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SENATE BILL 311

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; PERMITTING A GROSS RECEIPTS TAX DEDUCTION FOR CERTAIN RESEARCH AND DEVELOPMENT SERVICES SOLD PURSUANT TO GRANTS FROM OR CONTRACTS WITH THE UNITED STATES GOVERNMENT; PERMITTING A GROSS RECEIPTS TAX DEDUCTION FOR PROPERTY SOLD FOR USE IN THE PERFORMANCE OF THOSE SERVICES; ELIMINATING A GROSS RECEIPTS TAX DEDUCTION FOR THE SALE OF AEROSPACE SERVICES TO CERTAIN ORGANIZATIONS; BROADENING A COMPENSATING TAX DEDUCTION FOR TEST ARTICLES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-9-54.5 NMSA 1978 (being Laws 2004, Chapter 16, Section 3) is amended to read:

"7-9-54.5. DEDUCTION--COMPENSATING TAX--TEST ARTICLES.--

A. The value of test articles upon which research

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 or testing is conducted in New Mexico pursuant to a contract
2 with the United States [~~department of defense~~] government or
3 any of its agencies or instrumentalities may be deducted in
4 computing the compensating tax due.

5 B. As used in this section, "test article" means:

6 (1) a material or device upon which research
7 or testing is conducted to determine the properties and
8 qualities of the material or the properties, qualities or
9 functioning of the device or a technology used with the device;
10 or

11 (2) tangible personal property or intangible
12 property used for research or testing of a material or device
13 upon which research or testing is conducted if the property is
14 consumed or becomes unfit for use as a result of the research
15 or testing.

16 C. The deduction provided by this section does not
17 apply to the value of property purchased by a prime contractor
18 operating [~~a~~] any facility in New Mexico for the United States
19 government or any of its agencies or instrumentalities,
20 including a facility designated as a national laboratory by an
21 act of congress."

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

24 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--RESEARCH
25 AND DEVELOPMENT SERVICES FOR THE UNITED STATES GOVERNMENT.--

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underscoring material = new
[bracketed material] = delete

1 Receipts from selling a research and development service
2 pursuant to a grant from or a contract with the United States
3 government or any of its agencies or instrumentalities may be
4 deducted from gross receipts, except for:

5 A. receipts of a prime contractor for operation of
6 a facility designated as a national laboratory by an act of
7 congress; and

8 B. receipts from selling a service to a prime
9 contractor that uses the service for the operation of any
10 facility in New Mexico pursuant to that prime contractor's
11 contract with the United States government or any of its
12 agencies or instrumentalities, including a facility designated
13 as a national laboratory by an act of congress."

14 Section 3. A new section of the Gross Receipts and
15 Compensating Tax Act is enacted to read:

16 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--TANGIBLE
17 PERSONAL PROPERTY USED FOR RESEARCH AND DEVELOPMENT SERVICES
18 FOR THE UNITED STATES GOVERNMENT.--

19 A. Receipts from selling tangible personal property
20 that will be used in the performance of a research and
21 development service sold pursuant to a grant from or a contract
22 with the United States government or any of its agencies or
23 instrumentalities may be deducted from gross receipts, except
24 for:

25 (1) receipts from selling tangible personal

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underscoring material = new
[bracketed material] = delete

1 property that will be used in the performance of a research and
2 development service by a prime contractor for operation of a
3 facility designated as a national laboratory by an act of
4 congress; and

5 (2) receipts from selling tangible personal
6 property that will be used in the performance of a research and
7 development service sold to a prime contractor for use in that
8 contractor's operation of any facility in New Mexico pursuant
9 to a contract with the United States government or any of its
10 agencies or instrumentalities, including a facility designated
11 as a national laboratory by an act of congress.

12 B. The deduction provided by this section may be
13 claimed by a taxpayer only if the sale is made to a person who
14 delivers a nontaxable transaction certificate to the seller.
15 The buyer delivering the nontaxable transaction certificate
16 must use the tangible personal property in the performance of a
17 research and development service pursuant to a grant from or a
18 contract with the United States government and shall not use
19 the tangible personal property in the performance of a research
20 and development service:

21 (1) by a prime contractor for operation of a
22 facility designated as a national laboratory by an act of
23 congress; or

24 (2) sold to a prime contractor for use in the
25 operation of any facility in New Mexico pursuant to a contract

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underscoring material = new
~~[bracketed material]~~ = delete

1 between that prime contractor and the United States government
2 or any of its agencies or instrumentalities, including a
3 facility designated as a national laboratory by an act of
4 congress."

5 Section 4. REPEAL.--Section 7-9-54.1 NMSA 1978 (being
6 Laws 1992, Chapter 40, Section 1, as amended) is repealed.

7 Section 5. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2006.

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