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HOUSE BILL 244

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO TAXATION; IMPOSING THE COMPENSATING TAX ON CERTAIN  
UNTAXED TRANSACTIONS.

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

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

"7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
"COMPENSATING TAX".--

A. For the privilege of using tangible property in  
New Mexico, there is imposed on the person using the property  
an excise tax equal to five percent of the value of tangible  
property that was:

(1) manufactured by the person using the  
property in the state;

(2) acquired as the result of a transaction

underscored material = new  
[bracketed material] = delete

1 with a person located outside this state [~~as the result of a~~  
2 ~~transaction~~] that would have been subject to the gross receipts  
3 tax had [~~it occurred within this state~~] the tangible personal  
4 property been acquired from a person with nexus with New  
5 Mexico; or

6 (3) acquired as the result of a transaction  
7 [~~which~~] that was not initially subject to the compensating tax  
8 imposed by Paragraph (2) of this subsection or the gross  
9 receipts tax but which transaction, because of the buyer's  
10 subsequent use of the property, should have been subject to the  
11 compensating tax imposed by Paragraph (2) of this subsection or  
12 the gross receipts tax.

13 B. For the purpose of Subsection A of this section,  
14 value of tangible property shall be the adjusted basis of the  
15 property for federal income tax purposes determined as of the  
16 time of acquisition or introduction into this state or of  
17 conversion to use, whichever is later. If no adjusted basis  
18 for federal income tax purposes is established for the  
19 property, a reasonable value of the property shall be used.

20 C. For the privilege of using services rendered in  
21 New Mexico, there is imposed on the person using such services  
22 an excise tax equal to five percent of the value of the  
23 services at the time they were rendered. The services, to be  
24 taxable under this subsection, must have been rendered as the  
25 result of a transaction [~~which~~] that was not initially subject

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underscoring material = new  
~~[bracketed material] = delete~~

1 to the gross receipts tax but which transaction, because of the  
2 buyer's subsequent use of the services, should have been  
3 subject to the gross receipts tax.

4 D. The tax imposed by this section shall be  
5 referred to as the "compensating tax"."

6 Section 2. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2010.

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