

1 HOUSE BILL 429

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Ben Lujan

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10 AN ACT

11 RELATING TO TAXATION; CLARIFYING TRANSACTION REQUIREMENTS FOR  
12 CERTAIN COMPENSATING TAX PURPOSES; EQUALIZING THE COMPENSATING  
13 TAX ON CERTAIN SERVICES WITH COMPENSATING TAX ON TANGIBLE  
14 PROPERTY.

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

17 SECTION 1. Section 7-9-7 NMSA 1978 (being Laws 1966,  
18 Chapter 47, Section 7, as amended) is amended to read:

19 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
20 "COMPENSATING TAX".--

21 A. For the privilege of using tangible property in  
22 New Mexico, there is imposed on the person using the property  
23 an excise tax equal to five and one-eighth percent of the value  
24 of tangible property that was:

25 (1) manufactured by the person using the

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1 property in the state;

2 (2) acquired inside or outside of this state  
3 as the result of a transaction with a person located outside  
4 this state that would have been subject to the gross receipts  
5 tax had the tangible personal property been acquired from a  
6 person with nexus with New Mexico; or

7 (3) acquired as the result of a transaction  
8 that was not initially subject to the compensating tax imposed  
9 by Paragraph (2) of this subsection or the gross receipts tax  
10 but which transaction, because of the buyer's subsequent use of  
11 the property, should have been subject to the compensating tax  
12 imposed by Paragraph (2) of this subsection or the gross  
13 receipts tax.

14 B. For the purpose of Subsection A of this section,  
15 value of tangible property shall be the adjusted basis of the  
16 property for federal income tax purposes determined as of the  
17 time of acquisition or introduction into this state or of  
18 conversion to use, whichever is later. If no adjusted basis  
19 for federal income tax purposes is established for the  
20 property, a reasonable value of the property shall be used.

21 C. For the privilege of using services rendered in  
22 New Mexico, there is imposed on the person using such services  
23 an excise tax equal to five and one-eighth percent of the value  
24 of the services at the time they were rendered. The services,  
25 to be taxable under this subsection, must have been rendered as

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underscoring material = new  
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1 the result of a transaction that was not initially subject to  
2 the gross receipts tax but which transaction, because of the  
3 buyer's subsequent use of the services, should have been  
4 subject to the gross receipts tax.

5 D. The tax imposed by this section shall be  
6 referred to as the "compensating tax".

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