

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 355

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Phillip A. Griego

AN ACT

RELATING TO TAXATION; AMENDING A PROVISION OF THE GROSS
RECEIPTS AND COMPENSATING TAX ACT REGARDING NONTAXABLE
TRANSACTION CERTIFICATES; DECLARING AN EMERGENCY.

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

Section 1. Section 7-9-43 NMSA 1978 (being Laws 1966,
Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS--RENEWAL.--

A. All nontaxable transaction certificates of the
appropriate series executed by buyers or lessees should be in
the possession of the seller or lessor for nontaxable
transactions at the time the return is due for receipts from
the transactions. If the seller or lessor is not in
possession of the required nontaxable transaction certificates

underscored material = new
[bracketed material] = delete

1 within sixty days from the date that the notice requiring
2 possession of these nontaxable transaction certificates is
3 given the seller or lessor by the department, deductions
4 claimed by the seller or lessor that require delivery of these
5 nontaxable transaction certificates shall be disallowed;
6 provided, however, that with respect to a transaction
7 occurring during the ten-year period beginning January 1,
8 1992, if the seller or lessor was not in possession of a
9 nontaxable transaction certificate of the appropriate series
10 issued for the ten-year period beginning January 1, 1992, but
11 was in possession of a nontaxable transaction certificate of
12 the appropriate series issued prior to January 1, 1992, and
13 the seller or lessor demonstrates to the department that all
14 gross receipts tax due on the receipts of the transaction has
15 been properly paid, the secretary shall allow the deduction
16 and not assess penalties or interest with regard to the
17 transaction. The nontaxable transaction certificates shall
18 contain the information and be in a form prescribed by the
19 department. The department by regulation may deem to be
20 nontaxable transaction certificates documents issued by other
21 states or the multistate tax commission to taxpayers not
22 required to be registered in New Mexico. Only buyers or
23 lessees who have a registration number or have applied for a
24 registration number and have not been refused one under
25 Subsection C of Section 7-1-12 NMSA 1978 shall execute

. 125623. 2

underscored material = new
[bracketed material] = delete

1 nontaxable transaction certificates issued by the department.
2 If the seller or lessor has been given an identification
3 number for tax purposes by the department, the seller or
4 lessor shall disclose that identification number to the buyer
5 or lessee prior to or upon acceptance of a nontaxable
6 transaction certificate. When the seller or lessor accepts a
7 nontaxable transaction certificate within the required time
8 and in good faith that the buyer or lessee will employ the
9 property or service transferred in a nontaxable manner, the
10 properly executed nontaxable transaction certificate shall be
11 conclusive evidence, and the only material evidence, that the
12 proceeds from the transaction are deductible from the seller's
13 or lessor's gross receipts.

14 B. Properly executed documents required to support
15 the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74
16 NMSA 1978 should be in the possession of the seller at the
17 time the return is due for receipts from the transactions. If
18 the seller is not in possession of these documents within
19 sixty days from the date that the notice requiring possession
20 of these documents is given to the seller by the department,
21 deductions claimed by the seller or lessor that require
22 delivery of these documents shall be disallowed. These
23 documents shall contain the information and be in a form
24 prescribed by the department. When the seller accepts these
25 documents within the required time and in good faith that the

underscored material = new
[bracketed material] = delete

1 buyer will employ the property or service transferred in a
2 nontaxable manner, the properly executed documents shall be
3 conclusive evidence, and the only material evidence, that the
4 proceeds from the transaction are deductible from the seller's
5 gross receipts.

6 C. Notice, as used in this section, is sufficient
7 if the notice is mailed or served as provided in Subsection A
8 of Section 7-1-9 NMSA 1978. Notice by the department under
9 this section shall not be given prior to the commencement of
10 an audit of the seller required to be in possession of the
11 documents.

12 D. On January 1, 1992, every nontaxable
13 transaction certificate, except for nontaxable transaction
14 certificates of the series applicable to the ten-year period
15 beginning January 1, 1992 and issued by the department prior
16 to that date, is void with respect to transactions after
17 December 31, 1991. The department shall issue separate series
18 of nontaxable transaction certificates for the ten-year period
19 beginning January 1, 1992 and for each ten-year period
20 beginning on January 1 of every tenth year succeeding calendar
21 year 1992. A series of nontaxable transaction certificates
22 issued by the department for any ten-year period may be
23 executed by buyers or lessees for transactions occurring
24 within or prior to that ten-year period but [are] is not valid
25 for transactions occurring after that ten-year period. For

. 125623. 2

underscored material = new
[bracketed material] = del ete

1 administrative convenience, the department may accept and
2 approve qualifying applications for the privilege of executing
3 nontaxable transaction certificates and pre-issue certificates
4 of any series within the six-month period immediately
5 preceding the beginning of the ten-year period to which the
6 series of nontaxable transaction certificates applies.

