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HOUSE BILL 1247

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

INTRODUCED BY

LEO C. WATCHMAN, JR.

AN ACT

RELATING TO TAXATION; PROVIDING A CREDIT AGAINST CORPORATE
INCOME TAX; ENACTING A SECTION OF THE NMSA 1978.

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

Section 1. INTERGOVERNMENTAL BUSINESS TAX CREDIT. --

A. With respect to the net income of a taxpayer engaged in the transaction of business occurring after July 1, 1997 from a new business on tribal land, the person who is liable for the payment of the corporate income tax may claim a credit against the corporate income tax if a tax or taxes are imposed by an Indian nation, tribe or pueblo.

B. The credit provided by this section may be referred to as the "intergovernmental business tax credit".

C. As used in this section:

(1) "new business" means a business that

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1 commences operation on or after July 1, 1997;

2 (2) "person" means an individual, estate,
3 trust, receiver, business trust, corporation, cooperative, joint
4 venture, association, limited liability company or other group
5 or combination acting as a unit; and

6 (3) "tribal land" means all land that on March
7 1, 1997 was:

8 (a) within the exterior boundaries of an
9 Indian reservation or pueblo grant; or

10 (b) lands held in trust by the United
11 States for an Indian nation, tribe or pueblo.

12 D. The intergovernmental business tax credit shall
13 be determined separately for each reporting period and shall be
14 equal to fifty percent of the lesser of:

15 (1) the aggregate amount of tax imposed by an
16 Indian nation, tribe or pueblo in effect on March 1, 1997; or

17 (2) the amount of corporate income tax due for
18 the reporting period.

19 E. The taxation and revenue department shall
20 administer and interpret the provisions of this section in
21 accordance with the provisions of the Tax Administration Act.

22 F. The burden of showing entitlement to a credit
23 authorized by this section is on the taxpayer claiming it, and
24 the taxpayer shall furnish to the appropriate tax collecting
25 agency, in the manner determined by the taxation and revenue

1 department, proof of payment of tax on which the credit is based
2 to an Indian nation, tribe or pueblo.

3 Section 2. EFFECTIVE DATE. --The effective date of the
4 provisions of this act is July 1, 1997.

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 14, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred

HOUSE BILL 1247

has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE
FOR HOUSE BILL 1247

DO PASS, amended as follows:

1. On page 1, line 20, strike "tribal" and insert in
lieu thereof "Indian".

2. On page 1, line 22, after "credit" insert "as provided in
Subsection D of this section".

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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3. On page 2, line 6, strike "business" and insert in lieu thereof "the new business' s".

4. On page 2, line 11, before "that" insert "in New Mexico".

5. On page 2, line 16, after "an" insert "individual".

6. On page 2, line 16, strike "and".

7. On page 2, strike lines 17 and 18 in their entirety and insert the following:

"(3) "new business" means a manufacturer or processor that occupies a new business facility or a grower that commences operation in New Mexico on or after July 1, 1997; and

(4) "new business facility" means a facility on Indian land that satisfies the following requirements:

(a) the facility is employed by the taxpayer in the operation of a revenue-producing enterprise. The facility shall not be considered a "new business facility" in the hands of the taxpayer if the taxpayer's only activity with respect to the facility is to lease it to another person;

(b) the facility is acquired by or leased to the taxpayer on or after January 1, 1997. The facility shall

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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2 be deemed to have been acquired by or leased to the taxpayer on or
3 after the specified date if the transfer of title to the taxpayer,
4 the transfer of possession pursuant to a binding contract to
5 transfer title to the taxpayer or the commencement of the term of
6 the lease to the taxpayer occurs on or after that date or if the
7 facility is constructed, erected or installed by or on behalf of
8 the taxpayer, the construction, erection or installation is
9 completed on or after that date;

10 (c) the facility is a newly acquired
11 facility in which the taxpayer is not continuing the operation of
12 the same or a substantially identical revenue-producing enterprise
13 that previously was in operation on the Indian land of the Indian
14 nation, tribe or pueblo where the facility is now located; a
15 facility is a "newly acquired facility" if the facility was
16 acquired or leased by the taxpayer from another person even if the
17 facility was employed in a revenue-producing enterprise on the
18 Indian land of the same Indian nation, tribe or pueblo immediately
19 prior to the transfer of the title to the facility to the taxpayer
20 or immediately prior to the commencement of the term of the lease
21 of the facility to the taxpayer by another person provided that
22 the revenue-producing enterprise of the previous occupant was not
23 the same or substantially identical to the taxpayer's revenue-
24 producing enterprise; and

25 (d) the facility is not a replacement
business facility for a business facility that existed on the

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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2 Indian land of the Indian nation, tribe or pueblo where the
3 business is now located."

4 8. On page 2, line 25, strike "business" and insert in lieu
5 thereof "the new business's activity".

