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HOUSE BILL 89

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO MOTOR VEHICLE EXCISE TAX EXEMPTIONS; EXTENDING THE DATE OF REPEAL OF THE MOTOR VEHICLE EXCISE TAX EXEMPTION FOR HYBRID VEHICLES TO 2014; CORRECTING TECHNICAL ERRORS REFERRING TO THE HYBRID VEHICLE MOTOR VEHICLE EXCISE TAX EXEMPTION.

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

Section 1. Section 7-14-6 NMSA 1978 (being Laws 1988, Chapter 73, Section 16, as amended) is amended to read:

"7-14-6. EXEMPTIONS FROM TAX.--

A. A person who acquires a vehicle out of state thirty or more days before establishing a domicile in this state is exempt from the tax if the vehicle was acquired for personal use.

B. A person applying for a certificate of title for a vehicle registered in another state is exempt from the tax if

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1 the person has previously registered and titled the vehicle in  
2 New Mexico and has owned the vehicle continuously since that  
3 time.

4 C. A vehicle with a certificate of title owned by  
5 this state or any political subdivision is exempt from the tax.

6 D. A person is exempt from the tax if the person  
7 has a disability at the time the person purchases a vehicle and  
8 can prove to the motor vehicle division of the department or  
9 its agent that modifications have been made to the vehicle that  
10 are:

11 (1) due to that person's disability; and

12 (2) necessary to enable that person to drive  
13 that vehicle or be transported in that vehicle.

14 E. A person is exempt from the tax if the person is  
15 a bona fide resident of New Mexico who served in the armed  
16 forces of the United States and who suffered, while serving in  
17 the armed forces or from a service-connected cause, the loss or  
18 complete and total loss of use of:

19 (1) one or both legs at or above the ankle; or

20 (2) one or both arms at or above the wrist.

21 F. A person who acquires a vehicle  
22 for subsequent lease shall be exempt from the tax if:

23 (1) the person does not use the vehicle in any  
24 manner other than holding it for lease or sale or leasing or  
25 selling it in the ordinary course of business;

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1 (2) the lease is for a term of more than six  
2 months;

3 (3) the receipts from the subsequent lease are  
4 subject to the gross receipts tax; and

5 (4) the vehicle does not have a gross vehicle  
6 weight of over twenty-six thousand pounds.

7 G. From July 1, 2004 through June 30, ~~[2009]~~ 2014,  
8 vehicles that are gasoline-electric hybrid vehicles with a  
9 United States environmental protection agency fuel economy  
10 rating of at least twenty-seven and one-half miles per gallon  
11 are eligible for a one-time exemption from the tax at the time  
12 of the issuance of the original certificate of title for the  
13 vehicle."

14 Section 2. Section 7-9J-2 NMSA 1978 (being Laws 2007,  
15 Chapter 204, Section 12) is amended to read:

16 "7-9J-2. DEFINITIONS.--As used in the Alternative Energy  
17 Product Manufacturers Tax Credit Act:

18 A. "alternative energy product" means an  
19 alternative energy vehicle, fuel cell system, renewable energy  
20 system or any component of an alternative energy vehicle, fuel  
21 cell system or renewable energy system or components for  
22 integrated gasification combined cycle coal facilities and  
23 equipment related to the sequestration of carbon from  
24 integrated gasification combined cycle plants;

25 B. "alternative energy vehicle" means a motor

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1 vehicle manufactured by an original equipment manufacturer that  
2 fully warrants and certifies that the motor vehicle meets the  
3 federal motor vehicle safety standards and is designed to be  
4 propelled in whole or in part by electricity; "alternative  
5 energy vehicle" includes a gasoline-electric hybrid motor  
6 vehicle exempt from the motor vehicle excise tax pursuant to  
7 Subsection [F] G of Section 7-14-6 NMSA 1978;

8 C. "component" means a part, assembly of parts,  
9 material, ingredient or supply that is incorporated directly  
10 into an end product;

11 D. "department" means the taxation and revenue  
12 department, the secretary of taxation and revenue or an  
13 employee of the department exercising authority lawfully  
14 delegated to that employee by the secretary;

15 E. "fuel cell system" means a system that converts  
16 hydrogen, natural gas or waste gas to electricity without  
17 combustion, including:

18 (1) a fuel cell or a system used to generate  
19 or reform hydrogen for use in a fuel cell; or

20 (2) a system used to generate or reform  
21 hydrogen for use in a fuel cell, including:

22 (a) electrolyzers that use renewable  
23 energy; and

24 (b) reformers that use natural gas as  
25 the feedstock;

