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HOUSE BILL 22

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Jim R. Trujillo

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A MOTOR VEHICLE EXCISE TAX
EXEMPTION FOR QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLES UNTIL
2016; DEFINING "QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLE" FOR
PURPOSES OF CERTAIN TAX ACTS; PROVIDING GROSS RECEIPTS TAX AND
COMPENSATING TAX EXEMPTIONS FOR QUALIFIED PLUG-IN ELECTRIC
DRIVE VEHICLES.

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

SECTION 1. Section 7-9-22 NMSA 1978 (being Laws 1969,
Chapter 144, Section 15, as amended) is amended to read:

"7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES.--
Exempted from the gross receipts tax are the receipts from
selling vehicles on which a tax is imposed by the Motor Vehicle
Excise Tax Act, vehicles subject to registration under Section
66-3-16 NMSA 1978 and vehicles exempt from the motor vehicle

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1 excise tax pursuant to [~~Subsection~~] Subsections F and G of
2 Section 7-14-6 NMSA 1978."

3 SECTION 2. Section 7-9-23 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 16, as amended) is amended to read:

5 "7-9-23. EXEMPTION--COMPENSATING TAX--VEHICLES.--Exempted
6 from the compensating tax [~~is~~] are the use of vehicles on which
7 the tax imposed by the Motor Vehicle Excise Tax Act has been
8 paid, the use of vehicles subject to registration under Section
9 66-3-16 NMSA 1978 and the use of vehicles exempt from the motor
10 vehicle excise tax pursuant to [~~Subsection~~] Subsections F and G
11 of Section 7-14-6 NMSA 1978."

12 SECTION 3. Section 7-9J-2 NMSA 1978 (being Laws 2007,
13 Chapter 204, Section 12, as amended) is amended to read:

14 "7-9J-2. DEFINITIONS.--As used in the Alternative Energy
15 Product Manufacturers Tax Credit Act:

16 A. "alternative energy product" means an
17 alternative energy vehicle, fuel cell system, renewable energy
18 system or any component of an alternative energy vehicle, fuel
19 cell system or renewable energy system; components for
20 integrated gasification combined cycle coal facilities and
21 equipment related to the sequestration of carbon from
22 integrated gasification combined cycle plants; or, beginning in
23 taxable year 2011 and ending in taxable year 2019, a product
24 extracted from or secreted by a single cell photosynthetic
25 organism;

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1 B. "alternative energy vehicle" means a motor
2 vehicle manufactured by an original equipment manufacturer that
3 fully warrants and certifies that the motor vehicle meets the
4 federal motor vehicle safety standards and is designed to be
5 propelled in whole or in part by electricity; "alternative
6 energy vehicle" includes a gasoline-electric hybrid motor
7 vehicle [~~exempt from the motor vehicle excise tax pursuant to~~
8 ~~Subsection G of Section 7-14-6 NMSA 1978~~] or a qualified plug-
9 in electric drive vehicle;

10 C. "component" means a part, assembly of parts,
11 material, ingredient or supply that is incorporated directly
12 into an end product;

13 D. "department" means the taxation and revenue
14 department, the secretary of taxation and revenue or an
15 employee of the department exercising authority lawfully
16 delegated to that employee by the secretary;

17 E. "fuel cell system" means a system that converts
18 hydrogen, natural gas or waste gas to electricity without
19 combustion, including:

20 (1) a fuel cell or a system used to generate
21 or reform hydrogen for use in a fuel cell; or

22 (2) a system used to generate or reform
23 hydrogen for use in a fuel cell, including:

24 (a) electrolyzers that use renewable
25 energy; and

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1 (b) reformers that use natural gas as
2 the feedstock;

3 F. "manufacturing" means combining or processing
4 components or materials to increase their value for sale in the
5 ordinary course of business, but "manufacturing" does not
6 include construction, farming, power generation or processing
7 natural resources;

