

HOUSE BILL 742

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

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; INCREASING THE CIGARETTE TAX RATE;
ADJUSTING THE DISTRIBUTION PERCENTAGES OF CIGARETTE TAX
REVENUE; INCREASING THE RATE OF THE TOBACCO PRODUCTS TAX.

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

Section 1. Section 7-1-6.11 NMSA 1978 (being Laws 1983,
Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made to the county and municipality recreational
fund in an amount equal to [~~one and thirty-five hundredths~~]
ninety-three hundredths percent of the net receipts, exclusive
of penalties and interest, attributable to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made to the county and municipal cigarette tax

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1 fund in an amount equal to [~~two and sixty-nine hundredths~~] one
2 and eighty-five hundredths percent of the net receipts,
3 exclusive of penalties and interest, attributable to the
4 cigarette tax.

5 C. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to the cancer research and treatment center
7 at the university of New Mexico health sciences center in an
8 amount equal to [~~one and thirty-five hundredths~~] ninety-three
9 hundredths percent of the net receipts, exclusive of penalties
10 and interest, attributable to the cigarette tax.

11 D. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to the New Mexico finance authority in an
13 amount equal to [~~two and two hundredths~~] one and thirty-nine
14 hundredths percent of the net receipts, exclusive of penalties
15 and interest, attributable to the cigarette tax.

16 E. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 in an amount equal to [~~fourteen and thirty-seven~~
18 ~~hundredths~~] nine and eighty-seven hundredths percent of the net
19 receipts, exclusive of penalties and interest, attributable to
20 the cigarette tax, shall be made, on behalf of and for the
21 benefit of the university of New Mexico health sciences center,
22 to the New Mexico finance authority.

23 F. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 in an amount equal to [~~six and five hundredths~~] four and
25 sixteen-hundredths percent of the net receipts, exclusive of

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underscoring material = new
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1 penalties and interest, attributable to the cigarette tax shall
2 be made to the New Mexico finance authority for land
3 acquisition and the planning, designing, construction and
4 equipping of department of health facilities or improvements to
5 such facilities.

6 G. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 in an amount equal to [~~fifteen and seventy-nine~~
8 ~~hundredths~~] ten and eighty-five hundredths percent of the net
9 receipts, exclusive of penalties and interest, attributable to
10 the cigarette tax shall be made to the New Mexico finance
11 authority for deposit in the credit enhancement account created
12 in the authority.

13 H. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 in an amount equal to [~~one~~] sixty-nine hundredths percent
15 of the net receipts, exclusive of penalties and interest,
16 attributable to the cigarette tax shall be made, on behalf of
17 and for the benefit of the rural county cancer treatment fund,
18 to the New Mexico finance authority."

19 Section 2. Section 7-12-3 NMSA 1978 (being Laws 1971,
20 Chapter 77, Section 3, as amended) is amended to read:

21 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

22 A. For the privilege of selling, giving or
23 consuming cigarettes in New Mexico, there is levied an excise
24 tax at the following rates for each cigarette sold, given or
25 consumed in this state:

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1 (1) [~~four and fifty-five hundredths cents~~
2 (~~\$.0455~~)] nine and fifty-five hundredths cents (\$.0955) if the
3 cigarettes are packaged in lots of twenty or twenty-five;

4 (2) [~~nine and ten hundredths cents (\$.091)~~]
5 nineteen and ten-hundredths cents (\$.191) if the cigarettes are
6 packaged in lots of ten; or

7 (3) [~~eighteen and twenty hundredths cents~~
8 (~~\$.182~~)] thirty-eight and twenty-hundredths cents (\$.382) if
9 the cigarettes are packaged in lots of five.

10 B. The tax imposed by this section shall be
11 referred to as the "cigarette tax".

12 Section 3. Section 7-12-7 NMSA 1978 (being Laws 1971,
13 Chapter 77, Section 7, as amended by Laws 2006, Chapter 89,
14 Section 3 and by Laws 2006, Chapter 91, Section 6) is amended
15 to read:

16 "7-12-7. SALE OF STAMPS--PRICES.--

17 A. Only the department shall sell stamps. Stamps
18 may be sold by the department only to a distributor.

19 B. Stamps shall display a serial number. Stamps
20 bearing the same serial number shall not be sold to more than
21 one distributor. The department shall keep records of the
22 serial numbers of the stamps provided to each distributor.

23 C. A stamp shall be affixed to a package of
24 cigarettes in such a manner as to clearly display the serial
25 number at the point of sale.

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1 D. Tax stamps shall be sold at their face value
2 with the following discounts:

3 (1) [~~one~~] one-half percent less than the face
4 value of the first thirty thousand dollars (\$30,000) of stamps
5 purchased in one calendar month;

6 (2) [~~eight-tenths~~] four-tenths percent less
7 than the face value of the second thirty thousand dollars
8 (\$30,000) of stamps purchased in one calendar month; and

9 (3) [~~one-half~~] one-fourth percent less than
10 the face value of stamps purchased in excess of sixty thousand
11 dollars (\$60,000) in one calendar month.

12 E. If the face value of tax stamps sold in a single
13 sale is less than one thousand dollars (\$1,000), the discount
14 provided for in this section shall not be allowed.

15 F. Payment for tax stamps shall be made on or
16 before the twenty-fifth day of the month following the month in
17 which the sale of stamps by the department is made.

18 G. Tax-exempt stamps shall be provided only to
19 distributors and shall be free of charge; provided that the
20 distributor is in full compliance with the reporting
21 requirements of the Cigarette Tax Act and rules adopted
22 pursuant to that act."

23 Section 4. Section 7-12A-3 NMSA 1978 (being Laws 1986,
24 Chapter 112, Section 4, as amended) is amended to read:

25 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
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underscored material = new
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1 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

2 A. For the manufacture or acquisition of tobacco
3 products in New Mexico for sale in the ordinary course of
4 business, there is imposed an excise tax at the rate of
5 [~~twenty-five~~] forty percent of the product value of the tobacco
6 products.

7 B. The tax imposed by Subsection A of this section
8 may be referred to as the "tobacco products tax".

9 C. The tobacco products tax shall be paid by the
10 first purchaser on or before the twenty-fifth day of the month
11 following the month in which the taxable event occurs."

12 Section 5. APPLICABILITY.--The distributions pursuant to
13 the provisions of Section 1 of this act that are to become
14 effective July 1, 2009 apply to revenue earned on a modified
15 accrual basis after June 30, 2009.

16 Section 6. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2009.