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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

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1 tax by the United States commissioner of internal revenue as  
2 organizations described in Section 501(c)(3) of the United  
3 States Internal Revenue Code of 1954, as amended or renumbered,  
4 in the conduct of functions described in Section 501(c)(3).  
5 The department shall deem a limited liability company whose  
6 sole member is an organization described in Section 501(c)(3)  
7 to have been granted the same tax exemption status as its sole  
8 member. The use of property as an ingredient or component part  
9 of a construction project is not a use in the conduct of  
10 functions described in Section 501(c)(3). This section does  
11 not apply to the use of property in an unrelated trade or  
12 business as defined in Section 513 of the United States  
13 Internal Revenue Code of 1954, as amended or renumbered."

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

16 "7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN  
17 ORGANIZATIONS.--

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

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1 to have been granted the same tax exemption status as its sole  
2 member.

3 B. Exempted from the gross receipts tax are the  
4 receipts from carrying on chamber of commerce, visitor bureau  
5 and convention bureau functions of organizations that  
6 demonstrate to the department that they have been granted  
7 exemption from the federal income tax by the United States  
8 commissioner of internal revenue as organizations described in  
9 Section 501(c)(6) of the United States Internal Revenue Code of  
10 1954, as amended or renumbered.

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

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

17 "7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL  
18 GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

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

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

6 B. The deduction provided by this section does not  
7 apply to receipts from selling construction material or from  
8 selling metalliferous mineral ore; except that receipts from  
9 selling construction material or from selling metalliferous  
10 mineral ore to a 501(c)(3) organization that is organized for  
11 the purpose of providing homeownership opportunities to low-  
12 income families may be deducted from gross receipts. Receipts  
13 may be deducted under this subsection only if the buyer  
14 delivers a nontaxable transaction certificate to the seller.  
15 The buyer shall use the property in the conduct of functions  
16 described in Section 501(c)(3) of the Internal Revenue Code of  
17 1986, as amended, and shall not employ the tangible personal  
18 property in the conduct of an unrelated trade or business as  
19 defined in Section 513 of that code.

20 C. For the purposes of this section, "501(c)(3)  
21 organization" means an organization that has been granted  
22 exemption from the federal income tax by the United States  
23 commissioner of internal revenue as an organization described  
24 in Section 501(c)(3) of the United States Internal Revenue Code  
25 of 1986, as amended or renumbered, including a limited

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1 liability company whose sole member is an organization  
2 described in that section and that has been granted that tax  
3 exemption status."

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

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