SENATE BILL 117

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO TAXATION; GRANTING SOLE MEMBER LIMITED LIABILITY COMPANIES THE TAX STATUS OF THE SOLE MEMBER FOR CERTAIN PURPOSES OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR CERTAIN SALES TO A SOLE MEMBER LIMITED LIABILITY COMPANY THAT HAS BEEN GRANTED TAX EXEMPTION STATUS UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE.

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

SECTION 1. Section 7-9-15 NMSA 1978 (being Laws 1970, Chapter 12, Section 1, as amended) is amended to read:

"7-9-15. EXEMPTION--COMPENSATING TAX--CERTAIN ORGANIZATIONS.--Exempted from the compensating tax is the use of property by organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended or renumbered, in the conduct of functions described in Section 501(c)(3). The department shall deem a limited liability company whose sole member is an organization described in Section 501(c)(3) to have been granted the same tax exemption status as its sole member. The use of property as an ingredient or component part of a construction project is not a use in the conduct of functions described in Section 501(c)(3). This section does not apply to the use of property in an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1954, as amended or renumbered."

SECTION 2. Section 7-9-29 NMSA 1978 (being Laws 1970, Chapter 12, Section 3, as amended) is amended to read:

"7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN ORGANIZATIONS.--

A. Exempted from the gross receipts tax are the receipts of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended or renumbered. The department shall deem a limited liability company whose sole member is an organization described in Section 501(c)(3) to have been granted the same tax exemption status as its sole member.

B. Exempted from the gross receipts tax are the receipts from carrying on chamber of commerce, visitor bureau and convention bureau functions of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(6) of the United States Internal Revenue Code of 1954, as amended or renumbered.

C. This section does not apply to receipts derived from an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1954, as amended or renumbered."

SECTION 3. Section 7-9-60 NMSA 1978 (being Laws 1970, Chapter 12, Section 4, as amended) is amended to read:

"7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

A. Except as provided otherwise in Subsection B of this section, receipts from selling tangible personal property to 501(c)(3) organizations may be deducted from gross receipts or from governmental gross receipts if the sale is made to an organization that delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate shall employ the tangible personal property in the

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conduct of functions described in Section 501(c)(3) and shall not employ the tangible personal property in the conduct of an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as amended or renumbered.

B. The deduction provided by this section does not apply to receipts from selling construction material or from selling metalliferous mineral ore; except that receipts from selling construction material or from selling metalliferous mineral ore to a 501(c)(3) organization that is organized for the purpose of providing homeownership opportunities to low-income families may be deducted from gross receipts. Receipts may be deducted under this subsection only if the buyer delivers a nontaxable transaction certificate to the seller. The buyer shall use the property in the conduct of functions described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not employ the tangible personal property in the conduct of an unrelated trade or business as defined in Section 513 of that code.

C. For the purposes of this section, "501(c)(3) organization" means an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered, including a limited liability company whose sole member is an organization described in that section and that has been granted that tax exemption status."

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2014.

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