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SENATE BILL 11

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

INTRODUCED BY
Eric G. Griego

AN ACT

RELATING TO TAXATION; REPEALING THE GROSS RECEIPTS TAX
DEDUCTION FOR RECEIPTS FROM THE SALE OF FOOD; ELIMINATING
CERTAIN DISTRIBUTIONS BASED ON THE GROSS RECEIPTS TAX DEDUCTION
FOR RECEIPTS FROM THE SALE OF FOOD; PROVIDING AN INCOME TAX
REBATE FOR A PORTION OF GROSS RECEIPTS TAXES PAID ON 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
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1 1978, equal to the sum of:

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

8 [~~(a) the total deductions claimed~~
9 ~~pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers~~
10 ~~from business locations attributable to the municipality~~
11 ~~multiplied by the sum of the combined rate of all municipal~~
12 ~~local option gross receipts taxes in effect in the municipality~~
13 ~~for the month plus one and two hundred twenty-five thousandths~~
14 ~~percent; and~~

15 ~~(b)]~~ the total deductions claimed
16 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
17 from business locations attributable to the municipality
18 multiplied by the sum of the combined rate of all municipal
19 local option gross receipts taxes in effect in the municipality
20 for the month plus one and two hundred twenty-five thousandths
21 percent; or

22 (2) for a municipality not described in
23 Paragraph (1) of this subsection,

24 [~~(a) the total deductions claimed~~
25 ~~pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers~~

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1 ~~from business locations attributable to the municipality~~
2 ~~multiplied by the sum of the combined rate of all municipal~~
3 ~~local option gross receipts taxes in effect in the municipality~~
4 ~~on January 1, 2007 plus one and two hundred twenty-five~~
5 ~~thousandths percent; and~~

6 (b)] the total deductions claimed
7 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
8 from business locations attributable to the municipality
9 multiplied by the sum of the combined rate of all municipal
10 local option gross receipts taxes in effect in the municipality
11 on January 1, 2007 plus one and two hundred twenty-five
12 thousandths percent.

13 B. The distribution pursuant to Subsection A of
14 this section is in lieu of revenue that would have been
15 received by the municipality but for the deductions provided by
16 [~~Sections 7-9-92 and~~] Section 7-9-93 NMSA 1978. The
17 distribution shall be considered gross receipts tax revenue and
18 shall be used by the municipality in the same manner as gross
19 receipts tax revenue, including payment of gross receipts tax
20 revenue bonds.

21 C. For the purposes of this section, "business
22 locations attributable to the municipality" means business
23 locations:

- 24 (1) within the municipality;
25 (2) on land owned by the state, commonly known

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1 as the "state fairgrounds", within the exterior boundaries of
2 the municipality;

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

5 (4) on an Indian reservation or pueblo grant
6 in an area that is contiguous to the municipality and in which
7 the municipality performs services pursuant to a contract
8 between the municipality and the Indian tribe or Indian pueblo
9 if:

10 (a) the contract describes an area in
11 which the municipality is required to perform services and
12 requires the municipality to perform services that are
13 substantially the same as the services the municipality
14 performs for itself; and

15 (b) the governing body of the
16 municipality has submitted a copy of the contract to the
17 secretary.

18 D. A distribution pursuant to this section may be
19 adjusted for a distribution made to a tax increment development
20 district with respect to a portion of a gross receipts tax
21 increment dedicated by a municipality pursuant to the Tax
22 Increment for Development Act."

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

25 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR ~~[FOOD~~
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1 ~~DEDUCTION AND~~] HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

2 A. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to a county in an amount, subject to any
4 increase or decrease made pursuant to Section 7-1-6.15 NMSA
5 1978, equal to the sum of:

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

9 ~~[(a) the total deductions claimed~~
10 ~~pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers~~
11 ~~from business locations within a municipality in the county~~
12 ~~multiplied by the combined rate of all county local option~~
13 ~~gross receipts taxes in effect for the month that are imposed~~
14 ~~throughout the county;~~

15 ~~(b) the total deductions claimed~~
16 ~~pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers~~
17 ~~from business locations in the county but not within a~~
18 ~~municipality multiplied by the combined rate of all county~~
19 ~~local option gross receipts taxes in effect for the month that~~
20 ~~are imposed in the county area not within a municipality;~~

21 ~~(c)]~~ (a) the total deductions claimed
22 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
23 from business locations within a municipality in the county
24 multiplied by the combined rate of all county local option
25 gross receipts taxes in effect for the month that are imposed

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1 throughout the county; and

2 [~~(d)~~] (b) the total deductions claimed
3 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
4 from business locations in the county but not within a
5 municipality multiplied by the combined rate of all county
6 local option gross receipts taxes in effect for the month that
7 are imposed in the county area not within a municipality; or

