the date the proposed ordinance is adopted. If the County GRT Ordinance is adopted on May 30, 2017, this means that the tax would be effective on January 1, 2018.

Recommendation. Hold the public hearing on the two proposed ordinances and take action.

Exhibit.

A – An Ordinance Adopting a County Hold Harmless Gross Receipts Tax

B – An Ordinance Adopting a County Gross Receipts Tax

SANTA FE COUNTY

ORDINANCE NO. 2017-_____

AN ORDINANCE

ADOPTING A COUNTY HOLD HARMLESS GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY:

Section 1. Imposition of Tax. There is imposed on any person engaging in business in Santa Fe County, for the privilege of engaging in business in Santa Fe County, an excise tax equal to one-eighth of one percent (.125%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "county hold harmless gross receipts tax."

Section 2. General Provisions. This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

Section 3. Specific Exemptions. No county hold harmless gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. direct broadcast satellite services.

Section 4. Dedication. Revenue from the county hold harmless gross receipts tax will be used for one or more of the purposes listed below:

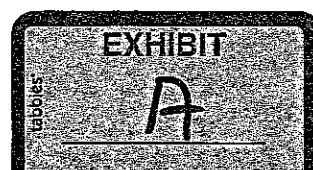
- A. Capital, maintenance, and operating expenditures for the Sheriff's Office, Fire Department, Corrections Division, and behavioral health services; and
- B. The payment of the principal, interest on, and other costs, including costs of issuance, related to revenue bonds issued for any purpose.

Section 5. Effective Date. The effective date of the county hold harmless gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted.

PASSED, APPROVED, AND ADOPTED BY THE GOVERNING BODY OF SANTA FE COUNTY THIS 30th DAY OF MAY, 2017.

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

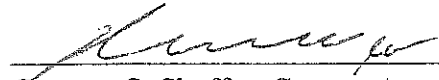
Henry P. Roybal, Chairperson



ATTEST:

Geraldine Salazar, County Clerk

Approved as to Form:



Gregory S. Shaffer, County Attorney

SANTA FE COUNTY

ORDINANCE NO. 2017-_____

AN ORDINANCE ADOPTING A COUNTY GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY:

Section 1. Imposition of Tax. There is imposed on any person engaging in business in Santa Fe County, for the privilege of engaging in business in Santa Fe County, an excise tax equal to one-sixteenth of one percent (.0625%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "additional one-sixteenth of the county gross receipts tax."

Section 2. General Provisions. This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

Section 3. Specific Exemptions. No additional one-sixteenth of the county gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. direct broadcast satellite services.

Section 4. Dedication. Revenue from the additional one-sixteenth of the county gross receipts tax will be used for one or more of the purposes listed below:

- A. County general purposes; and
- B. The payment of the principal, interest on, and other costs, including costs of issuance, related to revenue bonds issued for any purpose.

Section 5. Effective Date. The effective date of the additional one-sixteenth of the county gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted.

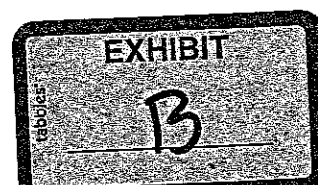
PASSED, APPROVED, AND ADOPTED BY THE GOVERNING BODY OF SANTA FE COUNTY THIS 30th DAY OF MAY, 2017.

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

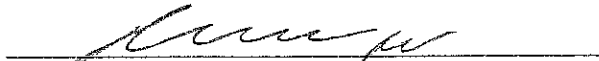
Henry P. Roybal, Chairperson

ATTEST:

Geraldine Salazar, County Clerk



Approved as to Form:


Gregory S. Shaffer, County Attorney

