

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:

"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:

"DEDUCTION--COMPENSATING TAX--LOCOMOTIVE ENGINE FUEL.--The value of fuel to be loaded or used by a common carrier in a locomotive engine may be deducted in computing the compensating tax due. 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 3.** A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL

DEDUCTION.--

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

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

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

D. The economic development department shall promulgate rules for the issuance of a certificate of

eligibility for the purposes of claiming a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or compensating tax. A common carrier may request a certificate of eligibility from the economic development department to provide to the taxation and revenue department to establish eligibility for a nontaxable transaction certificate for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts. The taxation and revenue department shall issue nontaxable transaction certificates to a common carrier upon the presentation of a certificate of eligibility obtained from the economic development department pursuant to this subsection.

E. The economic development department shall keep a record of temporary and permanent jobs from all railroad activity at each railroad locomotive refueling facility that claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or from compensating tax. The economic development department and the taxation and revenue department shall estimate the amount of state revenue that is attributable to all railroad activity occurring at each locomotive refueling facility that claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or from compensating tax.

F. The economic development department and the taxation and revenue department shall compile an annual report with the number of taxpayers who claim the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts and from compensating tax, the number of jobs created as a result of that deduction, the amount of that deduction approved, the net revenue to the state as a result of that deduction and any other information required by the legislature to aid in evaluating the effectiveness of that deduction. A taxpayer who claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or from compensating tax shall provide the economic development department and the taxation and revenue department with the information required to compile that report. The economic development department and the taxation and revenue department shall present that report before the legislative interim revenue stabilization and tax policy committee and the legislative finance committee by November of each year. Notwithstanding any other section of law to the contrary, the economic development department and the taxation and revenue department may disclose the number of applicants for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts and from compensating tax, the amount of the deduction approved, the number of employees of the taxpayer and any other information required

by the legislature or the taxation and revenue department to aid in evaluating the effectiveness of that deduction.

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

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

**SECTION 5. CONTINGENT EFFECTIVE DATE--NOTIFICATION.--**The effective date of the provisions of this act is July 1, 2013, provided that prior to July 1, 2012, the economic development department certifies to the taxation and revenue department that construction of a railroad locomotive refueling facility project in Dona Ana county has commenced, including land acquisition, acquisition of all necessary permits and commencement of actual construction. The taxation and revenue department shall notify the New Mexico compilation commission and the director of the legislative council service prior to July 1, 2013 as to whether the certification from the economic development department has been received. \_\_\_\_\_