

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 485

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO TAXATION; ELIMINATING THE GROSS RECEIPTS AND
COMPENSATING TAX EXEMPTIONS AND DEDUCTION FOR CERTAIN NATIONAL
LABORATORIES; CHANGING DISTRIBUTIONS; AMENDING SECTIONS OF THE
NMSA 1978.

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

Section 1. Section 7-1-6 NMSA 1978 (being Laws 1978,
Chapter 55, Section 1, as amended) is amended to read:

"7-1-6. RECEIPTS--DISBURSEMENTS--FUNDS CREATED. --

A. All money received by the department with
respect to laws administered under the provisions of the Tax
Administration Act shall be deposited with the state treasurer
before the close of the next succeeding business day after
receipt of the money, except that for 1989 and every subsequent
year, money received with respect to the Income Tax Act during

. 143350. 2

underscored material = new
[bracketed material] = delete

1 the period starting with the fifth day prior to the due date
2 for payment of income tax for the year and ending on the tenth
3 day following that due date shall be deposited before the close
4 of the tenth business day after receipt of the money.

5 B. Money received or disbursed by the department
6 shall be accounted for by the department as required by law or
7 regulation of the secretary of finance and administration.

8 C. Disbursements for tax credits, tax rebates,
9 refunds, the payment of interest, the payment of fees charged
10 by attorneys or collection agencies for collection of accounts
11 as agent for the department, attorney fees and costs awarded by
12 a court or hearing officer, as the result of oil and gas
13 litigation, the payment of credit card service charges on
14 payments of taxes by use of credit cards, distributions and
15 transfers shall be made by the department of finance and
16 administration upon request and certification of their
17 appropriateness by the secretary or the secretary's delegate.
18 There are hereby created in the state treasury the "tax
19 administration suspense fund", the "extraction taxes suspense
20 fund" and the "workers' compensation collections suspense fund"
21 for the purpose of making the disbursements authorized by the
22 Tax Administration Act.

23 D. All revenues collected or received by the
24 department pursuant to the provisions of the taxes and tax acts
25 administered under Subsection A of Section 7-1-2 NMSA 1978

. 143350. 2

underscored material = new
[bracketed material] = delete

1 shall be credited to the tax administration suspense fund and
2 are appropriated for the purpose of making the disbursements
3 authorized under this section or otherwise authorized or
4 required by law to be made from the tax administration suspense
5 fund.

6 E. All revenues collected or received by the
7 department pursuant to the taxes or tax acts administered under
8 Subsection B of Section 7-1-2 NMSA 1978 shall be credited to
9 the extraction taxes suspense fund and are appropriated for the
10 purpose of making the disbursements authorized under this
11 section or otherwise authorized or required by law to be made
12 from the extraction taxes suspense fund.

13 F. All revenues collected or received by the
14 department pursuant to the taxes or tax acts administered under
15 Subsection C of Section 7-1-2 NMSA 1978 may be credited to the
16 tax administration suspense fund, unless otherwise directed by
17 law to be credited to another fund or agency, and are
18 appropriated for the purpose of making disbursements authorized
19 under this section or otherwise authorized or required by law.

20 G. All revenues collected or received by the
21 department pursuant to the provisions of Section 52-5-19 NMSA
22 1978 shall be credited to the workers' compensation collections
23 suspense fund and are appropriated for the purpose of making
24 the disbursements authorized under this section or otherwise
25 authorized or required by law to be made from the workers'

. 143350. 2

underscored material = new
[bracketed material] = delete

1 compensation collections suspense fund.

2 H. Disbursements to cover expenditures of the
3 department shall be made only upon approval of the secretary or
4 the secretary's delegate.

5 I. Miscellaneous receipts from charges made by the
6 department to defray expenses pursuant to the provisions of
7 Section 9-11-6.2 NMSA 1978 and similar charges are appropriated
8 to the department for its use.

9 J. From the tax administration suspense fund, there
10 may be disbursed each month amounts approved by the secretary
11 or the secretary's delegate necessary to maintain a fund hereby
12 created and to be known as the "income tax suspense fund". The
13 income tax suspense fund shall be used for the payment of
14 income tax refunds.

15 K. All revenues collected or received by the
16 department pursuant to the provisions of any municipal or
17 county local option gross receipts tax imposed on a national
18 laboratory located in an H class county shall be disbursed to
19 the general fund and shall not be credited to the tax
20 administration suspense fund for transfer pursuant to Sections
21 7-1-6.12 and 7-1-6.13 NMSA 1978."

