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AN ACT

RELATING TO TAXATION; PROVIDING FOR ALTERNATIVE EVIDENCE
OTHER THAN A NONTAXABLE TRANSACTION CERTIFICATE TO ENTITLE
PERSONS TO A DEDUCTION FROM GROSS RECEIPTS; REPEALING AN
IRRELEVANT NONTAXABLE TRANSACTION CERTIFICATE SUSPENSION
PROVISION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-43 NMSA 1978 (being Laws 1966,
Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

A. Except as provided in Subsection B of this
section, a person may establish entitlement to a deduction
from gross receipts allowed pursuant to the Gross Receipts
and Compensating Tax Act by obtaining a properly executed
nontaxable transaction certificate from the purchaser.
Nontaxable transaction certificates shall contain the
information and be in a form prescribed by the department.
The department by regulation may deem to be nontaxable
transaction certificates documents issued by other states or
the multistate tax commission to taxpayers not required to be
registered in New Mexico. Only buyers or lessees who have a
registration number or have applied for a registration number
and have not been refused one under Subsection C of Section

1 7-1-12 NMSA 1978 shall execute nontaxable transaction
2 certificates issued by the department. If the seller or
3 lessor has been given an identification number for tax
4 purposes by the department, the seller or lessor shall
5 disclose that identification number to the buyer or lessee
6 prior to or upon acceptance of a nontaxable transaction
7 certificate.

8 B. Except as provided in Subsection C of this
9 section, a person who does not comply with Subsection A of
10 this section may establish entitlement to a deduction from
11 gross receipts by presenting alternative evidence that
12 demonstrates the facts necessary to support entitlement to
13 the deduction, but the burden of proof is on that person.

14 Alternative evidence includes:

15 (1) invoices or contracts that identify the
16 nature of the transaction;

17 (2) documentation as to the purchaser's use
18 or disposition of the property or service;

19 (3) a statement from the purchaser
20 indicating that the purchaser sold or intends to resell the
21 property or service purchased from the seller, either by
22 itself or in combination with other property or services, in
23 the ordinary course of business. The statement from the
24 purchaser shall include:

25 (a) the seller's name;

1 (b) the date of the invoice or date of
2 the transaction;

3 (c) the invoice number or a copy of the
4 invoice;

5 (d) a copy of the purchase order, if
6 available;

7 (e) the amount of purchase; and

8 (f) a description of the property or
9 service purchased or leased; or

10 (4) any other evidence that demonstrates the
11 facts necessary to establish entitlement to the deduction.

12 C. Subsection B of this section does not apply to
13 sellers of electricity or fuels that are parties to an
14 agreement with the department pursuant to Section 7-1-21.1
15 NMSA 1978 regarding the deduction pursuant to Subsection B of
16 Section 7-9-46 NMSA 1978.

17 D. When a person accepts in good faith a properly
18 executed nontaxable transaction certificate from the
19 purchaser, the properly executed nontaxable transaction
20 certificate shall be conclusive evidence that the proceeds
21 from the transaction are deductible from the person's gross
22 receipts.

23 E. To exercise the privilege of executing
24 appropriate nontaxable transaction certificates, a buyer or
25 lessee shall apply to the department for permission to

1 execute nontaxable transaction certificates, except with
2 respect to documents issued by other states or the multistate
3 tax commission that the department has deemed to be
4 nontaxable transaction certificates.

5 F. If a person has accepted in good faith a
6 properly executed nontaxable transaction certificate, but the
7 purchaser has not employed the property or service purchased
8 in the nontaxable manner or has provided materially false or
9 inaccurate information on the nontaxable transaction
10 certificate, the purchaser shall be liable for an amount
11 equal to any tax, penalty and interest that the seller would
12 have been required to pay if the seller had not complied with
13 Subsection A of this section.

14 G. Any person who knowingly or willfully provides
15 false or inaccurate information on a nontaxable transaction
16 certificate or as alternative evidence provided in support of
17 a claim for a deduction may be subject to prosecution under
18 Sections 7-1-72 and 7-1-73 NMSA 1978."

19 **SECTION 2. REPEAL.**--Section 7-9-44 NMSA 1978 (being
20 Laws 1969, Chapter 144, Section 34, as amended) is repealed.

21 **SECTION 3. EMERGENCY.**--It is necessary for the public
22 peace, health and safety that this act take effect
23 immediately. _____