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SENATE BILL 57

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

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO TAXATION; PROVIDING THAT RECEIPTS FROM THE SALE OF
MEDICAL MARIJUANA BY A FOR-PROFIT OR NONPROFIT ENTITY BE
SUBJECT TO THE GROSS RECEIPTS TAX.

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

Section 1. Section 7-9-29 NMSA 1978 (being Laws 1970,
Chapter 12, Section 3, as amended) is amended to read:

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

A. Except as provided in Subsection D of this
section, exempted from the gross receipts tax are the receipts
of organizations that demonstrate to the department that they
have been granted exemption from the federal income tax by the
United States commissioner of internal revenue as organizations
described in Section 501(c)(3) of the United States Internal

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1 Revenue Code of 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. This section does not apply to receipts derived
15 from the sale of cannabis produced, distributed or dispensed
16 pursuant to the Lynn and Erin Compassionate Use Act."

17 Section 2. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
18 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
19 amended) is amended to read:

20 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL
21 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN.--

22 A. Receipts from the sale of prescription drugs and
23 oxygen and oxygen services provided by a licensed medicare
24 durable medical equipment provider may be deducted from gross
25 receipts and governmental gross receipts.

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B. For the purposes of this section:

(1) "prescription drugs" means insulin and substances that are:

~~[(1)]~~ (a) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

~~[(2)]~~ (b) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

~~[(3)]~~ (c) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353; and

(2) "prescription drugs" does not include cannabis produced, distributed or dispensed pursuant to the Lynn and Erin Compassionate Use Act."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.