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SENATE BILL 236

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

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; PHASING OUT THE GROSS RECEIPTS TAX  
DEDUCTION FOR THE SALE OF FOOD; AMENDING AND REPEALING SECTIONS  
OF THE NMSA 1978.

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

Section 1. Section 7-9-92 NMSA 1978 (being Laws 2004,  
Chapter 116, Section 5) is amended to read:

"7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT  
RETAIL FOOD STORE.--

A. On or after July 1, 2010 but before July 1,  
2011, seventy-five percent of receipts from the sale of food at  
a retail food store that are not exempt from gross receipts  
taxation and are not deductible pursuant to another provision  
of the Gross Receipts and Compensating Tax Act may be deducted  
from gross receipts.

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1           B. On or after July 1, 2011 but before July 1,  
2           2012, fifty percent of receipts from the sale of food at a  
3           retail food store that are not exempt from gross receipts  
4           taxation and are not deductible pursuant to another provision  
5           of the Gross Receipts and Compensating Tax Act may be deducted  
6           from gross receipts.

7           C. On or after July 1, 2012 but before July 1,  
8           2013, twenty-five percent of receipts from the sale of food at  
9           a retail food store that are not exempt from gross receipts  
10           taxation and are not deductible pursuant to another provision  
11           of the Gross Receipts and Compensating Tax Act may be deducted  
12           from gross receipts.

13           D. The deduction provided by this section shall be  
14           separately stated by the taxpayer. The taxpayer shall not pass  
15           on to a purchaser of food with respect to which the deduction  
16           will be claimed a gross receipts tax charge in excess of the  
17           amount the taxpayer will owe on the transaction.

18           [~~B.~~] E. For the purposes of this section:

19                   (1) "food" means any food or food product for  
20                   home consumption that meets the definition of food in 7 USCA  
21                   2012[~~(g)~~](k)(1) for purposes of the federal [~~food stamp~~]  
22                   supplemental nutrition assistance program; and

23                   (2) "retail food store" means an establishment  
24                   that sells food for home preparation and consumption and that  
25                   meets the definition of retail food store in 7 USCA

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1 2012[~~(k)~~](p)(1) for purposes of the federal [~~food stamp~~]  
2 supplemental nutrition assistance program, whether or not the  
3 establishment participates in the [~~food stamp~~] supplemental  
4 nutrition assistance program."

5 Section 2. DELAYED REPEAL.--Section 7-9-92 NMSA 1978  
6 (being Laws 2004, Chapter 116, Section 5) is repealed effective  
7 July 1, 2013.

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