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HOUSE BILL 16

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Ted Hobbs

AN ACT

RELATING TO TAXATION; PERMITTING GROSS RECEIPTS TAX AND
COMPENSATING TAX DEDUCTIONS FOR QUALIFIED RESEARCH AND
DEVELOPMENT SMALL BUSINESSES.

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

Section 1. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ DEDUCTION--GROSS RECEIPTS--RESEARCH AND
DEVELOPMENT SMALL BUSINESSES.--

A. Receipts of a qualified research and development
small business may be deducted from gross receipts. The
deduction provided by this section may be claimed only for a
period ending thirty-five consecutive calendar months after the
first calendar month for which the deduction is claimed by the
taxpayer or by a person to whom the taxpayer is a successor

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1 pursuant to Section 7-1-61 NMSA 1978.

2 B. As used in this section:

3 (1) "qualified research and development small
4 business" means a business, including a corporation, general
5 partnership, limited partnership, limited liability company,
6 sole proprietorship or other similar entity, that:

7 (a) employed no more than twenty-five
8 employees on a full-time-equivalent basis in any prior calendar
9 month;

10 (b) had total revenues of no more than
11 ten million dollars (\$10,000,000) in any prior fiscal year;

12 (c) did not in any prior calendar month
13 have more than fifty percent of its voting securities or other
14 equity interest with the right to designate or elect the board
15 of directors or other governing body of the qualified business
16 owned directly or indirectly by another business; and

17 (d) has made qualified research
18 expenditures for the period of twelve calendar months ending
19 with the month for which the deduction is sought of at least
20 twenty percent of its total revenues for those twelve calendar
21 months;

22 (2) "qualified research expenditure" means an
23 expenditure in connection with qualified research, but does not
24 include any expenditure on research funded by any grant,
25 contract or similar mechanism by another person or governmental

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1 entity, and does not include any expenditure on property that
2 is owned by a municipality or county in connection with an
3 industrial revenue bond project or property for which the
4 taxpayer has received any credit pursuant to the Capital
5 Equipment Tax Credit Act, the Investment Credit Act or the
6 Technology Jobs Tax Credit Act; and

7 (3) "qualified research" means research:

8 (a) that is undertaken for the purpose
9 of discovering information that is technological in nature and
10 the application of which is intended to be useful in the
11 development of a new or improved business component of the
12 taxpayer; and

13 (b) in which substantially all
14 activities constitute elements of a process of experimentation
15 related to new or improved function, performance, reliability
16 or quality, but not related to style, taste, cosmetic or
17 seasonal design factors. "

18 Section 2. A new section of the Gross Receipts and
19 Compensating Tax Act is enacted to read:

20 "[NEW MATERIAL] DEDUCTION--COMPENSATING TAX--RESEARCH AND
21 DEVELOPMENT SMALL BUSINESSES. --

22 A. A qualified research and development small
23 business may deduct the value of tangible personal property in
24 computing the compensating tax due if the property is used in
25 connection with a qualified research expenditure. The

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1 deduction provided by this section may be claimed only for a
2 period ending thirty-five consecutive calendar months after the
3 first calendar month for which the deduction is claimed.

4 B. As used in this section:

5 (1) "qualified research and development small
6 business" means a business, including a corporation, general
7 partnership, limited partnership, limited liability company,
8 sole proprietorship or other similar entity, that:

9 (a) employed no more than twenty-five
10 employees on a full-time-equivalent basis in any prior calendar
11 month;

12 (b) had total revenues of no more than
13 ten million dollars (\$10,000,000) in any prior fiscal year;

14 (c) did not in any prior calendar month
15 have more than fifty percent of its voting securities or other
16 equity interest with the right to designate or elect the board
17 of directors or other governing body of the qualified business
18 owned directly or indirectly by another business; and

19 (d) has made qualified research
20 expenditures for the period of twelve calendar months ending
21 with the month for which the deduction is sought of at least
22 twenty percent of its total revenues for those twelve calendar
23 months;

24 (2) "qualified research expenditure" means an
25 expenditure in connection with qualified research, but does not

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[bracketed material] = delete

1 include any expenditure on research funded by any grant,
2 contract or similar mechanism by another person or governmental
3 entity, and does not include any expenditure on property that
4 is owned by a municipality or county in connection with an
5 industrial revenue bond project or property for which the
6 taxpayer has received any credit pursuant to the Capital
7 Equipment Tax Credit Act, the Investment Credit Act or the
8 Technology Jobs Tax Credit Act; and

9 (3) "qualified research" means research:

10 (a) that is undertaken for the purpose
11 of discovering information that is technological in nature and
12 the application of which is intended to be useful in the
13 development of a new or improved business component of the
14 taxpayer; and

15 (b) in which substantially all
16 activities constitute elements of a process of experimentation
17 related to new or improved function, performance, reliability
18 or quality, but not related to style, taste, cosmetic or
19 seasonal design factors. "