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AN ACT

RELATING TO TAXATION; ADJUSTING DISTRIBUTIONS TO MUNICIPALITIES AND COUNTIES TO OFFSET THE FOOD AND HEALTH CARE PRACTITIONER SERVICES DEDUCTIONS IN THE GROSS RECEIPTS TAX; AMENDING THE GROSS RECEIPTS AND COMPENSATING TAX ACT TO EXPAND THE DEFINITION OF RETAIL FOOD STORE FOR PURPOSES OF THE DEDUCTION FOR RECEIPTS FROM THE SALE OF FOOD.

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

Section 1. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:

"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) for a municipality having a population of less than ten thousand according to the most recent federal decennial census and having per capita taxable gross receipts for the previous calendar year that are less than the average per capita taxable gross receipts for all municipalities for that same calendar year:

(a) the total deductions claimed

1 pursuant to Section 7-9-92 NMSA 1978 for the month by
2 taxpayers from business locations attributable to the
3 municipality multiplied by the sum of the combined rate of
4 all municipal local option gross receipts taxes in effect in
5 the municipality for the month plus one and two hundred
6 twenty-five thousandths percent; and

7 (b) the total deductions claimed
8 pursuant to Section 7-9-93 NMSA 1978 for the month by
9 taxpayers from business locations attributable to the
10 municipality multiplied by the sum of the combined rate of
11 all municipal local option gross receipts taxes in effect in
12 the municipality for the month plus one and two hundred
13 twenty-five thousandths percent; or

14 (2) for a municipality not described in
15 Paragraph (1) of this subsection:

16 (a) the total deductions claimed
17 pursuant to Section 7-9-92 NMSA 1978 for the month by
18 taxpayers from business locations attributable to the
19 municipality multiplied by the sum of the combined rate of
20 all municipal local option gross receipts taxes in effect in
21 the municipality on January 1, 2007 plus one and two hundred
22 twenty-five thousandths percent; and

23 (b) the total deductions claimed
24 pursuant to Section 7-9-93 NMSA 1978 for the month by
25 taxpayers from business locations attributable to the

1 municipality multiplied by the sum of the combined rate of
2 all municipal local option gross receipts taxes in effect in
3 the municipality on January 1, 2007 plus one and two hundred
4 twenty-five thousandths percent.

5 B. The distribution pursuant to Subsection A of
6 this section is in lieu of revenue that would have been
7 received by the municipality but for the deductions provided
8 by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution
9 shall be considered gross receipts tax revenue and shall be
10 used by the municipality in the same manner as gross receipts
11 tax revenue, including payment of gross receipts tax revenue
12 bonds.

13 C. For the purposes of this section, "business
14 locations attributable to the municipality" means business
15 locations:

16 (1) within the municipality;

17 (2) on land owned by the state, commonly
18 known as the "state fairgrounds", within the exterior
19 boundaries of the municipality;

20 (3) outside the boundaries of the
21 municipality on land owned by the municipality; and

22 (4) on an Indian reservation or pueblo grant
23 in an area that is contiguous to the municipality and in
24 which the municipality performs services pursuant to a
25 contract between the municipality and the Indian tribe or

1 Indian pueblo if:

2 (a) the contract describes an area in
3 which the municipality is required to perform services and
4 requires the municipality to perform services that are
5 substantially the same as the services the municipality
6 performs for itself; and

7 (b) the governing body of the
8 municipality has submitted a copy of the contract to the
9 secretary.

10 D. A distribution pursuant to this section may be
11 adjusted for a distribution made to a tax increment
12 development district with respect to a portion of a gross
13 receipts tax increment dedicated by a municipality pursuant
14 to the Tax Increment for Development Act."