6
7 9. On page 3, strike lines 10 through 16 in their entirety
8 and insert in lieu thereof:

9
10 "G. For a taxpayer qualifying for the credit provided
11 by this section that conducts business in New Mexico both on and
12 off Indian land, the taxpayer's corporate income tax liability
13 derived from the new business activity conducted on Indian land
14 shall be equal to the sum of the products of one-half of the
15 taxpayer's New Mexico corporate income tax liability before
16 application of the credit provided by this section multiplied by
17 the payroll factor and one-half of the taxpayer's New Mexico
18 corporate income tax liability before application of the credit
19 provided by this section multiplied by the property factor. The
20 factors shall be determined as follows:"

21 10. On page 3, line 19, after "his" insert "new".

22 11. On page 3, line 25, after "used" insert "in the new
23 business".

24 and thence referred to the APPROPRIATIONS AND FINANCE
25 COMMITTEE.

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FIRST SESSION, 1997

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Sandoval, Stell

Absent: None

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1 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
2 HOUSE BILL 1247
3 43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997
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9 AN ACT
10 RELATING TO TAXATION; PROVIDING A CREDIT AGAINST CORPORATE
11 INCOME TAX; ENACTING A SECTION OF THE NMSA 1978.
12

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

14 Section 1. A new section of the Corporate Income and
15 Franchise Tax Act is enacted to read:

16 "NEW MATERIAL INTERGOVERNMENTAL BUSINESS TAX CREDIT. --

17 A. With respect to the net income of a taxpayer
18 engaged in the transaction of business occurring after July 1,
19 1997 from a new business on tribal land, the person who is
20 liable for the payment of the corporate income tax may claim a
21 credit against the corporate income tax for the aggregate amount
22 of tax paid to an Indian nation, tribe or pueblo located in
23 whole or in part within New Mexico.

24 B. The credit provided by this section may be
25

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Underscored material = new
[bracketed material] = delete

1 referred to as the "intergovernmental business tax credit".

2 C. As used in this section:

3 (1) "aggregate amount of tax" means the total
4 of all taxes imposed by an Indian nation, tribe or pueblo
5 located in whole or in part in New Mexico on income derived from
6 business activity on Indian land, except a tax shall not be
7 included in that total if the tax is eligible for a credit
8 pursuant to the provisions of Section 7-29C-1 NMSA 1978 or any
9 other intergovernmental tax credit that provides a similar tax
10 credit;

11 (2) "Indian land" means all land that on March
12 1, 1997 was:

13 (a) within the exterior boundaries of an
14 Indian reservation or pueblo grant; or

15 (b) lands held in trust by the United
16 States for an Indian nation, tribe or pueblo; and

17 (3) "new business" means a business that
18 commences operation on or after July 1, 1997.

19 D. The intergovernmental business tax credit shall
20 be determined separately for each reporting period and shall be
21 equal to fifty percent of the lesser of:

22 (1) the aggregate amount of tax paid by a
23 taxpayer; or

24 (2) the amount of the taxpayer's corporate
25

.117807.2

Underscored material = new
[bracketed material] = delete

1 income tax due for the reporting period from business conducted on
 2 Indian land.

3 E. The department shall administer and interpret the
 4 provisions of this section in accordance with the provisions of the
 5 Tax Administration Act.

6 F. The burden of showing entitlement to a credit
 7 authorized by this section is on the taxpayer claiming it, and the
 8 taxpayer shall furnish to the appropriate tax collecting agency, in
 9 the manner determined by the department, proof of payment of the
 10 aggregate amount of tax on which the credit is based.

11 G. A taxpayer that conducts business both on and off
 12 Indian land in New Mexico shall have a corporate income tax
 13 liability from his income on Indian land equal to the sum of the
 14 products of one-half of the taxpayer's New Mexico income multiplied
 15 by the payroll factor and one-half of the taxpayer's New Mexico
 16 income multiplied by the property factor. The factors shall be
 17 determined as follows:

18 (1) the payroll factor is a fraction, the
 19 numerator of which is the amount of compensation paid to employees
 20 employed during the tax period by the taxpayer in his business on
 21 Indian land, and the denominator of which is the total amount of
 22 compensation paid to employees employed during the tax period by
 23 the taxpayer in all of New Mexico, including Indian land; and

24 (2) the property factor is a fraction, the

25 .117807.2

Underscored material = new
 [bracketed material] = delete

1 numerator of which is the average value of the taxpayer's real and
2 tangible personal property owned or rented and used on Indian land
3 in New Mexico during the tax period and the denominator of which is
4 the average value of all the taxpayer's real and tangible property
5 owned or rented and used in New Mexico, including on Indian land,
6 during the tax period. "

7 Section 2. APPLICABILITY.--The provisions of this act apply
8 to taxable years beginning on or after January 1, 1997.

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

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 18, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom
has been referred

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 1247, as amended

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

Respectfully submitted,

Max Coll, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 15 For 0 Against

Yes: 15

Excused: Heaton, Salazar

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 20, 1997

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred
HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 1247, as amended

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

Respectfully submitted,

Carlos R. Cisneros, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 4 Against

Yes: 5

No: Duran, Kidd, Leavell, McSorley

Excused: None

Absent: None

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[bracketed material] = delete

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