

1 SENATE BILL 281

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO TAXATION; AMENDING THE UNIFORM DIVISION OF INCOME
12 FOR TAX PURPOSES ACT TO DETERMINE IN-STATE SALES OF INTANGIBLES
13 AND SERVICES BASED ON MARKET SOURCING RATHER THAN COST OF
14 PERFORMANCE.

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

17 SECTION 1. Section 7-4-18 NMSA 1978 (being Laws 1965,
18 Chapter 203, Section 18) is amended to read:

19 "7-4-18. DETERMINATION OF SALES IN THIS STATE OF
20 SERVICES AND OTHER [~~THAN TANGIBLE PERSONAL~~] PROPERTY FOR
21 INCLUSION IN SALES FACTOR.--

22 A. Sales, other than sales [~~of tangible personal~~
23 ~~property~~] described in Section 7-4-17 NMSA 1978, are in this
24 state if

25 [~~A. the income-producing activity is performed in~~

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1 ~~this state; or~~

2 ~~B. the income-producing activity is performed both~~
3 ~~in and outside this state and a greater proportion of the~~
4 ~~income-producing activity is performed in this state than in~~
5 ~~any other state based on costs of performance]~~ the sales are
6 from the:

7 (1) sale, rental, lease or license of real
8 property and the real property is located in this state;

9 (2) rental, lease or license of tangible
10 personal property and the tangible personal property is located
11 in this state;

12 (3) sale of a service and the service is
13 delivered to a location in this state; and

14 (4) sale, rental, lease or license of
15 intangible property and the intangible property is used in this
16 state.

17 B. If the state or states of assignment under
18 Subsection A of this section cannot be determined, the state or
19 states of assignment shall be reasonably approximated.

20 C. If the taxpayer is not taxable in a state to
21 which a sale is assigned pursuant to Subsection A of this
22 section or if the state of assignment cannot be determined or
23 reasonably approximated pursuant to Subsection B of this
24 section, that sale shall be excluded from the numerator and
25 denominator of the sales factor.

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D. The department may promulgate rules as necessary
or appropriate to carry out the purposes of this section."

SECTION 2. APPLICABILITY.--The provisions of this act
apply to taxable years beginning on or after January 1, 2016.

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