

AN ACT

RELATING TO TAXATION; ELIMINATING NONTAXABLE TRANSACTION  
CERTIFICATE REISSUANCE REQUIREMENTS; 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. All nontaxable transaction certificates of the  
appropriate series executed by buyers or lessees should be in  
the possession of the seller or lessor for nontaxable  
transactions at the time the return is due for receipts from  
the transactions. If the seller or lessor is not in  
possession of the required nontaxable transaction certificates  
within sixty days from the date that the notice requiring  
possession of these nontaxable transaction certificates is  
given the seller or lessor by the department, deductions  
claimed by the seller or lessor that require delivery of these  
nontaxable transaction certificates shall be disallowed. The  
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 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates issued by the department. If the seller or lessor has been given an identification number for tax purposes by the department, the seller or lessor shall disclose that identification number to the buyer or lessee prior to or upon acceptance of a nontaxable transaction certificate. When the seller or lessor accepts a nontaxable transaction certificate within the required time and in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's or lessor's gross receipts.

B. Properly executed documents required to support the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74 NMSA 1978 should be in the possession of the seller at the time the return is due for receipts from the transactions. If the seller is not in possession of these documents within sixty days from the date that the notice requiring possession of these documents is given to the seller by the department, deductions claimed by the seller or lessor that require

delivery of these documents shall be disallowed. These documents shall contain the information and be in a form prescribed by the department. When the seller accepts these documents within the required time and in good faith that the buyer will employ the property or service transferred in a nontaxable manner, the properly executed documents shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's gross receipts.

C. Notice, as used in this section, is sufficient if the notice is mailed or served as provided in Subsection A of Section 7-1-9 NMSA 1978. Notice by the department under this section shall not be given prior to the commencement of an audit of the seller required to be in possession of the documents.

D. To exercise the privilege of executing appropriate nontaxable transaction certificates, a buyer or lessee shall apply to the department for permission to execute nontaxable transaction certificates, except with respect to documents issued by other states or the multistate tax commission that the department has deemed to be nontaxable transaction certificates. If a person is shown on the department's records to be a delinquent taxpayer or to have a non-filed period, the department may refuse to approve the application of the person until the person has filed returns

for all non-filed periods and is no longer shown to be a delinquent taxpayer, and the taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. Upon the department's approval of the application, the buyer or lessee may request appropriate nontaxable transaction certificates for execution by the buyer or lessee; provided that if a person is shown on the department's records to be a delinquent taxpayer or to have a non-filed period, the department may refuse to issue nontaxable transaction certificates to the person until the person has filed returns for all non-filed periods and is no longer shown to be a delinquent taxpayer. The taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. The department may require a buyer or lessee requesting and receiving nontaxable transaction certificates for execution by that buyer or lessee to report to the department the names, addresses and identification numbers assigned by the department of the sellers and lessors to whom they have delivered nontaxable transaction certificates. The department may require a seller or lessor engaged in business in New Mexico to report to the department the names, addresses and federal employer identification numbers or state identification numbers for tax purposes issued by the department of the buyers or lessees from whom the seller or lessor has accepted nontaxable transaction certificates."

Section 2. EMERGENCY.--It is necessary for the public

HB 234  
Page 4

peace, health and safety that this act take effect  
immediately.

---

Page 5

HB 234

HB 234  
Page 5