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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO REVISE REPORTING FORMS FOR GROSS RECEIPTS AND COMPENSATING TAXES SO THAT EXEMPTIONS AND DEDUCTIONS CLAIMED ARE ITEMIZED; REQUIRING THAT ALL GROSS RECEIPTS EARNED IN NEW MEXICO BE REPORTED AND TAX BENEFITS REDUCING GROSS RECEIPTS BE ITEMIZED.

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

SECTION 1. Section 7-1-13 NMSA 1978 (being Laws 1965, Chapter 248, Section 18, as amended) is amended to read:

"7-1-13. TAXPAYER RETURNS--PAYMENT OF TAXES--EXTENSION OF TIME.--

A. Taxpayers are liable for tax at the time of and after the transaction or incident giving rise to tax until payment is made. Taxes are due on and after the date on which

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1 their payment is required until payment is made.

2 B. Every taxpayer shall, on or before the date on
3 which payment of any tax is due, complete and file a tax return
4 in a form prescribed and according to the regulations issued by
5 the secretary. The secretary may create a combined reporting
6 system for reporting tax liabilities on a periodic basis for
7 taxes imposed pursuant to the Gross Receipts and Compensating
8 Tax Act and the Withholding Tax Act and other taxes for which
9 reporting on a periodic basis is required.

10 C. Except as provided in Section 7-1-13.1 NMSA 1978
11 or by regulation, ruling, order or instruction of the
12 secretary, the payment of any tax or the filing of any return
13 may be accomplished by mail. When the filing of a tax return
14 or payment of a tax is accomplished by mail, the date of the
15 postmark shall be considered the date of submission of the
16 return or payment.

17 [G.] D. If any adjustment is made in the basis for
18 computation of any federal tax as a result of an audit by the
19 internal revenue service or the filing of an amended federal
20 return changing a prior election or making any other change for
21 which federal approval is required by the Internal Revenue
22 Code, the taxpayer affected shall, within ninety days of the
23 internal revenue service audit adjustment or payment of the
24 federal refund, file an amended return with the department.
25 Payment of any additional tax due shall accompany the return.

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1 ~~[D-]~~ E. Payment of the total amount of all taxes
2 that are due from the taxpayer shall precede or accompany the
3 return. Delivery to the department of a check that is not paid
4 upon presentment does not constitute payment.

5 ~~[E-]~~ F. The secretary or the secretary's delegate
6 may, for good cause, extend in favor of a taxpayer or a class
7 of taxpayers, for no more than a total of twelve months, the
8 date on which payment of any tax is required or on which any
9 return required by provision of the Tax Administration Act
10 shall be filed, but no extension shall prevent the accrual of
11 interest as otherwise provided by law. When an extension of
12 time for income tax has been granted a taxpayer under the
13 Internal Revenue Code, the extension shall serve to extend the
14 time for filing New Mexico income tax provided that a copy of
15 the approved federal extension of time is attached to the
16 taxpayer's New Mexico income tax return. The secretary by
17 regulation may also provide for the automatic extension for no
18 more than six months of the date upon which payment of any New
19 Mexico income tax or the filing of any New Mexico income tax
20 return is required. If the secretary or the secretary's
21 delegate believes it necessary to ensure the collection of the
22 tax, the secretary or the secretary's delegate may require, as
23 a condition of granting any extension, that the taxpayer
24 furnish security in accordance with the provisions of Section
25 7-1-54 NMSA 1978."

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1 SECTION 2. Section 7-9-5 NMSA 1978 (being Laws 1966,
2 Chapter 47, Section 5, as amended) is amended to read:

3 "7-9-5. PRESUMPTION OF TAXABILITY.--

4 A. To prevent evasion of the gross receipts tax and
5 to aid in its administration, it is presumed that all receipts
6 of a person engaging in business, whether for profit or not for
7 profit, are subject to the gross receipts tax. [~~Any person~~
8 ~~engaged solely in transactions specifically exempt under the~~
9 ~~provisions of the Gross Receipts and Compensating Tax Act shall~~
10 ~~not be required to register or file a return under that act.~~] A
11 person who has gross receipts shall report all of the gross
12 receipts for the period as required by the department. The
13 person shall itemize exemptions or deductions claimed on a form
14 provided by the department and in a manner that meets rules of
15 the department. Each deduction shall be stated separately and
16 identified. Multiple deductions claimed for the period
17 pursuant to the same section of law may be aggregated. A
18 person that is exempt from the gross receipts or compensating
19 taxes pursuant to the following sections of the Gross Receipts
20 and Compensating Tax Act is not required to report pursuant to
21 that act if the sole purpose of reporting would be to claim the
22 exemption for which the person is qualified:

23 (1) Subsection A of Section 7-9-13 NMSA 1978;

24 or

25 (2) Section 7-9-13.1, 7-9-13.4 through 7-9-14,

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1 7-9-17, 7-9-18.1, 7-9-22 through 7-9-23.1, 7-9-25, 7-9-26, 7-9-
2 28 or 7-9-41.3 NMSA 1978.

3 B. If receipts from nontaxable charges for mobile
4 telecommunications services are aggregated with and not
5 separately stated from taxable charges for mobile
6 telecommunications services, ~~[then]~~ the charges for nontaxable
7 mobile telecommunications services shall be subject to gross
8 receipts tax unless the home service provider can reasonably
9 identify nontaxable charges in its books and records that are
10 kept in the regular course of business. For the purposes of
11 this subsection, "charges for mobile telecommunications
12 services", "home service provider" and "mobile
13 telecommunications services" have the meanings given in the
14 federal Mobile Telecommunications Sourcing Act."

15 SECTION 3. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2011.