

AN ACT

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

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

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

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

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

(1) manufactured by the person using the property in the state;

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

(3) acquired as the result of a transaction that was not initially subject to the compensating tax imposed by Paragraph (2) of this subsection or the gross receipts tax

but which transaction, because of the buyer's subsequent use of the property, should have been subject to the compensating tax imposed by Paragraph (2) of this subsection or the gross receipts tax.

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

C. For the privilege of using services rendered in New Mexico, there is imposed on the person using such services an excise tax equal to five percent of the value of the services at the time they were rendered. The services, to be taxable under this subsection, must have been rendered as the result of a transaction that was not initially subject to the gross receipts tax but which transaction, because of the buyer's subsequent use of the services, should have been subject to the gross receipts tax.

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