F I S C A L   I M P A C T   R E P O R T

SPONSOR: Ponce   DATE TYPED: 02/27/03   HB 470/aHTRC

SHORT TITLE: Nontaxable Transaction Certificate Deduction   SB

ANALYST: Hayes

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	$0.1		Recurring	

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 339

SOURCES OF INFORMATION

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendments

Originally, HB 470 had an effective date of July 1, 2003. An amendment made by the House Taxation and Revenue Committee declared the provisions of the bill AN EMERGENCY. Therefore, in the last section of the bill, Section 3 on page 2, the committee amended and inserted the following statement: *EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.*

Synopsis of Original Bill

House Bill 470 amends Section 7-9-46 NMSA 1978 to allow sellers to deduct gross receipts for sales of tangible personal property to manufacturers as long as the manufacturer is a registered taxpayer. Under current statutes, the manufacturer must provide the seller with a Nontaxable Transaction Certificate (NTTC) so that the seller could deduct gross receipts tax for sales of tangible personal property to manufacturers.

In addition, HB 470 adds paragraph B to Section 7-9-46 to define a "registered taxpayer" as a person engaging in business in New Mexico who is registered with TRD for the purpose of reporting and paying gross receipts, compensating and withholding tax.

The effective date of the provisions of this bill is July 1, 2003.

Significant Issues

1. An NTTC is a promise from the buyer to the seller that the goods purchased will be incorporated as a component part of a manufactured product. In other words, a seller can accept an NTTC from a buyer as proof that a sale qualifies for a gross receipts tax deduction. In this manner, the NTTC serves to protect the seller when the validity of the deduction depends on what the buyer intends to do with the property purchased. If it is determined later that the buyer inappropriately used an NTTC, TRD would assess the buyer, not the seller who took the deduction in good faith. However, if the NTTC were eliminated pursuant to HB470, the seller would have to identify other evidentiary means to substantiate any deductions taken. Without an NTTC on file, the burden and the level of documentation or means of verification required by the seller would greatly increase.

2. Without an NTTC, the means for verifying and enforcing statutory deductions will not only burden the seller, but also the Taxation and Revenue Department. If the NTTC is eliminated pursuant to this legislation, then auditors may need to establish more time-consuming methods of determining the validity of taxpayer deductions taken under Section 7-9-46. In addition, this legislation may have a negative impact on collections from such audits or could increase litigation and protest expenses.

3. TRD has been improving the NTTC system and streamlining the process of issuance while minimizing compliance and enforcement burdens to the agency. Such improvements include implementing an electronic issuance process, on-line applications and approvals, and consolidation of the number and types of NTTCs issued. While the end goal is improved compliance, the improvements made to the NTTC process were a result of concerns and input from both the Legislature and private industry.

FISCAL IMPLICATIONS

Improper deductions could occur without the NTTC system, reducing potential revenue to the state.

RELATIONSHIP

HB 339 provides for the transition to a new series of Nontaxable Transaction Certificates.

CMH/prr:njw