7 E. To exercise the privilege of executing
8 appropriate nontaxable transaction certificates, a buyer or
9 lessee shall apply to the department for permission to execute
10 nontaxable transaction certificates, except with respect to
11 documents issued by other states or the multistate tax
12 commission that the department has deemed to be nontaxable
13 transaction certificates. If a person is shown on the
14 department's records to be a delinquent taxpayer, the
15 department may refuse to approve the application of the person
16 until the person is no longer shown to be a delinquent
17 taxpayer, and the taxpayer may protest that refusal pursuant
18 to Section 7-1-24 NMSA 1978. Upon the department's approval
19 of the application, the buyer or lessee may request
20 appropriate nontaxable transaction certificates for execution
21 by the buyer or lessee; provided that if a person is shown on
22 the department's records to be a delinquent taxpayer, the
23 department may refuse to issue nontaxable transaction
24 certificates to the person until the person is no longer shown
25 to be a delinquent taxpayer, and the taxpayer may protest that

. 125623. 2

underscored material = new
[bracketed material] = delete

1 refusal pursuant to Section 7-1-24 NMSA 1978. The department
2 may require any buyer or lessee requesting and receiving
3 nontaxable transaction certificates for execution by that
4 buyer or lessee to report to the department annually the
5 names, addresses and identification numbers assigned by the
6 department of the sellers and lessors to whom they have
7 delivered nontaxable transaction certificates. The department
8 may require any seller or lessor engaged in business in New
9 Mexico to report to the department annually the names,
10 addresses and federal employer identification numbers or state
11 identification numbers for tax purposes issued by the
12 department of the buyers or lessees from whom the seller or
13 lessor has accepted nontaxable transaction certificates. "

14 Section 2. EMERGENCY.--It is necessary for the public
15 peace, health and safety that this act take effect
16 immediately.

1 FORTY-FOURTH LEGISLATURE

SB 355/a

2 FIRST SESSION, 1999

3
4
5
6 February 9, 1999

7
8 Mr. President:

9
10 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
11 whom has been referred

12
13 SENATE BILL 355

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

17
18 1. On page 2, strike lines 11 and 12.,

19
20
21 and thence referred to the WAYS & MEANS COMMITTEE.

22
23 Respectfully submitted,

24
25 . 125623. 2

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGI SLATURE
FI RST SESSI ON, 1999

%%%

Roman M. Maes, Chair man

Adopted _____ Not

Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Fi del, Maci as, Robi nson

Absent: None

S0355CT1

. 127019. 1

. 125623. 2

underscored material = new
[bracketed material] = delete

1 FORTY- FOURTH LEGI SLATURE
2 FIRST SESSI ON, 1999

3 %%% Page 9

4
5
6 FORTY- FOURTH LEGI SLATURE
7 FIRST SESSI ON, 1999
8
9

10
11
12 February 24, 1999
13

14 Mr. Presi dent:

15
16 Your WAYS & MEANS COMMI TTEE, to whom has been referred
17

18 SENATE BILL 355, as amended
19

20
21 has had it under consideration and reports same WITHOUT
22 RECOMMENDATI ON.
23

24 Respectfully submi tted,
25

. 125623. 2

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGI SLATURE
FIRST SESSI ON, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

%%%

Page 10

Carlos R. Cisneros, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 2 Against

Yes: 4

No: Carraro, Rawson

Excused: Duran, Jennings, Kidd

Absent: None

. 125623. 2

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

%%%

Page 11

S0355WM1

underscored material = new
~~[bracketed material]~~ = delete

. 125623. 2

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 March 12, 1999

7
8 Mr. Speaker:

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

12
13 SENATE BILL 355, as amended

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

17 1. Strike Senate Corporations and Transportation Committee
18 Amendment 1.

19
20 2. On page 2, lines 6 through 17, strike all underscored material
21 and insert in lieu thereof:

22
23 "provided, however, that with respect to a transaction occurring
24 prior to July 1, 1997, if the seller or lessor has been audited by
25 the department and a deduction claimed by the seller or lessor for
the transaction has been disallowed on the grounds that the seller or

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HTRC/SB 355aa

Page 13

lessor was not in possession of the required nontaxable transaction certificate at the required time, the seller or lessor has filed a written protest with the department in a timely manner and the seller or lessor has appealed the hearing officer's decision on the protest, then the seller or lessor shall have until September 30, 1999 to demonstrate to the department possession of a nontaxable transaction certificate of the appropriate series executed by the buyer or lessee, in which case the department shall allow the deduction for the transaction and shall not assess penalties or interest."

Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HTRC/SB 355aa

Page 14

4 The roll call vote was 13 For 1 Against

5 Yes: 13

6 No: Russell

7 Excused: Burpo

8 Absent: None

11 128972. 2

12 J: \99BillsWP\S0355

25 . 125623. 2

underscored material = new
[bracketed material] = delete