15 Section 2. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
16 Chapter 116, Section 2, as amended) is amended to read:

17 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
18 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

19 A. A distribution pursuant to Section 7-1-6.1 NMSA
20 1978 shall be made to a county in an amount, subject to any
21 increase or decrease made pursuant to Section 7-1-6.15 NMSA
22 1978, equal to the sum of:

23 (1) for a county having a population of less
24 than forty-eight thousand according to the most recent
25 federal decennial census:

1 (a) the total deductions claimed
2 pursuant to Section 7-9-92 NMSA 1978 for the month by
3 taxpayers from business locations within a municipality in
4 the county multiplied by the combined rate of all county
5 local option gross receipts taxes in effect for the month
6 that are imposed throughout the county;

7 (b) the total deductions claimed
8 pursuant to Section 7-9-92 NMSA 1978 for the month by
9 taxpayers from business locations in the county but not
10 within a municipality multiplied by the combined rate of all
11 county local option gross receipts taxes in effect for the
12 month that are imposed in the county area not within a
13 municipality;

14 (c) the total deductions claimed
15 pursuant to Section 7-9-93 NMSA 1978 for the month by
16 taxpayers from business locations within a municipality in
17 the county multiplied by the combined rate of all county
18 local option gross receipts taxes in effect for the month
19 that are imposed throughout the county; and

20 (d) the total deductions claimed
21 pursuant to Section 7-9-93 NMSA 1978 for the month by
22 taxpayers from business locations in the county but not
23 within a municipality multiplied by the combined rate of all
24 county local option gross receipts taxes in effect for the
25 month that are imposed in the county area not within a

1 municipality; or

2 (2) for a county not described in Paragraph
3 (1) of this subsection:

4 (a) the total deductions claimed
5 pursuant to Section 7-9-92 NMSA 1978 for the month by
6 taxpayers from business locations within a municipality in
7 the county multiplied by the combined rate of all county
8 local option gross receipts taxes in effect on January 1,
9 2007 that are imposed throughout the county;

10 (b) the total deductions claimed
11 pursuant to Section 7-9-92 NMSA 1978 for the month by
12 taxpayers from business locations in the county but not
13 within a municipality multiplied by the combined rate of all
14 county local option gross receipts taxes in effect on January
15 1, 2007 that are imposed in the county area not within a
16 municipality;

17 (c) the total deductions claimed
18 pursuant to Section 7-9-93 NMSA 1978 for the month by
19 taxpayers from business locations within a municipality in
20 the county multiplied by the combined rate of all county
21 local option gross receipts taxes in effect on January 1,
22 2007 that are imposed throughout the county; and

23 (d) the total deductions claimed
24 pursuant to Section 7-9-93 NMSA 1978 for the month by
25 taxpayers from business locations in the county but not

1 within a municipality multiplied by the combined rate of all
2 county local option gross receipts taxes in effect on January
3 1, 2007 that are imposed in the county area not within a
4 municipality.

5 B. The distribution pursuant to Subsection A of
6 this section is in lieu of revenue that would have been
7 received by the county but for the deductions provided by
8 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
9 be considered gross receipts tax revenue and shall be used by
10 the county in the same manner as gross receipts tax revenue,
11 including payment of gross receipts tax revenue bonds.

12 C. A distribution pursuant to this section may be
13 adjusted for a distribution made to a tax increment
14 development district with respect to a portion of a gross
15 receipts tax increment dedicated by a county pursuant to the
16 Tax Increment for Development Act."

17 Section 3. Section 7-9-92 NMSA 1978 (being Laws 2004,
18 Chapter 116, Section 5) is amended to read:

19 "7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT
20 RETAIL FOOD STORE.--

21 A. Receipts from the sale of food at a retail food
22 store that are not exempt from gross receipts taxation and
23 are not deductible pursuant to another provision of the Gross
24 Receipts and Compensating Tax Act may be deducted from gross
25 receipts. The deduction provided by this section shall be

1 separately stated by the taxpayer.

2 B. For the purposes of this section:

3 (1) "food" means any food or food product
4 for home consumption that meets the definition of food in 7
5 USCA 2012(g)(1) for purposes of the federal food stamp
6 program; and

7 (2) "retail food store" means an
8 establishment that sells food for home preparation and
9 consumption and that meets the definition of retail food
10 store in 7 USCA 2012(k)(1) for purposes of the federal food
11 stamp program, whether or not the establishment participates
12 in the food stamp program; provided, however, that if more
13 than seventy-five percent of the total sales of the
14 establishment consist of bottled water, ice and coffee, the
15 establishment shall be considered a "retail food store" for
16 the purposes of this section."

17 Section 4. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2007. _____

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