

Aug 21, 2018 santafenewmexican.com

### **New Mexico trying to recover \$3.6M from private prison company**

New Mexico's government says the private prison company CoreCivic owes more than \$3.6 million in gross receipts taxes, interest and penalties. The state gave the company a multimillion-dollar refund in 2012 when CoreCivic, formerly known as Corrections Corporation of America, claimed it did not have to pay gross receipts tax on money it got for locking up federal detainees at its prison in Torrance County. But the state now says CoreCivic provided inaccurate information as the company sought that tax break. And New Mexico wants the money back. In response, CoreCivic is taking the issue to court. The legal battle comes amid mounting scrutiny of the private prison industry in New Mexico, both for how inmates are treated and the industry's role in the rural communities that rely on the jobs it provides. The court case also comes as some lawmakers question whether these companies are paying a fair share in taxes. In this case, Torrance County had contracted with CoreCivic to house local jail inmates in the company's prison near Estancia. The county also cut a deal with the U.S. Marshals Service to house federal inmates at the site, which opened in 1990 and was built to house around 1,000 people. The company had reasoned it should not have to pay gross receipts tax on money earned from housing federal inmates, however. While selling a service usually falls under New Mexico's gross receipts tax, CoreCivic has maintained it was not selling a service to the U.S. Marshals Service but instead selling licenses for inmate housing to Torrance County, which in turn sold those licenses to the federal government. Under a provision of New Mexico's Byzantine tax laws, that revenue could be deducted from gross receipts tax liability, the company maintained. To make its point, one representative from the company said in an email to state officials that funds "are not coming directly" from the federal government to the company. But that was not true. The federal government was making payments directly to CoreCivic, according to documents recently filed with the state Court of Appeals. In late 2016, the state demanded \$2.7 million in taxes from 2010 to 2015 as well as penalties and interest. The state says CoreCivic owes a total of \$3.6 million. CoreCivic filed a protest, but a hearing officer ruled against the company late last month, deciding that the company's arrangement did not qualify for the sort of tax exemption it had claimed. The company lodged an appeal last week. Just a few months after receiving that \$3.6 million tax bill from the state, CoreCivic announced it would close the prison in Torrance County, cutting about 200 jobs. The Mountain View Telegraph reported at the time that the facility mostly housed Immigration and Customs Enforcement detainees. The company said it would transfer those detainees to another prison CoreCivic operates in Cibola County. A spokesman for CoreCivic said Monday the tax issue had nothing to do with the company's decision to shutter the Torrance County facility and that the Cibola County facility is not affected by the state's decision. "CoreCivic is appealing the ruling of the state tax hearing officer because we disagree with the officer's interpretation of the New Mexico tax code," public affairs manager Rodney E. King said in an email. "This is the same right that any individual or business would have under New Mexico law in a similar situation." The case comes as lawmakers around the country critical of private prison operators cast greater scrutiny on the industry's tax arrangements. For example, CoreCivic is structured as a real estate investment trust, giving it certain tax advantages. Sen. Ron Wyden, D-Oregon, and Rep. Gregory Meeks, D-New York, have introduced legislation in Congress to expressly end these tax breaks for private prisons. Their bills are unlikely to go far, however.