

HOUSE BILL 233

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

INTRODUCED BY

Eleanor Chavez

AN ACT

RELATING TO TAXATION; PROVIDING FOR COLLECTION OF THE GROSS RECEIPTS AND COMPENSATING TAX OF CERTAIN INTERNET SALES OF GOODS AND SERVICES.

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

SECTION 1. A new section of the Income Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ INFORMATION REQUIRED--INDIVIDUAL PURCHASES SUBJECT TO COMPENSATING TAX.--

A. Pursuant to regulation, the secretary shall require a person to report all purchases made by that person of personal tangible property that are subject to the compensating tax and are used only for nonbusiness purposes.

B. The imposition and rate of the compensating tax pursuant to Section 7-9-7 NMSA 1978 shall apply to the value of

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1 personal tangible property reported pursuant to Subsection A of  
2 this section, and that tax is due and payment is required in  
3 the same manner as the tax imposed on individuals under the  
4 Income Tax Act.

5 C. A person whose state income tax liability after  
6 application of allowable credits and tax rebates in any year is  
7 lower than the amount of money held by the department to the  
8 credit of such person for that tax year may apply the income  
9 tax refund due that person against the compensating tax due  
10 pursuant to Subsection B of this section."

11 SECTION 2. Section 7-9-3.3 NMSA 1978 (being Laws 2003,  
12 Chapter 272, Section 4) is amended to read:

13 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in  
14 the Gross Receipts and Compensating Tax Act, "engaging in  
15 business" means carrying on or causing to be carried on any  
16 activity with the purpose of direct or indirect benefit, except  
17 that

18 [~~A. "engaging in business" does not include having~~  
19 ~~a worldwide web site as a third-party content provider on a~~  
20 ~~computer physically located in New Mexico but owned by another~~  
21 ~~nonaffiliated person; and~~

22 ~~B.] "engaging in business" [does not include]~~  
23 excludes using a nonaffiliated third-party call center to  
24 accept and process telephone or electronic orders of tangible  
25 personal property or licenses primarily from non-New Mexico

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1 buyers, which orders are forwarded to a location outside New  
2 Mexico for filling, or to provide services primarily to non-New  
3 Mexico customers."

4 SECTION 3. REPEAL.--Section 7-9-7.1 NMSA 1978 (being Laws  
5 1993, Chapter 45, Section 1, as amended) is repealed.

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