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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; AMENDING THE GROSS RECEIPTS AND
COMPENSATING TAX ACT; PROVIDING FOR SPECIAL AGREEMENTS TO ALLOW
PAYMENT OF TAXES BY A PERSON OTHER THAN THE TAXPAYER; REMOVING
REPORTING REQUIREMENTS FROM A DEDUCTION REGARDING SALES TO
MANUFACTURERS.

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

SECTION 1. A new section of the Tax Administration Act is
enacted to read:

"NEW MATERIAL SPECIAL AGREEMENTS--ALTERNATIVE GROSS
RECEIPTS TAXPAYER.--

A. To allow the payment of gross receipts tax by a
person who is not the liable taxpayer, the secretary may
approve the following special agreements:

- (1) an agreement to collect and pay over taxes

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1 for persons in a business relationship, which is an agreement
2 that may be entered into by persons who wish to remit gross
3 receipts tax on behalf of another person with whom the taxpayer
4 has a business relationship;

5 (2) an agreement to collect and pay over taxes
6 for a direct sales company:

7 (a) which agreement may be entered into
8 by a direct sales company that has distributors of tangible
9 personal property in New Mexico; and

10 (b) in which the direct sales company
11 agrees to pay the gross receipts tax liability of the
12 distributor at the same time the company remits its own gross
13 receipts tax; and

14 (3) a manufacturer's agreement to pay gross
15 receipts tax on behalf of a utility company, which agreement:

16 (a) allows a manufacturer in New Mexico
17 to pay gross receipts tax on behalf of a utility company on
18 sales of utilities that are not consumed in the manufacturing
19 process; and

20 (b) is only applicable to transactions
21 between a manufacturer and a utility company that are
22 associated with the gross receipts tax deduction pursuant to
23 Subsection B of Section 7-9-46 NMSA 1978.

24 B. To enter into the agreements authorized in this
25 section, a person shall complete a form prescribed by the

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1 secretary and provide any additional information or
2 documentation required by department rules or instructions that
3 will assist in the approval of agreements listed in Subsection
4 A of this section.

5 C. Once approved, an agreement shall be effective
6 only for the period of time specified in each agreement. Any
7 person entering into an agreement to pay tax on behalf of
8 another person shall fulfill all of the requirements set out in
9 the agreement. Failure to fulfill all of the requirements set
10 out in the agreement shall result in the revocation of the
11 agreement by the department. An approved agreement may only be
12 revoked prior to expiration by written notification to all
13 persons who are party to the agreement and shall be applied
14 beginning on the first day of a month that occurs at least one
15 month following the date on which the agreement is revoked."

16 SECTION 2. Section 7-9-46 NMSA 1978 (being Laws 1969,
17 Chapter 144, Section 36, as amended) is amended to read:

18 "7-9-46. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
19 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

20 A. Receipts from selling tangible personal property
21 may be deducted from gross receipts or from governmental gross
22 receipts if the sale is made to a person engaged in the
23 business of manufacturing who delivers a nontaxable transaction
24 certificate to the seller. The buyer delivering the nontaxable
25 transaction certificate must incorporate the tangible personal

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1 property as an ingredient or component part of the product that
2 the buyer is in the business of manufacturing.

3 B. Receipts from selling tangible personal property
4 that is used in such a way that it is consumed in the
5 manufacturing process of a product, provided that the tangible
6 personal property is not a tool or equipment used to create the
7 manufactured product, to a person engaged in the business of
8 manufacturing that product and who delivers a nontaxable
9 transaction certificate to the seller may be deducted in the
10 following percentages from gross receipts or from governmental
11 gross receipts:

12 (1) twenty percent of receipts received prior
13 to January 1, 2014;

14 (2) forty percent of receipts received in
15 calendar year 2014;

16 (3) sixty percent of receipts received in
17 calendar year 2015;

18 (4) eighty percent of receipts received in
19 calendar year 2016; and

20 (5) one hundred percent of receipts received
21 on or after January 1, 2017.

22 C. The purpose of the deductions provided in this
23 section is to encourage manufacturing businesses to locate in
24 New Mexico and to reduce the tax burden, including reducing
25 pyramiding, on the tangible personal property that is consumed

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1 in the manufacturing process and that is purchased by
2 manufacturing businesses in New Mexico.

3 ~~[D. The department shall annually report to the~~
4 ~~revenue stabilization and tax policy committee the aggregate~~
5 ~~amount of deductions taken pursuant to this section, the number~~
6 ~~of taxpayers claiming each of the deductions and any other~~
7 ~~information that is necessary to determine that the deductions~~
8 ~~are performing the purposes for which they are enacted.~~

9 ~~E. A taxpayer deducting gross receipts pursuant to~~
10 ~~this section shall report the amount deducted separately for~~
11 ~~each deduction provided in this section and attribute the~~
12 ~~amount of the deduction to the appropriate authorization~~
13 ~~provided in this section in a manner required by the department~~
14 ~~that facilitates the evaluation by the legislature of the~~
15 ~~benefit to the state of these deductions.]"~~

16 SECTION 3. APPLICABILITY.--The provisions of this act
17 apply to gross receipts received in tax periods beginning on or
18 after May 1, 2013.

19 SECTION 4. EMERGENCY.--It is necessary for the public
20 peace, health and safety that this act take effect immediately.