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HOUSE BILL 35

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Brian F. Egolf

AN ACT

RELATING TO TAXATION; INCREASING THE CIGARETTE TAX AND THE TOBACCO PRODUCTS TAX; DISTRIBUTING THE REVENUE ATTRIBUTABLE TO THE INCREASED TAXES TO THE PUBLIC SCHOOL FUND; ADJUSTING THE DISTRIBUTORS' CIGARETTE TAX STAMP DISCOUNTS.

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

Section 1. Section 7-1-6.11 NMSA 1978 (being Laws 1983, Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county and municipality recreational fund in an amount equal to ~~[one and thirty-five hundredths]~~ ninety-three hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to the county and municipal cigarette tax
2 fund in an amount equal to [~~two and sixty-nine hundredths~~] one
3 and eighty-five hundredths percent of the net receipts,
4 exclusive of penalties and interest, attributable to the
5 cigarette tax.

6 C. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the cancer research and treatment center
8 at the university of New Mexico health sciences center in an
9 amount equal to [~~one and thirty-five hundredths~~] ninety-three
10 hundredths percent of the net receipts, exclusive of penalties
11 and interest, attributable to the cigarette tax.

12 D. A distribution pursuant to Section 7-1-6.1 NMSA
13 1978 shall be made to the New Mexico finance authority in an
14 amount equal to [~~two and two hundredths~~] one and thirty-nine
15 hundredths percent of the net receipts, exclusive of penalties
16 and interest, attributable to the cigarette tax.

17 E. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 in an amount equal to [~~fourteen and thirty-seven~~
19 ~~hundredths~~] nine and eighty-seven hundredths percent of the net
20 receipts, exclusive of penalties and interest, attributable to
21 the cigarette tax, shall be made, on behalf of and for the
22 benefit of the university of New Mexico health sciences center,
23 to the New Mexico finance authority.

24 F. A distribution pursuant to Section 7-1-6.1 NMSA
25 1978 in an amount equal to [~~six and five hundredths~~] four and

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1 sixteen-hundredths percent of the net receipts, exclusive of
2 penalties and interest, attributable to the cigarette tax shall
3 be made to the New Mexico finance authority for land
4 acquisition and the planning, designing, construction and
5 equipping of department of health facilities or improvements to
6 such facilities.

7 G. A distribution pursuant to Section 7-1-6.1 NMSA
8 1978 in an amount equal to [~~fifteen and seventy-nine~~
9 ~~hundredths~~] ten and eighty-five hundredths percent of the net
10 receipts, exclusive of penalties and interest, attributable to
11 the cigarette tax shall be made to the New Mexico finance
12 authority for deposit in the credit enhancement account created
13 in the authority.

14 H. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 in an amount equal to [~~one~~] sixty-nine hundredths percent
16 of the net receipts, exclusive of penalties and interest,
17 attributable to the cigarette tax shall be made, on behalf of
18 and for the benefit of the rural county cancer treatment fund,
19 to the New Mexico finance authority.

20 I. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 in an amount equal to fifty-two and thirty-six hundredths
22 percent of the net receipts, exclusive of penalties and
23 interest, attributable to the cigarette tax shall be made to
24 the public school fund."

25 Section 2. A new section of the Tax Administration Act is
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1 enacted to read:

2 "[NEW MATERIAL] TOBACCO PRODUCTS TAX--DISTRIBUTION TO
3 PUBLIC SCHOOL FUND.--A distribution pursuant to Section 7-1-6.1
4 NMSA 1978 shall be made to the public school fund in an amount
5 equal to sixty-two and fifty-hundredths percent of the net
6 receipts, exclusive of penalties and interest, attributable to
7 the tobacco products tax."

8 Section 3. Section 7-12-3 NMSA 1978 (being Laws 1971,
9 Chapter 77, Section 3, as amended) is amended to read:

10 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

11 A. For the privilege of selling, giving or
12 consuming cigarettes in New Mexico, there is levied an excise
13 tax at the following rates for each cigarette sold, given or
14 consumed in this state:

15 (1) [~~four and fifty-five hundredths cents~~
16 ~~(\$.0455)~~] nine and fifty-five hundredths cents (\$0.0955) if the
17 cigarettes are packaged in lots of twenty or twenty-five;

18 (2) [~~nine and ten-hundredths cents (\$0.091)~~]
19 nineteen and ten-hundredths cents (\$0.191) if the cigarettes are
20 packaged in lots of ten; or

21 (3) [~~eighteen and twenty-hundredths cents~~
22 ~~(\$0.182)~~] thirty-eight and twenty-hundredths cents (\$0.382) if
23 the cigarettes are packaged in lots of five.

24 B. The tax imposed by this section shall be
25 referred to as the "cigarette tax".

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1 Section 4. Section 7-12-7 NMSA 1978 (being Laws 1971,
2 Chapter 77, Section 7, as amended by Laws 2006, Chapter 89,
3 Section 3 and by Laws 2006, Chapter 91, Section 6) is amended
4 to read:

5 "7-12-7. SALE OF STAMPS--PRICES.--

6 A. Only the department shall sell stamps. Stamps
7 may be sold by the department only to a distributor.

8 B. Stamps shall display a serial number. Stamps
9 bearing the same serial number shall not be sold to more than
10 one distributor. The department shall keep records of the
11 serial numbers of the stamps provided to each distributor.

12 C. A stamp shall be affixed to a package of
13 cigarettes in such a manner as to clearly display the serial
14 number at the point of sale.

15 D. Tax stamps shall be sold at their face value
16 with the following discounts:

17 (1) [~~one~~] forty-eight hundredths percent less
18 than the face value of the first thirty thousand dollars
19 (\$30,000) of stamps purchased in one calendar month;

20 (2) [~~eight-tenths~~] thirty-eight hundredths
21 percent less than the face value of the second thirty thousand
22 dollars (\$30,000) of stamps purchased in one calendar month;
23 and

24 (3) [~~one-half~~] twenty-four hundredths percent
25 less than the face value of stamps purchased in excess of sixty
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1 thousand dollars (\$60,000) in one calendar month.

2 E. If the face value of tax stamps sold in a single
3 sale is less than one thousand dollars (\$1,000), the discount
4 provided for in this section shall not be allowed.

5 F. Payment for tax stamps shall be made on or
6 before the twenty-fifth day of the month following the month in
7 which the sale of stamps by the department is made.

8 G. Tax-exempt stamps shall be provided only to
9 distributors and shall be free of charge; provided that the
10 distributor is in full compliance with the reporting
11 requirements of the Cigarette Tax Act and rules adopted
12 pursuant to that act."

13 Section 5. Section 7-12A-3 NMSA 1978 (being Laws 1986,
14 Chapter 112, Section 4, as amended) is amended to read:

15 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
16 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

17 A. For the manufacture or acquisition of tobacco
18 products in New Mexico to be distributed in the ordinary course
19 of business and for the consumption of tobacco products in New
20 Mexico, there is imposed an excise tax at the rate of [~~twenty-~~
21 ~~five~~] forty percent of the product value of the tobacco
22 products.

23 B. The tax imposed by Subsection A of this section
24 may be referred to as the "tobacco products tax".

25 C. The tobacco products tax shall be paid by the

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1 first purchaser on or before the twenty-fifth day of the month
2 following the month in which the taxable event occurs."

3 Section 6. APPLICABILITY.--The distributions pursuant to
4 the provisions of Sections 1 and 2 of this act apply to
5 receipts from the cigarette tax and the tobacco products tax
6 that are attributable to sales that occur on or after July 1,
7 2010.

8 Section 7. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2010.

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