8 G. "manufacturing equipment" means an essential
9 machine, mechanism or tool or a component of an essential
10 machine, mechanism or tool used directly and exclusively in a
11 taxpayer's manufacturing operation and that is subject to
12 depreciation pursuant to the Internal Revenue Code of 1986 by
13 the taxpayer carrying on the manufacturing; provided that
14 "manufacturing equipment" does not include a vehicle that
15 leaves the site of a manufacturing operation for the purpose of
16 transporting persons or property, including property for which
17 the taxpayer claims a credit pursuant to Section 7-9-79 NMSA
18 1978;

19 H. "manufacturing operation" means a plant
20 employing personnel to perform production tasks, in conjunction
21 with manufacturing equipment not previously existing at the
22 site, to produce alternative energy products;

23 I. "modified combined tax liability" means the
24 total liability of the taxpayer for the reporting period for
25 the gross receipts tax imposed ~~[by]~~ pursuant to Section 7-9-4

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1 NMSA 1978 [~~together with any tax collected at the same time and~~
2 ~~in the same manner as that gross receipts tax, such as~~], the
3 compensating tax imposed pursuant to Section 7-9-7 NMSA 1978
4 and the withholding tax [~~the interstate telecommunications~~
5 ~~gross receipts tax, the surcharge imposed by Section 63-9D-5~~
6 ~~NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA~~
7 ~~1978, minus the amount of any credit other than the alternative~~
8 ~~energy product manufacturers tax credit applied against any or~~
9 ~~all of those taxes or surcharges~~] imposed on wages pursuant to
10 Section 7-3-3 NMSA 1978, notwithstanding any distribution or
11 transfer pursuant to the Tax Administration Act with respect to
12 net receipts from those liabilities, minus the amount of a
13 credit or deduction other than the alternative energy product
14 manufacturers tax credit applied against those taxes; provided
15 that "modified combined tax liability" excludes [all amounts
16 ~~collected with respect to~~] any liability resulting from a local
17 option gross receipts [taxes] tax;

18 J. "pass-through entity" means a business
19 association other than:

- 20 (1) a sole proprietorship;
- 21 (2) an estate or trust;
- 22 (3) a corporation, limited liability company,
23 partnership or other entity that is not a sole proprietorship
24 taxed as a corporation for federal income tax purposes for the
25 taxable year; or

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1 (4) a partnership that is organized as an
2 investment partnership in which the partner's income is derived
3 solely from interest, dividends and sales of securities;

4 K. "qualified expenditure" means an expenditure
5 for the purchase of manufacturing equipment made after July 1,
6 2006 by a taxpayer approved by the department;

7 L. "qualified plug-in electric drive vehicle"
8 means a motor vehicle with four wheels that:

9 (1) is made by a manufacturer;

10 (2) is manufactured primarily for use on
11 public streets, roads or highways;

12 (3) has not been modified from the original
13 manufacturer specifications;

14 (4) is acquired for use or lease by a
15 consumer and is not for resale;

16 (5) is rated at not less than two thousand
17 two hundred pounds unloaded base weight and not more than
18 eight thousand five hundred pounds unloaded base weight;

19 (6) has a maximum speed capability of at
20 least sixty-five miles per hour; and

21 (7) is propelled to a significant extent by
22 an electric motor that draws electricity from a battery that:

23 (a) has a capacity of not less than
24 four kilowatt-hours; and

25 (b) is capable of being recharged from

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1 an external source of electricity;

2 [H.] M. "renewable energy" means energy from solar
3 heat, solar light, wind, geothermal energy, landfill gas or
4 biomass either singly or in combination that produces low or
5 zero emissions and has substantial long-term production
6 potential;

7 [M.] N. "renewable energy system" means a system
8 using only renewable energy to produce hydrogen or to generate
9 electricity, including related cogeneration systems that
10 create mechanical energy or that produce heat or steam for
11 space or water heating and agricultural or small industrial
12 processes and includes a:

