

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 523

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FOR LOCOMOTIVE FUEL
FROM GROSS RECEIPTS AND FROM COMPENSATING TAX.

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

SECTION 1. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ DEDUCTION--GROSS RECEIPTS TAX--LOCOMOTIVE
ENGINE FUEL.--Receipts from the sale of fuel to a common
carrier to be loaded or used in a locomotive engine may be
deducted from gross receipts. For the purposes of this
section, "locomotive engine" means a wheeled vehicle consisting
of a self-propelled engine that is used to draw trains along
railway tracks."

SECTION 2. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

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underscored material = new
[bracketed material] = delete

1 "[NEW MATERIAL] DEDUCTION--COMPENSATING TAX--LOCOMOTIVE
2 ENGINE FUEL.--The value of fuel to be loaded or used by a
3 common carrier in a locomotive engine may be deducted in
4 computing the compensating tax due. For the purposes of this
5 section, "locomotive engine" means a wheeled vehicle consisting
6 of a self-propelled engine that is used to draw trains along
7 railway tracks."

8 **SECTION 3.** A new section of the Gross Receipts and
9 Compensating Tax Act is enacted to read:

10 "[NEW MATERIAL] PURPOSE AND REQUIREMENTS OF LOCOMOTIVE
11 FUEL DEDUCTION.--

12 A. The purpose of the deduction on fuel loaded or
13 used by a common carrier in a locomotive engine from gross
14 receipts and from compensating tax is to encourage the
15 construction, renovation, maintenance and operation of railroad
16 locomotive refueling facilities and related activities in New
17 Mexico.

18 B. To be eligible for the deduction on fuel loaded
19 or used by a common carrier in a locomotive engine from
20 compensating tax, the fuel shall be used or loaded by a common
21 carrier that, after July 1, 2011, made a capital investment of
22 one hundred million dollars (\$100,000,000) or more in new
23 construction or renovations at the railroad locomotive
24 refueling facility in which the fuel is loaded or used.

25 C. To be eligible for the deduction on fuel loaded

1 or used by a common carrier in a locomotive engine from gross
2 receipts, the sale shall be made to a common carrier that,
3 after July 1, 2011, made a capital investment of one hundred
4 million dollars (\$100,000,000) or more in new construction or
5 renovations at the railroad locomotive refueling facility in
6 which the fuel is sold, and the common carrier shall deliver an
7 appropriate nontaxable transaction certificate to the seller.

8 D. The economic development department shall
9 promulgate rules for the issuance of a certificate of
10 eligibility for the purposes of claiming a deduction on fuel
11 loaded or used by a common carrier in a locomotive engine from
12 gross receipts or compensating tax. A common carrier may
13 request a certificate of eligibility from the economic
14 development department to provide to the taxation and revenue
15 department to establish eligibility for a nontaxable
16 transaction certificate for the deduction on fuel loaded or
17 used by a common carrier in a locomotive engine from gross
18 receipts. The taxation and revenue department shall issue
19 nontaxable transaction certificates to a common carrier upon
20 the presentation of a certificate of eligibility obtained from
21 the economic development department pursuant to this
22 subsection.

23 E. The economic development department shall keep a
24 record of temporary and permanent jobs from all railroad
25 activity at each railroad locomotive refueling facility that

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1 claims a deduction on fuel loaded or used by a common carrier
2 in a locomotive engine from gross receipts or from compensating
3 tax. The economic development department and the taxation and
4 revenue department shall estimate the amount of state revenue
5 that is attributable to all railroad activity occurring at each
6 locomotive refueling facility that claims a deduction on fuel
7 loaded or used by a common carrier in a locomotive engine from
8 gross receipts or from compensating tax.

9 F. The economic development department and the
10 taxation and revenue department shall compile an annual report
11 with the number of taxpayers who claim the deduction on fuel
12 loaded or used by a common carrier in a locomotive engine from
13 gross receipts and from compensating tax, the number of jobs
14 created as a result of that deduction, the amount of that
15 deduction approved, the net revenue to the state as a result of
16 that deduction and any other information required by the
17 legislature to aid in evaluating the effectiveness of that
18 deduction. A taxpayer who claims a deduction on fuel loaded or
19 used by a common carrier in a locomotive engine from gross
20 receipts or from compensating tax shall provide the economic
21 development department and the taxation and revenue department
22 with the information required to compile that report. The
23 economic development department and the taxation and revenue
24 department shall present that report before the legislative
25 interim revenue stabilization and tax policy committee and the

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1 legislative finance committee by November of each year.
2 Notwithstanding any other section of law to the contrary, the
3 economic development department and the taxation and revenue
4 department may disclose the number of applicants for the
5 deduction on fuel loaded or used by a common carrier in a
6 locomotive engine from gross receipts and from compensating
7 tax, the amount of the deduction approved, the number of
8 employees of the taxpayer and any other information required by
9 the legislature or the taxation and revenue department to aid
10 in evaluating the effectiveness of that deduction.

11 G. An appropriate legislative committee shall
12 review the effectiveness of the deduction on fuel loaded or
13 used by a common carrier in a locomotive engine from gross
14 receipts and from compensating tax every six years beginning in
15 2019."

16 SECTION 4. SEVERABILITY.--If any part or application of
17 this act is held invalid, the remainder or its application to
18 other situations or persons shall not be affected.

19 SECTION 5. CONTINGENT EFFECTIVE DATE--NOTIFICATION.--The
20 effective date of the provisions of this act is July 1, 2013,
21 provided that prior to July 1, 2012, the economic development
22 department certifies to the taxation and revenue department
23 that construction of a railroad locomotive refueling facility
24 project in Dona Ana county has commenced, including land
25 acquisition, acquisition of all necessary permits and

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1 commencement of actual construction. The taxation and revenue
2 department shall notify the New Mexico compilation commission
3 and the director of the legislative council service prior to
4 July 1, 2013 as to whether the certification from the economic
5 development department has been received.