

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 455

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FOR SPECIAL FUEL
CONSISTING OF VEGETABLE OIL OR ANIMAL FAT FROM SPECIAL FUEL
EXCISE TAX AND GROSS RECEIPTS PAID.

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--SPECIAL FUEL,
DYED DIESEL.--Receipts from selling special fuel consisting of
at least ninety-nine percent vegetable oil or animal fat may be
deducted from gross receipts if the deduction from the special
fuel excise tax pursuant to Section 7-16A-10 NMSA 1978 is
claimed."

Section 2. Section 7-16A-10 NMSA 1978 (being Laws 1992,
Chapter 51, Section 10, as amended) is amended to read:

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1 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL
2 FUEL SUPPLIERS.--In computing the tax due, the following
3 amounts of special fuel may be deducted from the total amount
4 of special fuel received in New Mexico during the tax period,
5 provided that satisfactory proof thereof is furnished to the
6 department:

7 A. special fuel received in New Mexico, but
8 exported from this state by a rack operator, special fuel
9 supplier or dealer, other than in the fuel supply tank of a
10 motor vehicle or sold for export by a rack operator or
11 distributor; provided that, in either case:

12 (1) the person exporting the special fuel is
13 registered in or licensed by the destination state to pay that
14 state's special fuel or equivalent fuel tax;

15 (2) proof is submitted that the destination
16 state's special fuel or equivalent fuel tax has been paid or is
17 not due with respect to the special fuel; or

18 (3) the destination state's special fuel or
19 equivalent fuel tax is paid to New Mexico in accordance with
20 the terms of an agreement entered into pursuant to Section
21 9-11-12 NMSA 1978 with the destination state;

22 B. special fuel sold to the United States or any
23 agency or instrumentality thereof for the exclusive use of the
24 United States or any agency or instrumentality thereof.

25 Special fuel sold to the United States includes special fuel
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1 delivered into the supply tank of a government-licensed
2 vehicle;

3 C. special fuel sold to the state of New Mexico or
4 any political subdivision, agency or instrumentality thereof
5 for the exclusive use of the state of New Mexico or any
6 political subdivision, agency or instrumentality thereof.

7 Special fuel sold to the state of New Mexico includes special
8 fuel delivered into the supply tank of a government-licensed
9 vehicle;

10 D. special fuel sold to an Indian nation, tribe or
11 pueblo or any agency or instrumentality thereof for the
12 exclusive use of the Indian nation, tribe or pueblo or any
13 agency or instrumentality thereof. Special fuel sold to an
14 Indian nation, tribe or pueblo includes special fuel delivered
15 into the supply tank of a government-licensed vehicle;

16 E. special fuel dyed in accordance with federal
17 regulations;

18 F. special fuel that is number 2 diesel fuel sold
19 for the generation of power to propel a vehicle authorized by
20 contract with the public education department as a school bus;
21 provided that the fuel has a distillation temperature of five
22 hundred degrees Fahrenheit at a ten percent recovery point and
23 six hundred forty degrees Fahrenheit at a ninety percent
24 recovery point; [~~and~~]

25 G. special fuel received in New Mexico on which New
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1 Mexico special fuel excise tax was paid by the out-of-state
2 terminal at which the special fuel was loaded, provided that
3 documentation that the special fuel was to be imported into New
4 Mexico was provided to the terminal operator by the person
5 receiving the fuel; and

6 H. special fuel received in New Mexico that
7 consists of at least ninety-nine percent vegetable oil or
8 animal fat; provided that the use is restricted to an auxiliary
9 fuel system that is subject to a certificate of conformity
10 pursuant to the federal Clean Air Act."

11 Section 3. Section 7-16A-10 NMSA 1978 (being Laws 1992,
12 Chapter 51, Section 10, as amended by Section 2 of this act) is
13 repealed and a new Section 7-16A-10 NMSA 1978 is enacted to
14 read:

15 "[NEW MATERIAL] 7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE
16 TAX--SPECIAL FUEL SUPPLIERS.--In computing the tax due, the
17 following amounts of special fuel may be deducted from the
18 total amount of special fuel received in New Mexico during the
19 tax period, provided that satisfactory proof thereof is
20 furnished to the department:

21 A. special fuel received in New Mexico, but
22 exported from this state by a rack operator, special fuel
23 supplier or dealer, other than in the fuel supply tank of a
24 motor vehicle or sold for export by a rack operator or
25 distributor; provided that, in either case:

.178451.2

1 (1) the person exporting the special fuel is
2 registered in or licensed by the destination state to pay that
3 state's special fuel or equivalent fuel tax;

4 (2) proof is submitted that the destination
5 state's special fuel or equivalent fuel tax has been paid or is
6 not due with respect to the special fuel; or

7 (3) the destination state's special fuel or
8 equivalent fuel tax is paid to New Mexico in accordance with
9 the terms of an agreement entered into pursuant to Section
10 9-11-12 NMSA 1978 with the destination state;

11 B. special fuel sold to the United States or any
12 agency or instrumentality thereof for the exclusive use of the
13 United States or any agency or instrumentality thereof.

14 Special fuel sold to the United States includes special fuel
15 delivered into the supply tank of a government-licensed
16 vehicle;

17 C. special fuel sold to the state of New Mexico or
18 any political subdivision, agency or instrumentality thereof
19 for the exclusive use of the state of New Mexico or any
20 political subdivision, agency or instrumentality thereof.

21 Special fuel sold to the state of New Mexico includes special
22 fuel delivered into the supply tank of a government-licensed
23 vehicle;

24 D. special fuel sold to an Indian nation, tribe or
25 pueblo or any agency or instrumentality thereof for the

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1 exclusive use of the Indian nation, tribe or pueblo or any
2 agency or instrumentality thereof. Special fuel sold to an
3 Indian nation, tribe or pueblo includes special fuel delivered
4 into the supply tank of a government-licensed vehicle;

5 E. special fuel dyed in accordance with federal
6 regulations;

7 F. special fuel that is number 2 diesel fuel sold
8 for the generation of power to propel a vehicle authorized by
9 contract with the public education department as a school bus;
10 provided that the fuel has a distillation temperature of five
11 hundred degrees Fahrenheit at a ten percent recovery point and
12 six hundred forty degrees Fahrenheit at a ninety percent
13 recovery point; and

14 G. special fuel received in New Mexico on which New
15 Mexico special fuel excise tax was paid by the out-of-state
16 terminal at which the special fuel was loaded, provided that
17 documentation that the special fuel was to be imported into New
18 Mexico was provided to the terminal operator by the person
19 receiving the fuel."

20 Section 4. DELAYED REPEAL.--Section 1 of this act is
21 repealed effective July 1, 2014.

22 Section 5. EFFECTIVE DATES.--

23 A. The effective date of the provisions of Sections
24 1 and 2 of this act is July 1, 2009.

25 B. The effective date of the provisions of Section

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1 3 of this act is July 1, 2014.

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