

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 206

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO TAXATION; CLARIFYING CERTAIN SECTIONS OF THE NMSA 1978; REPEALING CERTAIN TAX DEDUCTIONS AND CREDITS THAT ARE SELDOM USED OR HAVE EXPIRED.

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

**SECTION 1.** Section 7-9-55 NMSA 1978 (being Laws 1969, Chapter 144, Section 45, as amended) is amended to read:

"7-9-55. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--EXPORTS--TRANSACTION IN INTERSTATE COMMERCE.--

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A. Receipts from transactions in interstate or foreign commerce may be deducted from gross receipts and governmental gross receipts to the extent that the imposition of the gross receipts tax would be unlawful under the United States constitution.

~~[B. Receipts from transactions in interstate commerce may be deducted from governmental gross receipts.~~

G.] B. Receipts from transmitting messages or conversations by radio other than from one point in this state to another point in this state and receipts from the sale of radio or television broadcast time when the advertising message is supplied by or on behalf of a national or regional seller or advertiser not having its principal place of business in or being incorporated under the laws of this state may be deducted from gross receipts. Commissions of advertising agencies from performing services in this state may not be deducted from gross receipts under this section.

C. Receipts from selling tangible personal property in interstate or foreign commerce may be deducted from gross receipts when the order for the property is placed from outside the state and the seller ships or delivers the tangible personal property to a location outside New Mexico for use outside New Mexico.

D. Receipts from leasing or licensing personal property in interstate or foreign commerce may be deducted from

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gross receipts when the order for the property is placed from outside the state and the property is employed outside New Mexico.

E. Receipts from granting a right to use a franchise in interstate or foreign commerce may be deducted from gross receipts when the franchise is employed outside New Mexico.

F. Receipts from selling in interstate or foreign commerce a service performed in New Mexico may be deducted from gross receipts when the seller ships or delivers the product of the service to a location outside New Mexico for initial use outside New Mexico."

SECTION 2. Section 7-9-65 NMSA 1978 (being Laws 1969, Chapter 144, Section 56) is amended to read:

"7-9-65. DEDUCTION--GROSS RECEIPTS TAX--CHEMICALS AND REAGENTS.--Receipts from selling chemicals or reagents to any mining, milling or oil company for use in processing ores or oil in a mill, smelter or refinery or in acidizing oil wells ~~[and receipts from selling chemicals or reagents in lots in excess of eighteen tons]~~ may be deducted from gross receipts. Receipts from selling explosives, blasting powder or dynamite and receipts from selling chemicals or reagents for use as fuel may not be deducted from gross receipts pursuant to this section."

SECTION 3. Section 7-9-66 NMSA 1978 (being Laws 1969, Chapter 144, Section 57, as amended) is amended to read:

"7-9-66. DEDUCTION--GROSS RECEIPTS TAX--COMMISSIONS.--  
[A.] Receipts derived from commissions on sales of tangible

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personal property [~~which~~] that are not subject to the gross receipts tax may be deducted from gross receipts.

~~[B. Receipts of the owner of a dealer store derived from commissions received for performing the service of selling from the owner's dealer store a principal's tangible personal property may be deducted from gross receipts.~~

~~C. As used in this section, "dealer store" means a merchandise facility open to the public that is owned and operated by a person who contracts with a principal to act as an agent for the sale from that facility of merchandise owned by the principal.]"~~

SECTION 4. TEMPORARY PROVISION--EXHAUSTION OF CREDITS.--

A. If a taxpayer has met the eligibility requirements to apply for and claim a credit pursuant to Section 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2A-8.8 or 7-2A-15 NMSA 1978 or a credit pursuant to the Venture Capital Investment Act for a period prior to the effective date of this 2018 act, the taxpayer may claim, and the taxation and revenue department may approve, the credit for those periods, including amounts that may be carried forward pursuant to those sections and acts as they were in effect prior to the effective date of this 2018 act.

B. If a taxpayer has claimed and been awarded a credit pursuant to Section 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2A-8.8 or 7-2A-15 NMSA 1978 or a credit pursuant

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to the Venture Capital Investment Act, but a portion of the credit claimed remains unused, the taxpayer may claim the unused portion, including amounts that could have been carried forward pursuant to those sections and acts as they were in effect prior to the effective date of this 2018 act.

SECTION 5. REPEAL.--Sections HTRC→7-1-6.55,←HTRC 7-9-26.1, 7-9-54.1, 7-9-57, 7-9-74, 7-9-76, 7-9-76.2, 7-9-79.2, 7-9-86, 7-9-91, 7-9-94, 7-9-96, 7-9-97, 7-9-99 through 7-9-102, 7-9-103.1, 7-9-103.2, 7-9-105 and 7-9-106 NMSA 1978 (being HTRC→Laws 2007, Chapter 331, Section 4←HTRC, Laws 2003, Chapter 62, Section 1, Laws 1992, Chapter 40, Section 1, Laws 1969, Chapter 144, Section 47, Laws 1971, Chapter 217, Section 2, Laws 1977, Chapter 288, Section 2, Laws 1984, Chapter 2, Section 6, Laws 2007, Chapter 204, Section 9, Laws 1995, Chapter 80, Section 1, Laws 2001, Chapter 135, Section 1, Laws 2005, Chapter 104, Sections 23 and 26, Laws 2005, Chapter 169, Section 1, Laws 2006, Chapter 35, Sections 1 and 2, Laws 2007, Chapter 3, Sections 16 and 17, Laws 2012, Chapter 12, Sections 2 and 3, Laws 2007, Chapter 45, Section 6 and Laws 2007, Chapter 172, Section 8, as amended) are repealed.

SECTION 6. ADDITIONAL REPEAL.--Sections 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2A-8.8, 7-2A-15, HTRC→7-2A-23, ←HTRC 7-2D-1, 7-2D-2 and 7-2D-4 through 7-2D-14 NMSA 1978 (being Laws 1994, Chapter 115, Section 1, Laws 1998, Chapter 97, Section 2, Laws 2001, Chapter 73, Section 1, Laws 2007, Chapter 204, Section 7, Laws 1998, Chapter 97, Section 3, Laws 1994, Chapter 115, Section 2, HTRC→Laws 2007, Chapter 204, Section 8,←HTRC Laws 1993, Chapter 313, Sections 1, 2 and 4

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through 8, Laws 1995, Chapter 89, Section 8 and Laws 1993, Chapter 313, Sections 9 through 14, as amended) are repealed.

SECTION 7. APPLICABILITY.--The provisions of Section 6 of this act apply to taxable years beginning on or after January 1, 2019.

SECTION 8. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 5 of this act is July 1, 2018.

B. The effective date of the provisions of Section 6 of this act is January 1, 2019.

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