AN ACT

RELATING TO TAXATION; ENACTING THE CAPITAL EQUIPMENT TAX CREDIT ACT TO PROVIDE A CAPITAL EQUIPMENT TAX CREDIT FOR CERTAIN NEW OR EXPANDED CALL CENTER FACILITIES.

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

Section 1. SHORT TITLE.--This act may be cited as the "Capital Equipment Tax Credit Act".

Section 2. FINDINGS AND PURPOSE.--The legislature finds that New Mexico's tax treatment of the purchase of capital equipment by businesses makes New Mexico less attractive than other states for business expansion and relocation. It is the purpose of the Capital Equipment Tax Credit Act to induce call center operations to make major expansions and relocate facilities in New Mexico by providing tax relief on the purchase of capital equipment for such facilities.

Section 3. DEFINITIONS.--As used in the Capital Equipment Tax Credit Act:

A. "call center" means a business that is principally engaged in taking inbound telephone calls initiated by consumers for the purpose of obtaining goods or services;

B. "capital equipment" means equipment that is depreciable for federal income tax purposes;

C. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

D. "rural area" means any area of the state other than a class A county, a class B county that has a net taxable value for rate-setting purposes for any property tax year of more than three billion dollars ($3,000,000,000) and the municipality of Rio Rancho and the area within five miles of the exterior boundaries of Rio Rancho;

E. "tax credit" means the capital equipment tax credit provided in the Capital Equipment Tax Credit Act; and

F. "taxpayer" means a person liable for payment of any tax, a person responsible for withholding and payment over or for collection and payment over of any tax, or a person to whom an assessment has been made, if the assessment remains unabated or the amount of the assessment has not been paid.

Section 4. CAPITAL EQUIPMENT TAX CREDIT AUTHORIZED.--A capital equipment tax credit may be claimed pursuant to the Capital Equipment Tax Credit Act in an amount equal to the gross receipts tax rate or the compensating tax rate imposed pursuant to the Gross Receipts and Compensating Tax Act, whichever is applicable, applied to the value of capital equipment purchased by a taxpayer for use in an eligible call center in New Mexico. For the purpose of applying the tax credit, the value of capital equipment purchased is the price or the value of other consideration on which the gross receipts or compensating tax was imposed and paid.

Section 5. CAPITAL EQUIPMENT ELIGIBLE FOR TAX CREDIT.--A taxpayer that owns or operates an eligible call center may claim a tax credit for capital equipment that is purchased for use in the call center and on which the gross receipts tax or compensating tax has been paid if the taxpayer applies for the credit and provides evidence satisfactory to the department that:

A. the equipment purchased is capital equipment on which the gross receipts tax or compensating tax was paid;

B. the equipment is purchased on or after July 1, 1999 and was not previously used in New Mexico; and

C. the equipment is used directly in or is an integral part of taking inbound telephone calls or recording or processing messages and is or will be used in a call center that is eligible pursuant to the provisions of the Capital Equipment Tax Credit Act.

Section 6. ELIGIBLE CALL CENTER.--A call center in New Mexico shall be approved by the department as an eligible call center if:

A. the business meets either of the following requirements:

(1) the call center first located in New Mexico after July 1, 1999 and is not related by ownership or control to a business performing similar functions at the same or an adjacent location within the state; or

(2) the call center is an expansion after July 1, 1999 of an existing call center that certifies to the department that the expansion will result in an increase of not less than twenty percent in the value of the call center facility for property tax purposes over three tax years;

B. the call center is located in a rural area; and

C. the owner or operator certifies to the department that the total value over three years of capital equipment purchased for use in the call center will total at least two hundred fifty thousand dollars ($250,000).

Section 7. CLAIMING THE TAX CREDIT.--A taxpayer having applied for and been granted approval for a tax credit by the department pursuant to the Capital Equipment Tax Credit Act may claim an amount of available tax credit against the taxpayer's compensating tax, gross receipts tax or withholding tax due to the state of New Mexico, provided that no taxpayer may claim an amount of available tax credit for any reporting period that exceeds the taxpayer's gross receipts tax, compensating tax or withholding tax due for that reporting period. Any amount of available tax credit not claimed against the taxpayer's gross receipts tax or compensating tax due for a reporting period may be claimed in subsequent reporting periods.

Section 8. REPORTING REQUIREMENTS--WHEN TAXPAYER LIABLE FOR REPAYMENT OF TAX CREDIT.--

A. Every eligible call center claiming a tax credit pursuant to the Capital Equipment Tax Credit Act shall report annually to the department the following information for the prior calendar year:

(1) the total value of capital equipment purchased during that year;

(2) the total amount of tax credit claimed; and

(3) the value of the call center facility for property tax purposes for the year.

B. After claiming a tax credit pursuant to the Capital Equipment Tax Credit Act, if any of the following occur, the taxpayer who owns or operates the business shall be liable for repayment of an amount of the credit claimed pursuant to that act as provided in Subsection C of this section:

(1) the call center no longer meets the requirements of the Capital Equipment Tax Credit Act for qualifying as an eligible call center;

(2) the taxpayer who owns or operates the business closes the call center; or

(3) capital equipment that has not been fully depreciated and for which the tax credit was claimed is moved from the call center.

C. If the provisions of Paragraph (1), (2) or (3) of Subsection B of this section occur within twenty-four months of the date a tax credit pursuant to the Capital Equipment Tax Credit Act is approved, the taxpayer who owns or operates the business shall be liable for repayment of the amount of all credit claimed pursuant to that act. If any of those provisions occur after twenty-four months but before forty-eight months after the date a tax credit is approved, the taxpayer who owns or operates the business shall be liable for repayment of one-half of the amount of all credit claimed.

Section 9. ADMINISTRATION OF ACT.--The department shall administer the Capital Equipment Tax Credit Act in accordance with the provisions of the Tax Administration Act.

Section 10. DELAYED REPEAL.--Sections 1 through 9 of this act are repealed effective July 1, 2004.

Section 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1999.

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