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HOUSE BILL 432

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

DONALD L. WHITAKER

AN ACT

RELATING TO TAXATION; CHANGING THE DEDUCTION IN THE GASOLINE TAX ACT AND THE SPECIAL FUELS SUPPLIER TAX ACT FOR OFF-ROAD USE OF GASOLINE OR SPECIAL FUEL; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-13-4 NMSA 1978 (being Laws 1991, Chapter 9, Section 32, as amended) is amended to read:

"7-13-4. DEDUCTIONS--GASOLINE TAX.--In computing the gasoline tax due, the following amounts of gasoline may be deducted from the total amount of gasoline received in New Mexico during the tax period, provided [that] satisfactory proof thereof is furnished to the department:

A. gasoline received in New Mexico, but exported from this state by a rack operator, distributor or wholesaler

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1 other than in the fuel supply tank of a motor vehicle or sold
2 for export by a rack operator or distributor; provided that,
3 in either case:

4 (1) the person exporting the gasoline is
5 registered in or licensed by the destination state to pay that
6 state's gasoline or equivalent fuel tax;

7 (2) proof is submitted that the destination
8 state's gasoline or equivalent fuel tax has been paid or is
9 not due with respect to the gasoline; or

10 (3) the destination state's gasoline or
11 equivalent fuel tax is paid to New Mexico in accordance with
12 the terms of an agreement entered into pursuant to Section
13 9-11-12 NMSA 1978 with the destination state;

14 B. gasoline received in New Mexico sold to the
15 United States or any agency or instrumentality thereof for the
16 exclusive use of the United States or any agency or
17 instrumentality thereof. Gasoline sold to the United States
18 includes gasoline delivered into the supply tank of a
19 government-licensed vehicle of the United States; [and]

20 C. gasoline received in New Mexico sold to an
21 Indian nation, tribe or pueblo or any political subdivision,
22 agency or instrumentality of that Indian nation, tribe or
23 pueblo for the exclusive use of the Indian nation, tribe or
24 pueblo or any political subdivision, agency or instrumentality
25 thereof. Gasoline sold to an Indian nation, tribe or pueblo

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1 includes gasoline delivered into the supply tank of a
2 government-licensed vehicle of the Indian nation, tribe or
3 pueblo; and

4 D. gasoline received in New Mexico, dyed in
5 accordance with department regulations and used in any manner
6 other than for propulsion of motor vehicles on the highways of
7 this state or activities ancillary to that propulsion. "

8 Section 2. A new section of the Gasoline Tax Act is
9 enacted to read:

10 "[NEW MATERIAL] PERMIT TO PURCHASE UNDYED GASOLINE FOR
11 CERTAIN OFF-ROAD USE AND TO CLAIM REFUND OF TAX. --

12 A. Any person using gasoline in the operation of a
13 clothes cleaning establishment, in stoves or other appliances
14 burning gasoline, or operators of aircraft using aviation
15 gasoline exclusively in the operation of aircraft, upon proper
16 showing of the permit provided for in this section, may
17 purchase gasoline to which dye has not been added and may
18 claim a refund thereon under the provisions of this section.

19 B. Upon submission of proof satisfactory to the
20 department that the requirements of this subsection have been
21 met, the department shall allow a claim for refund of gasoline
22 tax paid on gasoline purchased and used in the manner
23 described in Subsection A of this section by holders of
24 permits issued under this section. The individual purchases
25 of gasoline, other than that used for aviation fuel, must have

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1 been made in quantities of fifty gallons or more. Purchasers
2 of aviation fuel may accumulate invoices to reach the fifty
3 gallon minimum. No claim for refund may be presented or
4 allowed on less than one hundred gallons so purchased. The
5 secretary may prescribe by regulation or instruction the
6 documents necessary to support a claim for refund made
7 pursuant to the provisions of this subsection.

8 C. The secretary, upon notice and after hearing,
9 may suspend for a period of up to one year or revoke the
10 gasoline tax refund permit of any person who makes any false
11 statement on an application for a permit or on a claim for
12 refund made pursuant to the provisions of this section, who
13 uses the gasoline in a motor boat or in a vehicle registered
14 to operate on the highways of this state or who violates any
15 other provision of the Gasoline Tax Act. "

16 Section 3. A new section of the Gasoline Tax Act is
17 enacted to read:

18 " [NEW MATERIAL] DYED GASOLINE-- PERMISSIBLE USES--
19 PENALTIES FOR MISUSE. --

20 A. Gasoline distributors and wholesalers who are
21 registered as distributors or wholesalers with the department
22 may sell gasoline to be used other than in motor boats or in
23 vehicles licensed to operate on the highways. These
24 distributors and wholesalers shall mix with the gasoline an
25 identifying dye in a manner consistent with federal law and

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1 regulations. The department shall furnish without charge the
2 dye upon request. Such dyed gasoline may not be used in motor
3 boats or in vehicles registered to be operated upon the
4 highways of this state.

