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SENATE BILL 279

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Leonard Tsosie

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE
GROSS RECEIPTS AND COMPENSATING TAX ACT REGARDING
CONSTRUCTION ON TRIBAL LAND; DECLARING AN EMERGENCY.

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

Section 1. Section 7-9-51 NMSA 1978 (being Laws 1969,
Chapter 144, Section 41) is amended to read:

"7-9-51. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
TANGIBLE PERSONAL PROPERTY TO PERSONS ENGAGED IN THE
CONSTRUCTION BUSINESS.--

A. Receipts from selling tangible personal
property may be deducted from gross receipts if the sale is
made to a person engaged in the construction business who
delivers a nontaxable transaction certificate to the seller.

B. The buyer delivering the nontaxable transaction
certificate must incorporate the tangible personal property

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1 as:

2 (1) an ingredient or component part of a
3 construction project which is subject to the gross receipts
4 tax upon its completion or upon the completion of the overall
5 construction project of which it is a part; ~~[or]~~

6 (2) an ingredient or component part of a
7 construction project which is subject to the gross receipts
8 tax upon the sale in the ordinary course of business of the
9 real property upon which it was constructed; or

10 (3) an ingredient or component part of a
11 construction project that is located on the tribal territory
12 of an Indian nation, tribe or pueblo."

13 Section 2. Section 7-9-52 NMSA 1978 (being Laws 1969,
14 Chapter 144, Section 42) is amended to read:

15 "7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
16 CONSTRUCTION SERVICES TO PERSONS ENGAGED IN THE CONSTRUCTION
17 BUSINESS.--

18 A. Receipts from selling a construction service
19 may be deducted from gross receipts if the sale is made to a
20 person engaged in the construction business who delivers a
21 nontaxable transaction certificate to the person performing
22 the construction service.

23 B. The buyer delivering the nontaxable transaction
24 certificate must have the construction services performed
25 upon:

(1) a construction project which is subject
to the gross receipts tax upon its completion or upon the

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1 completion of the overall construction project of which it is
2 a part; ~~[or]~~

3 (2) a construction project which is subject
4 to the gross receipts tax upon the sale in the ordinary
5 course of business of the real property upon which it was
6 constructed; or

7 (3) a construction project that is located
8 on the tribal territory of an Indian nation, tribe or
9 pueblo."

10 Section 3. Section 7-9-54 NMSA 1978 (being Laws 1969,
11 Chapter 144, Section 44, as amended) is amended to read:

12 "7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
13 GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

14 A. Except as provided otherwise in Subsection C of
15 this section, receipts from selling tangible personal
16 property to the United States or New Mexico or any
17 governmental unit or subdivision, agency, department or
18 instrumentality thereof may be deducted from gross receipts
19 or from governmental gross receipts.

20 B. ~~[Except as provided otherwise in]~~
21 Notwithstanding the provisions of Paragraph (3) of Subsection
22 C of this section, receipts from selling tangible personal
23 property for any purpose to an Indian tribe, nation or pueblo
24 or any governmental subdivision, agency, department or
25 instrumentality thereof for use on Indian reservations or
pueblo grants may be deducted from gross receipts or from
governmental gross receipts.

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C. Unless contrary to federal law, the deduction provided by this section does not apply to:

- (1) receipts from selling metalliferous mineral ore;
- (2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;
- (3) receipts from selling tangible personal property that will become an ingredient or component part of a construction project; or
- (4) that portion of the receipts from performing a "service", as defined in Subsection K of Section 7-9-3 NMSA 1978, that reflects the value of tangible personal property utilized or produced in performance of such service."

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.