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

10 [~~(a)~~] ~~the total deductions claimed~~
11 ~~pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers~~
12 ~~from business locations within a municipality in the county~~
13 ~~multiplied by the combined rate of all county local option~~
14 ~~gross receipts taxes in effect on January 1, 2007 that are~~
15 ~~imposed throughout the county;~~

16 [~~(b)~~] ~~the total deductions claimed~~
17 ~~pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers~~
18 ~~from business locations in the county but not within a~~
19 ~~municipality multiplied by the combined rate of all county~~
20 ~~local option gross receipts taxes in effect on January 1, 2007~~
21 ~~that are imposed in the county area not within a municipality;~~

22 ~~(e)]~~ (a) the total deductions claimed
23 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
24 from business locations within a municipality in the county
25 multiplied by the combined rate of all county local option

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1 gross receipts taxes in effect on January 1, 2007 that are
2 imposed throughout the county; and

3 [~~(d)~~] (b) the total deductions claimed
4 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
5 from business locations in the county but not within a
6 municipality multiplied by the combined rate of all county
7 local option gross receipts taxes in effect on January 1, 2007
8 that are imposed in the county area not within a municipality.

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

17 C. A distribution pursuant to this section may be
18 adjusted for a distribution made to a tax increment development
19 district with respect to a portion of a gross receipts tax
20 increment dedicated by a county pursuant to the Tax Increment
21 for Development Act."

22 Section 3. A new section of the Income Tax Act is enacted
23 to read:

24 "[NEW MATERIAL] REBATE FOR GROSS RECEIPTS TAX ON FOOD--
25 REFUND.--

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1 A. A resident who files an individual New Mexico
2 income tax return and who is not a dependent of another
3 individual may claim a rebate for a portion of gross receipts
4 taxes on food purchases to which the resident has been subject
5 during the taxable year for which the return is filed. The
6 rebate may be claimed even though the resident has no income
7 taxable under the Income Tax Act. The rebate shall be based on
8 the number of personal exemptions allowed for federal income
9 tax purposes for individuals domiciled in New Mexico and
10 included in the return filed by the taxpayer. The rebate
11 amount shall be in the amounts specified in Subsection B of
12 this section.

13 B. For heads of household, surviving spouses,
14 married individuals filing joint returns, married individuals
15 filing separate returns and single individuals, the rebate
16 shall be at the following amount, but if reduced, the amount of
17 the rebate shall not be reduced below zero:

18	If the number	And the adjusted	
19	of personal	gross income does	
20	exemptions is:	not exceed:	The rebate is:
21	1	\$21,660	\$108 less 2% of
22			excess over \$16,245
23	2	\$29,140	\$146 less 2% of
24			excess over \$21,855
25	3	\$36,620	\$183 less 2% of

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1			excess over \$27,465
2	4	\$44,100	\$221 less 2% of
3			excess over \$33,075
4	5	\$51,580	\$258 less 2% of
5			excess over \$38,685
6	6	\$59,060	\$295 less 2% of
7			excess over \$44,295
8	7	\$66,540	\$333 less 2% of
9			excess over \$49,905
10	8	\$74,020	\$370 less 2% of
11			excess over \$55,515
12	9	\$81,500	\$408 less 2% of
13			excess over
14			\$61,125.

15 C. The tax rebate provided for in this section may
16 be deducted from the taxpayer's New Mexico income tax liability
17 for the taxable year. If the tax rebate exceeds the taxpayer's
18 income tax liability, the excess shall be refunded to the
19 taxpayer.

20 D. No claim for the tax rebate provided in this
21 section shall be allowed for a resident who was an inmate of a
22 public institution for more than six months during the taxable
23 year for which the rebate could be claimed or who was not
24 physically present in New Mexico for at least six months during
25 the taxable year for which the tax rebate could be claimed.

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1 E. A husband and wife who file separate returns for
2 a taxable year in which they could have filed a joint return
3 may each claim the tax rebate based on the number of personal
4 exemptions allowed for federal income tax purposes; provided
5 that the combined amount of the rebate for both married
6 taxpayers shall not exceed the rebate that would have been
7 allowed on a joint return."

8 Section 4. REPEAL.--Section 7-9-92 NMSA 1978 (being Laws
9 2004, Chapter 116, Section 5) is repealed effective July 1,
10 2010.

11 Section 5. APPLICABILITY.--

12 A. The distributions pursuant to Sections 1 and 2
13 of this act apply to receipts from the gross receipts tax that
14 are attributable to gross receipts received on or after July 1,
15 2010.

16 B. The provisions of Section 3 of this act apply to
17 taxable years beginning on or after January 1, 2010.