22 Section 2. Section 7-1-6.4 NMSA 1978 (being Laws 1983,
23 Chapter 211, Section 9, as amended) is amended to read:

24 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS
25 TAX. --

. 143350. 2

underscored material = new
[bracketed material] = delete

1 A. Except as provided in Subsection B of this
2 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
3 shall be made to each municipality in an amount, subject to any
4 increase or decrease made pursuant to Section 7-1-6.15 NMSA
5 1978, equal to the product of the quotient of one and two
6 hundred twenty-five thousandths percent divided by the tax rate
7 imposed by Section 7-9-4 NMSA 1978 [~~times~~] multiplied by the
8 net receipts for the month attributable to the gross receipts
9 tax from business locations other than a national laboratory:

10 (1) within that municipality;

11 (2) on land owned by the state, commonly known
12 as the "state fair grounds", within the exterior boundaries of
13 that municipality;

14 (3) outside the boundaries of any municipality
15 on land owned by that municipality; and

16 (4) on an Indian reservation or pueblo grant
17 in an area that is contiguous to that municipality and in which
18 the municipality performs services pursuant to a contract
19 between the municipality and the Indian tribe or Indian pueblo
20 if:

21 (a) the contract describes an area in
22 which the municipality is required to perform services and
23 requires the municipality to perform services that are
24 substantially the same as the services the municipality
25 performs for itself; and

. 143350. 2

underscored material = new
[bracketed material] = del etc

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

(b) the governing body of the municipality has submitted a copy of the contract to the secretary.

B. If the reduction made by Laws 1991, Chapter 9, Section 9 to the distribution under this section impairs the ability of a municipality to meet its principal or interest payment obligations for revenue bonds outstanding prior to July 1, 1991 that are secured by the pledge of all or part of the municipality's revenue from the distribution made under this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet any required payment, provided that the distribution amount does not exceed the amount that would have been due that municipality under this section as it was in effect on June 30, 1992.

C. As used in this section, "national laboratory" means a federally funded research and development center operated as a department of energy national laboratory in an H class county.

Section 3. Section 7-9-15 NMSA 1978 (being Laws 1970, Chapter 12, Section 1, as amended) is amended to read:

"7-9-15. EXEMPTION--COMPENSATING TAX--CERTAIN ORGANIZATIONS.--

A. Exempted from the compensating tax is the use of property by organizations, other than a national laboratory,

underscored material = new
[bracketed material] = delete

1 that demonstrate to the department that they have been granted
2 exemption from the federal income tax by the United States
3 commissioner of internal revenue as organizations described in
4 Section 501(c)(3) of the United States Internal Revenue Code of
5 1954, as amended or renumbered, in the conduct of functions
6 described in Section 501(c)(3). The use of property as an
7 ingredient or component part of a construction project is not a
8 use in the conduct of functions described in Section 501(c)(3).
9 This section does not apply to the use of property in an
10 unrelated trade or business as defined in Section 513 of the
11 United States Internal Revenue Code of 1954, as amended or
12 renumbered.

13 B. As used in this section, "national laboratory"
14 means a federally funded research and development center
15 operated as a department of energy national laboratory."

16 Section 4. Section 7-9-29 NMSA 1978 (being Laws 1970,
17 Chapter 12, Section 3, as amended) is amended to read:

18 "7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN
19 ORGANIZATIONS.--

20 A. Exempted from the gross receipts tax are the
21 receipts of organizations, other than a national laboratory,
22 that demonstrate to the department that they have been granted
23 exemption from the federal income tax by the United States
24 commissioner of internal revenue as organizations described in
25 Section 501(c)(3) of the United States Internal Revenue Code of

. 143350. 2

underscored material = new
[bracketed material] = delete

1 1954, as amended or renumbered.

2 B. Exempted from the gross receipts tax are the
3 receipts from carrying on chamber of commerce, visitor bureau
4 and convention bureau functions of organizations that
5 demonstrate to the department that they have been granted
6 exemption from the federal income tax by the United States
7 commissioner of internal revenue as organizations described in
8 Section 501(c)(6) of the United States Internal Revenue Code of
9 1954, as amended or renumbered.

10 C. This section does not apply to receipts derived
11 from an unrelated trade or business as defined in Section 513
12 of the United States Internal Revenue Code of 1954, as amended
13 or renumbered.

14 D. As used in this section, "national laboratory"
15 means a federally funded research and development center
16 operated as a department of energy national laboratory."

17 Section 5. Section 7-9-60 NMSA 1978 (being Laws 1970,
18 Chapter 12, Section 4, as amended) is amended to read:

19 "7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
20 GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

21 A. Except as provided otherwise in Subsection B of
22 this section, receipts from selling tangible personal property
23 to organizations, other than a national laboratory, that have
24 been granted exemption from the federal income tax by the
25 United States commissioner of internal revenue as organizations

. 143350. 2

1 described in Section 501(c)(3) of the United States Internal
2 Revenue Code of 1986, as amended or renumbered, may be deducted
3 from gross receipts or from governmental gross receipts if the
4 sale is made to an organization that delivers a nontaxable
5 transaction certificate to the seller. The buyer delivering
6 the nontaxable transaction certificate shall employ the
7 tangible personal property in the conduct of functions
8 described in Section 501(c)(3) and shall not employ the
9 tangible personal property in the conduct of an unrelated trade
10 or business as defined in Section 513 of the United States
11 Internal Revenue Code of 1986, as amended or renumbered.

12 B. The deduction provided by this section does not
13 apply to receipts from selling construction material or from
14 selling metalliferous mineral ore.

15 C. As used in this section, "national laboratory"
16 means a federally funded research and development center
17 operated as a department of energy national laboratory."

18 Section 6. EFFECTIVE DATE. --

19 A. The effective date of the provisions of Sections
20 3 through 5 of this act is January 1, 2004.

21 B. The effective date of the provisions of Sections
22 1 and 2 of this act is February 1, 2004.