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1           F. "manufacturing" means combining or processing  
2 components or materials to increase their value for sale in the  
3 ordinary course of business, but "manufacturing" does not  
4 include construction, farming, power generation or processing  
5 natural resources;

6           G. "manufacturing equipment" means an essential  
7 machine, mechanism or tool or a component of an essential  
8 machine, mechanism or tool used directly and exclusively in a  
9 taxpayer's manufacturing operation and that is subject to  
10 depreciation pursuant to the Internal Revenue Code of 1986 by  
11 the taxpayer carrying on the manufacturing; provided that  
12 "manufacturing equipment" does not include a vehicle that  
13 leaves the site of a manufacturing operation for the purpose of  
14 transporting persons or property, including property for which  
15 the taxpayer claims a credit pursuant to Section 7-9-79 NMSA  
16 1978;

17           H. "manufacturing operation" means a plant  
18 employing personnel to perform production tasks, in conjunction  
19 with manufacturing equipment not previously existing at the  
20 site, to produce alternative energy products;

21           I. "modified combined tax liability" means the  
22 total liability for the reporting period for the gross receipts  
23 tax imposed by Section 7-9-4 NMSA 1978 together with any tax  
24 collected at the same time and in the same manner as that gross  
25 receipts tax, such as the compensating tax, the withholding

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1 tax, the interstate telecommunications gross receipts tax, the  
2 surcharge imposed by Section 63-9D-5 NMSA 1978 and the  
3 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the  
4 amount of any credit other than the alternative energy product  
5 manufacturers tax credit applied against any or all of those  
6 taxes or surcharges; provided that "modified combined tax  
7 liability" excludes all amounts collected with respect to local  
8 option gross receipts taxes;

9 J. "pass-through entity" means a business  
10 association other than:

- 11 (1) a sole proprietorship;
- 12 (2) an estate or trust;
- 13 (3) a corporation, limited liability company,  
14 partnership or other entity that is not a sole proprietorship  
15 taxed as a corporation for federal income tax purposes for the  
16 taxable year; or
- 17 (4) a partnership that is organized as an  
18 investment partnership in which the partner's income is derived  
19 solely from interest, dividends and sales of securities;

20 K. "qualified expenditure" means an expenditure for  
21 the purchase of manufacturing equipment made after July 1, 2006  
22 by a taxpayer approved by the department;

23 L. "renewable energy" means energy from solar heat,  
24 solar light, wind, geothermal energy, landfill gas or biomass  
25 either singly or in combination that produces low or zero

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1 emissions and has substantial long-term production potential;

2 M. "renewable energy system" means a system using  
3 only renewable energy to produce hydrogen or to generate  
4 electricity, including related cogeneration systems that create  
5 mechanical energy or that produce heat or steam for space or  
6 water heating and agricultural or small industrial processes  
7 and includes a:

- 8 (1) photovoltaic energy system;
- 9 (2) solar-thermal energy system;
- 10 (3) biomass energy system;
- 11 (4) wind energy system;
- 12 (5) hydrogen production system; or
- 13 (6) battery cell energy system; and

14 N. "taxpayer" means a person, including a  
15 shareholder, member, partner or other owner of a pass-through  
16 entity, who is liable for payment of a tax or to whom an  
17 assessment has been made if the assessment remains unabated or  
18 the amount thereof has not been paid."

19 Section 3. Section 7-9-23 NMSA 1978 (being Laws 1969,  
20 Chapter 144, Section 16, as amended) is amended to read:

21 "7-9-23. EXEMPTION--COMPENSATING TAX--VEHICLES.--Exempted  
22 from the compensating tax [~~is~~] are the use of vehicles on which  
23 the tax imposed by the Motor Vehicle Excise Tax Act has been  
24 paid, the use of vehicles subject to registration under Section  
25 66-3-16 NMSA 1978 and the use of vehicles exempt from the motor

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1 vehicle excise tax pursuant to Subsection [F] G of Section  
2 7-14-6 NMSA 1978."

3 Section 4. Section 7-9-22 NMSA 1978 (being Laws 1969,  
4 Chapter 144, Section 15, as amended) is amended to read:

5 "7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES.--  
6 Exempted from the gross receipts tax are the receipts from  
7 selling vehicles on which a tax is imposed by the Motor Vehicle  
8 Excise Tax Act, vehicles subject to registration under Section  
9 66-3-16 NMSA 1978 and vehicles exempt from the motor vehicle  
10 excise tax pursuant to Subsection [F] G of Section 7-14-6 NMSA  
11 1978."