5 B. Any person who uses dyed gasoline in a motor
6 boat or in a vehicle registered to be operated upon the
7 highways of this state is liable for a civil penalty for each
8 occurrence in an amount equal to the greater of one hundred
9 dollars (\$100) or the rate of the gasoline tax multiplied by
10 the capacity in gallons of the fuel supply tank or tanks of
11 the motor boat or vehicle. "

12 Section 4. Section 7-16A-10 NMSA 1978 (being Laws 1992,
13 Chapter 51, Section 10, as amended) is amended to read:

14 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL
15 FUEL SUPPLIERS.--In computing the [~~special fuel excise~~] tax
16 due, the following amounts of special fuel may be deducted
17 from the total amount of special fuel received in New Mexico
18 during the tax period, provided that satisfactory proof
19 thereof is furnished to the department:

20 A. special fuel received in New Mexico, but
21 exported from this state by a rack operator, special fuel
22 supplier or dealer, other than in the fuel supply tank of a
23 motor vehicle or sold for export by a rack operator or
24 distributor; provided that, in either case:

25 (1) the person exporting the special fuel is

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1 registered in or licensed by the destination state to pay that
2 state's special fuel or equivalent fuel tax;

3 (2) proof is submitted that the destination
4 state's special fuel or equivalent fuel tax has been paid or
5 is not due with respect to the special fuel; or

6 (3) the destination state's special fuel or
7 equivalent fuel tax is paid to New Mexico in accordance with
8 the terms of an agreement entered into pursuant to Section
9 9-11-12 NMSA 1978 with the destination state;

10 B. special fuel sold to the United States or any
11 agency or instrumentality thereof for the exclusive use of the
12 United States or any agency or instrumentality thereof.
13 Special fuel sold to the United States includes special fuel
14 delivered into the supply tank of a government-licensed
15 vehicle;

16 C. special fuel sold to the state of New Mexico or
17 any political subdivision, agency or instrumentality thereof
18 for the exclusive use of the state of New Mexico or any
19 political subdivision, agency or instrumentality thereof.
20 Special fuel sold to the state of New Mexico includes special
21 fuel delivered into the supply tank of a government-licensed
22 vehicle;

23 D. special fuel sold to an Indian nation, tribe or
24 pueblo or any agency or instrumentality thereof for the
25 exclusive use of the Indian nation, tribe or pueblo or any

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1 agency or instrumentality thereof. Special fuel sold to an
2 Indian nation, tribe or pueblo includes special fuel delivered
3 into the supply tank of a government-licensed vehicle;

4 E. special fuel sold to the holder of a special
5 bulk storage user permit and delivered into special bulk
6 storage pursuant to the provisions of Section 7-16A-8 NMSA
7 1978; and

8 F. special fuel dyed in accordance with federal
9 regulations and used in any manner other than for propulsion
10 of motor vehicles on the highways of this state or activities
11 ancillary to that propulsion. "

12 Section 5. TEMPORARY PROVISION--TRANSITION PROVISION. --
13 Until January 1, 1999, holders of permits issued pursuant to
14 the provisions of Sections 7-13-13 through 7-13-15 NMSA 1978
15 may submit and the department shall allow, in accordance with
16 the provisions of those sections, claims for refund of
17 gasoline tax paid on dyed or undyed gasoline purchased prior
18 to the effective date of this act as if the provisions of
19 those sections were still in effect.

20 Section 6. REPEAL. --Sections 7-13-13 through 7-13-15
21 NMSA 1978 (being Laws 1971, Chapter 207, Sections 12 through
22 14, as amended) are repealed.

23 Section 7. EFFECTIVE DATE. --The effective date of the
24 provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 11, 1998

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8 Mr. Speaker:

9
10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILL 432

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 3, line 7, after "state", insert "or
18 motorboats".

19
20 2. On page 4, between lines 7 and 8, insert the
21 following subsection:

22 "C. The department shall create permits, in form and
23 content as the secretary may prescribe, that will allow persons
24 to purchase gasoline to which dye has not been added for the
25 uses specified in Subsection A of this section. The secretary

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HTRC/HB 432

Page 9

4 shall prescribe the method by which a person may apply for a
5 permit.”

6
7 3. Reletter the succeeding subsection accordingly.

8
9 4. On page 4, line 25, after “with”, insert “state
10 and”.,

11 and thence referred to the APPROPRIATIONS AND FINANCE
12 COMMITTEE.

13
14 Respectfully submitted,

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18 _____
19 Jerry W. Sandel, Chairman

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21 Adopted _____

22 (Chief Clerk)

21 Not Adopted _____

22 (Chief Clerk)

23
24 Date _____

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HTRC/HB 432

Page 10

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Gonzales, Gubbels, Lovejoy, Sandoval, Stell

Absent: None

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3
4 February 14, 1998

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7 Mr. Speaker:

8
9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 432, as amended

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

15
16 Respectfully submitted,

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20 _____
21 Max Coll, Chairman
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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 12

4 Adopted _____ Not Adopted _____

5
6 (Chief Clerk)

(Chief Clerk)

7
8 Date _____

9
10 The roll call vote was 15 For 0 Against

11 Yes: 15

12 Excused: Heaton, Taylor, Vigil

13 Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

Page 13

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 17, 1998

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been
referred

HOUSE BILL 432, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Carlos R. Cisneros, Chairman

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: McSorley

Absent: None

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