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HOUSE BILL 184

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

INTRODUCED BY

David L. Doyle

AN ACT

RELATING TO TAXATION; DEFINING "CONSTRUCTION SERVICE" FOR THE
PURPOSES OF THE DEDUCTION FROM GROSS RECEIPTS; PROVIDING FOR A
DEDUCTION FROM GROSS RECEIPTS FROM THE LEASING OF EQUIPMENT
USED ON A CONSTRUCTION PROJECT.

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

SECTION 1. Section 7-9-52 NMSA 1978 (being Laws 1969,
Chapter 144, Section 42, as amended by Laws 2000, Chapter 84,
Section 4 and also by Laws 2000, Chapter 98, Section 2) is
amended to read:

"7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
CONSTRUCTION SERVICES TO PERSONS ENGAGED IN THE CONSTRUCTION
BUSINESS.--

A. Receipts from selling a construction service may
be deducted from gross receipts if the sale is made to a person

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1 engaged in the construction business who delivers a nontaxable
2 transaction certificate to the person performing the
3 construction service.

4 B. The buyer delivering the nontaxable transaction
5 certificate ~~[must]~~ shall have the construction services
6 ~~[performed upon]~~ directly contracted for or billed to:

7 (1) a construction project ~~[which]~~ that is
8 subject to the gross receipts tax upon its completion or upon
9 the completion of the overall construction project of which it
10 is a part;

11 (2) a construction project ~~[which]~~ that is
12 subject to the gross receipts tax upon the sale in the ordinary
13 course of business of the real property upon which it was
14 constructed; or

15 (3) a construction project that is located on
16 the tribal territory of an Indian nation, tribe or pueblo.

17 C. As used in this section, "construction service"
18 means a service directly contracted for or billed to a specific
19 construction project, including design, architecture, drafting,
20 surveying, engineering, environmental and structural testing,
21 security, sanitation and services required to comply with
22 governmental construction regulations; but "construction
23 service" excludes general business services such as legal or
24 accounting services, equipment maintenance and real estate
25 sales commissions."

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

3 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--LEASE OF
4 CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION
5 BUSINESS.--

6 A. Receipts from leasing construction equipment may
7 be deducted from gross receipts if the construction equipment
8 is leased to a person engaged in the construction business who
9 delivers a nontaxable transaction certificate to the person
10 leasing the construction equipment.

11 B. The lessee delivering the nontaxable transaction
12 certificate shall only use the construction equipment at the
13 construction location of:

14 (1) a construction project that is subject to
15 the gross receipts tax upon its completion or upon the
16 completion of the overall construction project of which it is a
17 part;

18 (2) a construction project that is subject to
19 the gross receipts tax upon the sale in the ordinary course of
20 business of the real property upon which it was constructed; or

21 (3) a construction project that is located on
22 the tribal territory of an Indian nation, tribe or pueblo.

23 C. As used in this section, "construction
24 equipment" means equipment used on a construction project,
25 including trash containers, portable toilets, scaffolding and

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temporary fencing."

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