- 13 (1) photovoltaic energy system;
- 14 (2) solar-thermal energy system;
- 15 (3) biomass energy system;
- 16 (4) wind energy system;
- 17 (5) hydrogen production system; or
- 18 (6) battery cell energy system; ~~and~~

19 ~~N.]~~ O. "taxpayer" means a person, including a
20 shareholder, member, partner or other owner of a pass-through
21 entity, that is liable for payment of a tax or to whom an
22 assessment has been made if the assessment remains unabated or
23 the amount thereof has not been paid; and

24 P. "unloaded base weight" means the weight of a
25 vehicle without passengers or cargo."

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1 SECTION 4. Section 7-14-6 NMSA 1978 (being Laws 1988,
2 Chapter 73, Section 16, as amended) is amended to read:

3 "7-14-6. EXEMPTIONS FROM TAX.--

4 A. A person who acquires a vehicle out of state
5 thirty or more days before establishing a domicile in this
6 state is exempt from the tax if the vehicle was acquired for
7 personal use.

8 B. A person applying for a certificate of title
9 for a vehicle registered in another state is exempt from the
10 tax if the person has previously registered and titled the
11 vehicle in New Mexico and has owned the vehicle continuously
12 since that time.

13 C. A vehicle with a certificate of title owned by
14 this state or any political subdivision is exempt from the
15 tax.

16 D. A person is exempt from the tax if the person
17 has a disability at the time the person purchases a vehicle
18 and can prove to the motor vehicle division of the department
19 or its agent that modifications have been made to the vehicle
20 that are:

- 21 (1) due to that person's disability; and
- 22 (2) necessary to enable that person to drive
- 23 that vehicle or be transported in that vehicle.

24 E. A person is exempt from the tax if the person
25 is a bona fide resident of New Mexico who served in the armed

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1 forces of the United States and who suffered, while serving in
2 the armed forces or from a service-connected cause, the loss
3 or complete and total loss of use of:

4 (1) one or both legs at or above the ankle;
5 or

6 (2) one or both arms at or above the wrist.

7 F. A person who acquires a vehicle for subsequent
8 lease shall be exempt from the tax if:

9 (1) the person does not use the vehicle in
10 any manner other than holding it for lease or sale or leasing
11 or selling it in the ordinary course of business;

12 (2) the lease is for a term of more than six
13 months;

14 (3) the receipts from the subsequent lease
15 are subject to the gross receipts tax; and

16 (4) the vehicle does not have a gross
17 vehicle weight of over twenty-six thousand pounds.

18 G. From July 1, [2004] 2011 through June 30,
19 [2009] 2016, vehicles that are [~~gasoline-electric hybrid~~
20 ~~vehicles with a United States environmental protection agency~~
21 ~~fuel economy rating of at least twenty-seven and one-half~~
22 ~~miles per gallon] qualified plug-in electric drive vehicles
23 are eligible for a one-time exemption from the tax at the time
24 of the issuance of the original certificate of title for the
25 vehicle.~~

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1 H. As used in this section:

- 2 (1) "qualified plug-in electric drive
3 vehicle" means a motor vehicle with four wheels that:
4 (a) is made by a manufacturer;
5 (b) is manufactured primarily for use
6 on public streets, roads or highways;
7 (c) has not been modified from the
8 original manufacturer specifications;
9 (d) is acquired for use or lease by a
10 consumer and is not for resale;
11 (e) is rated at not less than two
12 thousand two hundred pounds unloaded base weight and not more
13 than eight thousand five hundred pounds unloaded base weight;
14 (f) has a maximum speed capability of
15 at least sixty-five miles per hour; and
16 (g) is propelled to a significant
17 extent by an electric motor that draws electricity from a
18 battery that: 1) has a capacity of not less than four
19 kilowatt-hours; and 2) is capable of being recharged from an
20 external source of electricity; and
21 (2) "unloaded base weight" means the weight
22 of a vehicle without passengers or cargo."

23 SECTION 5. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2012.