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HOUSE BILL 1201

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

LUCIANO "LUCKY" VARELA

AN ACT

RELATING TO TAXATION; AMENDING THE GROSS RECEIPTS AND
COMPENSATING TAX ACT TO ALLOW SELLERS A SIXTY-DAY GRACE PERIOD
TO OBTAIN REQUIRED NONTAXABLE TRANSACTION CERTIFICATES.

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

Section 1. Section 7-9-43 NMSA 1978 (being Laws 1966,
Chapter 47, Section 13, as amended by Laws 1994, Chapter 94,
Section 1 and also by Laws 1994, Chapter 98, Section 1) is
amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS--RENEWAL.--

A. The provisions of this subsection apply to
transactions occurring on or after July 1, 1992. All nontaxable
transaction certificates of the appropriate series executed by
buyers or lessees [~~shall~~] should be in the possession of the

Underscored material = new
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1 seller or lessor for nontaxable transactions at the time the
2 return is due for receipts from the transactions. If the seller
3 or lessor [~~does not demonstrate possession of required~~
4 ~~nontaxable transaction certificates to the department at the~~
5 ~~commencement of an audit or demonstrate~~] is not in possession of
6 the required nontaxable transaction certificates within sixty
7 days from the date that the notice requiring possession of these
8 nontaxable transaction certificates is given the seller or
9 lessor by the department [~~that the seller or lessor was in~~
10 ~~possession of such certificates at the time receipts from the~~
11 ~~transactions were required to be reported~~], deductions claimed
12 by the seller or lessor that require delivery of these
13 nontaxable transaction certificates shall be disallowed. The
14 nontaxable transaction certificates shall contain the
15 information and be in a form prescribed by the department. Only
16 buyers or lessees who have a registration number or have applied
17 for a registration number and have not been refused one under
18 Subsection C of Section 7-1-12 NMSA 1978 shall execute
19 nontaxable transaction certificates. If the seller or lessor
20 has been given an identification number for tax purposes by the
21 department, the seller or lessor shall disclose that
22 identification number to the buyer or lessee prior to or upon
23 acceptance of a nontaxable transaction certificate. When the
24 seller or lessor accepts a nontaxable transaction certificate
25 within the required time and in good faith that the buyer or

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1 lessee will employ the property or service transferred in a
2 nontaxable manner, the properly executed nontaxable transaction
3 certificate shall be conclusive evidence, and the only material
4 evidence, that the proceeds from the transaction are deductible
5 from the seller's or lessor's gross receipts.

6 B. The provisions of this subsection apply only to
7 transactions occurring on or after July 1, 1992. Properly
8 executed documents required to support the deductions provided
9 in Sections 7-9-57, 7-9-58 and 7-9-74 NMSA 1978 ~~[shall]~~ should
10 be in the possession of the seller at the time the return is due
11 for receipts from the transactions. If the seller ~~[does not~~
12 ~~demonstrate possession of required documents to the department~~
13 ~~at the commencement of an audit or demonstrate]~~ is not in
14 possession of these documents within sixty days from the date
15 that the notice requiring possession of these documents is given
16 to the seller by the department ~~[that the seller was in~~
17 ~~possession of such documents at the time receipts from the~~
18 ~~transactions were required to be reported]~~, deductions claimed
19 by the seller or lessor that require delivery of these documents
20 shall be disallowed. These documents shall contain the
21 information and be in a form prescribed by the department. When
22 the seller accepts these documents within the required time and
23 in good faith that the buyer will employ the property or service
24 transferred in a nontaxable manner, the properly executed
25 documents shall be conclusive evidence, and the only material

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1 evidence, that the proceeds from the transaction are deductible
2 from the seller's gross receipts.

3 C. Notice, as used in this section, is sufficient if
4 the notice is mailed or served as provided in Subsection A of
5 Section 7-1-9 NMSA 1978. Notice by the department under this
6 section shall not be given prior to the commencement of an audit
7 of the seller required to be in possession of the documents.

8 D. On January 1, 1992, every nontaxable transaction
9 certificate, except for nontaxable transaction certificates of
10 the series applicable to the ten-year period beginning January
11 1, 1992 and issued by the department prior to that date, is void
12 with respect to transactions after December 31, 1991. The
13 department shall issue separate series of nontaxable transaction
14 certificates for the ten-year period beginning January 1, 1992
15 and for each ten-year period beginning on January 1 of every
16 tenth year succeeding calendar year 1992. A series of
17 nontaxable transaction certificates issued by the department for
18 any ten-year period may be executed by buyers or lessees for
19 transactions occurring within that ten-year period but are not
20 valid for transactions occurring before or after that ten-year
21 period [~~except that certificates issued by the department with~~
22 ~~respect to the ten-year period beginning January 1, 1992 are~~
23 ~~also valid for transactions prior to January 1, 1992]. For
24 administrative convenience, the department may accept and
25 approve qualifying applications for the privilege of executing~~

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1 nontaxable transaction certificates and pre-issue certificates
2 of any series within the six-month period immediately preceding
3 the beginning of the ten-year period to which the series of
4 nontaxable transaction certificates applies.

