SENATE BILL 397

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Brenda McKenna

AN ACT

RELATING TO TAXATION; PROVIDING THAT A GROSS RECEIPTS, SALES OR SIMILAR TAX LEVIED BY CERTAIN TRIBES SHALL BE LIMITED TO A RATE NOT LESS THAN THE TOTAL OF THE GROSS RECEIPTS TAX RATE AND LOCAL OPTION GROSS RECEIPTS TAX RATES IMPOSED WITHIN THE EXTERIOR BOUNDARIES OF THOSE TRIBES.

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

SECTION 1. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223, Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO CERTAIN TRIBES.--

A. If on a taxable transaction taking place on tribal land a qualifying gross receipts, sales or similar tax has been levied by the tribe, the amount of the tribe's tax may be credited against gross receipts tax due this state or its .219824.1
political subdivisions pursuant to the Gross Receipts and
Compensating Tax Act and a local option gross receipts tax on
the same transaction. The amount of the credit shall be equal
to the lesser of seventy-five percent of the tax imposed by the
tribe on the receipts from the transaction or seventy-five
percent of the revenue produced by the sum of the rate of tax
imposed pursuant to the Gross Receipts and Compensating Tax Act
and the total of the rates of local option gross receipts taxes
imposed on the receipts from the same transaction.
Notwithstanding any other provision of law to the contrary, the
amount of credit taken and allowed shall be applied
proportionately against the amount of the gross receipts tax
and local option gross receipts taxes and against the amount of
distribution of those taxes pursuant to Section 7-1-6.1 NMSA
1978.

B. A qualifying gross receipts, sales or similar
tax levied by the tribe shall be limited to a tax that:

   (1) is substantially similar to the gross
receipts tax imposed by the Gross Receipts and Compensating Tax
Act;

   (2) does not unlawfully discriminate among
persons or transactions based on membership in the tribe;

   (3) is levied on the taxable transaction at a
rate not [greater] less than the total of the gross receipts
tax rate and local option gross receipts tax rates imposed by
.219824.1
this state and its political subdivisions located within the
exterior boundaries of the tribe;

(4) provides a credit against the tribe's tax
equal to the lesser of twenty-five percent of the tax imposed
by the tribe on the receipts from the transactions or twenty-
five percent of the tax revenue produced by the sum of the rate
of tax imposed pursuant to the Gross Receipts and Compensating
Tax Act and the total of the rates of the local option gross
receipts taxes imposed on the receipts from the same
transactions; and

(5) is subject to a cooperative agreement
between the tribe and the secretary entered into pursuant to
Section 9-11-12.1 NMSA 1978 and in effect at the time of the
taxable transaction.

C. For purposes of the tax credit allowed by this
section:

(1) "pueblo" means the Pueblo of Acoma,
Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque,
Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa
Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the
nineteen New Mexico pueblos acting collectively;

(2) "tribal land" means all land that is owned
by a tribe located within the exterior boundaries of a tribe's
reservation or grant and all land held by the United States in
trust for that tribe; and
(3) "tribe" means a pueblo, the Jicarilla
Apache Nation or the Mescalero Apache Tribe."

SECTION 2. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2021.