5 E. To exercise the privilege of executing
6 appropriate nontaxable transaction certificates [~~that may be~~
7 ~~effective on or after January 1, 1992~~], a buyer or lessee shall
8 apply to the department for permission to execute nontaxable
9 transaction certificates. [~~On and after July 1, 1993,~~] If a
10 person is shown on the department's records to be a delinquent
11 taxpayer, the department may refuse to approve the application
12 of the person until the person is no longer shown to be a
13 delinquent taxpayer, and the taxpayer may protest that refusal
14 pursuant to Section 7-1-24 NMSA 1978. Upon the department's
15 approval of the application, the buyer or lessee may request
16 appropriate nontaxable transaction certificates for execution by
17 the buyer or lessee; provided that [~~on and after July 1, 1993,~~]
18 if a person is shown on the department's records to be a
19 delinquent taxpayer, the department may refuse to issue
20 nontaxable transaction certificates to the person until the
21 person is no longer shown to be a delinquent taxpayer, and the
22 taxpayer may protest that refusal pursuant to Section 7-1-24
23 NMSA 1978. The department may require any buyer or lessee
24 requesting and receiving nontaxable transaction certificates for
25 execution by that buyer or lessee to report to the department

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1 annually the names, addresses and identification numbers
2 assigned by the department of the sellers and lessors to whom
3 they have delivered nontaxable transaction certificates. The
4 department may require any seller or lessor engaged in business
5 in New Mexico to report to the department annually the names,
6 addresses and federal employer identification numbers or state
7 identification numbers for tax purposes issued by the department
8 of the buyers or lessees from whom the seller or lessor has
9 accepted nontaxable transaction certificates."

10 Section 2. TEMPORARY PROVISION.--For transactions
11 occurring between July 1, 1992 and the effective date of this
12 act, a seller or lessor who within sixty days after the
13 effective date of this act obtains a required nontaxable
14 transaction certificate for a nontaxable transaction shall be
15 deemed to have complied with the requirements of Subsection A of
16 Section 7-9-43 NMSA 1978 with regard to possession of the
17 required nontaxable transaction certificate for that
18 transaction. This provision shall apply despite the seller or
19 lessor having previously been denied a deduction for that
20 transaction because of failure to timely possess the required
21 nontaxable transaction certificate.

22 Section 3. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 1997.

State of New Mexico
House of Representatives

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4 FORTY-THIRD LEGISLATURE
5 FIRST SESSION, 1997
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9 March 12, 1997
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11 Mr. Speaker:
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13 Your TAXATION AND REVENUE COMMITTEE, to whom has
14 been referred
15

16 HOUSE BILL 1201
17

18 has had it under consideration and reports same with
19 recommendation that it DO PASS, amended as follows:
20

21 1. On page 1, lines 22 and 23, after "A." strike the first
22 sentence in its entirety.

23 2. On page 3, lines 6 and 7, after "B." strike the first
24 sentence in its entirety.

25 3. On page 4, line 20, strike "before or".

4. On page 6, lines 10 through 21, strike Section 2 in its

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HTRC/HB 1201

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2 entirety.

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5. Renumber the succeeding section accordingly. ,

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and thence referred to the APPROPRIATIONS AND FINANCE
COMMI TTEE.

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Respectfully submitted,

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Jerry W. Sandel, Chairman

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Adopted _____

Not Adopted _____

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(Chi ef Clerk)

(Chi ef Clerk)

18

19

Date _____

20

The roll call vote was 10 For 0 Against

21

Yes: 10

22

Excused: Gubbel s, Lovej oy, Parsons

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Absent: None

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**State of New Mexico
House of Representatives**

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 14, 1997

Mr. Speaker:

**Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred**

HOUSE BILL 1201, as amended

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Max Coll, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FIRST SESSION, 1997

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The roll call vote was 16 For 0 Against

Yes: 16

Excused: Taylor, J. P.

Absent: None

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FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 19, 1997

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

HOUSE BILL 1201, as amended

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Carlos R. Cisneros, Chairman

Adopted _____ Not Adopted _____

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Duran, McSorley

Absent: None

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FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 20, 1997

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 1201, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Underscored material = new
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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Campos, Eisenstadt, Ingle, Smith

Absent: None

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Underscored material = new
~~[bracketed material] = delete~~