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SENATE BILL 356

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

INTRODUCED BY
Patrick H. Lyons

AN ACT

RELATING TO TAXATION; AMENDING THE CAPITAL EQUIPMENT TAX
CREDIT ACT TO APPLY TO CUSTOMER AND BUSINESS SUPPORT CENTERS.

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

Section 1. Section 7-9D-2 NMSA 1978 (being Laws 1999,
Chapter 178, Section 2) is amended to read:

"7-9D-2. FINDINGS AND PURPOSE.--The legislature finds
that New Mexico's tax treatment of the purchase of capital
equipment by businesses makes New Mexico less attractive than
other states for business expansion and relocation. It is
the purpose of the Capital Equipment Tax Credit Act to induce
[call] customer or business support center operations to make
major expansions and relocate facilities in New Mexico by
providing tax relief on the purchase of capital equipment for
such facilities."

Section 2. Section 7-9D-3 NMSA 1978 (being Laws 1999,

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1 Chapter 178, Section 3) is amended to read:

2 "7-9D-3. DEFINITIONS.--As used in the Capital Equipment
3 Tax Credit Act:

4 A. "business support center" means a facility that
5 is principally engaged in the gathering, processing or
6 dispensing of information that is used in support of business
7 system development and integration, or business product
8 development and integration, primarily for customers or users
9 outside New Mexico;

10 ~~[A.]~~ B. "[call] customer support center" means a
11 ~~[business] facility~~ that is principally engaged in [taking
12 ~~inbound telephone calls initiated by consumers for the~~
13 ~~purpose of obtaining] communication with customers~~
14 principally outside New Mexico by telephone, computer or
15 otherwise in connection with providing support to assist
16 customers in obtaining, understanding or using goods or
17 services;

18 ~~[B.]~~ C. "capital equipment" means equipment that
19 is depreciable for federal income tax purposes;

20 ~~[C.]~~ D. "department" means the taxation and
21 revenue department, the secretary of taxation and revenue or
22 any employee of the department exercising authority lawfully
23 delegated to that employee by the secretary;

24 ~~[D.]~~ E. "rural area" means any area of the state
25 other than a class A county, a class B county that has a net
taxable value for rate-setting purposes for any property tax
year of more than three billion dollars (\$3,000,000,000) and

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1 the municipality of Rio Rancho and the area within five miles
2 of the exterior boundaries of Rio Rancho;

3 ~~[E-]~~ F. "tax credit" means the capital equipment
4 tax credit provided in the Capital Equipment Tax Credit Act;
5 and

6 ~~[F-]~~ G. "taxpayer" means a person liable for
7 payment of any tax, a person responsible for withholding and
8 payment over or for collection and payment over of any tax,
9 or a person to whom an assessment has been made, if the
10 assessment remains unabated or the amount of the assessment
11 has not been paid."

12 Section 3. Section 7-9D-4 NMSA 1978 (being Laws 1999,
13 Chapter 178, Section 4) is amended to read:

14 "7-9D-4. CAPITAL EQUIPMENT TAX CREDIT AUTHORIZED.--A
15 capital equipment tax credit may be claimed pursuant to the
16 Capital Equipment Tax Credit Act in an amount equal to the
17 gross receipts tax rate or the compensating tax rate imposed
18 pursuant to the Gross Receipts and Compensating Tax Act,
19 whichever is applicable, applied to the value of capital
20 equipment purchased by a taxpayer for use in an eligible
21 ~~[call]~~ customer or business support center in New Mexico.
22 For the purpose of applying the tax credit, the value of
23 capital equipment purchased is the price or the value of
24 other consideration on which the gross receipts or
25 compensating tax was imposed and paid."

Section 4. Section 7-9D-5 NMSA 1978 (being Laws 1999,
Chapter 178, Section 5) is amended to read:

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1 "7-9D-5. CAPITAL EQUIPMENT ELIGIBLE FOR TAX CREDIT.--A
2 taxpayer that owns or operates an eligible [call] customer or
3 business support center may claim a tax credit for capital
4 equipment that is purchased for use in the [call] customer or
5 business support center and on which the gross receipts tax
6 or compensating tax has been paid if the taxpayer applies for
7 the credit and provides evidence satisfactory to the
8 department that:

9 A. the equipment purchased is capital equipment on
10 which the gross receipts tax or compensating tax was paid;

11 B. the equipment is purchased on or after July 1,
12 1999 and was not previously used in New Mexico; and

13 C. the equipment is used directly in or is an
14 integral part of [~~taking inbound telephone calls or recording~~
15 ~~or processing messages and is or will be used in a call~~] a
16 customer or business support center that is eligible pursuant
17 to the provisions of the Capital Equipment Tax Credit Act."

18 Section 5. Section 7-9D-6 NMSA 1978 (being Laws 1999,
19 Chapter 178, Section 6) is amended to read:

20 "7-9D-6. ELIGIBLE [CALL] CUSTOMER OR BUSINESS SUPPORT
21 CENTER--A [call] customer or business support center in New
22 Mexico shall be approved by the department as an eligible
23 [call] customer or business support center if:

24 A. the business meets either of the following
25 requirements:

(1) the [call] customer or business support
center first located in New Mexico after July 1, 1999 and is

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1 not related by ownership or control to a business performing
2 similar functions at the same or an adjacent location within
3 the state; or

4 (2) the ~~[call]~~ customer or business support
5 center is an expansion after July 1, 1999 of an existing
6 ~~[call]~~ customer or business support center that certifies to
7 the department that the expansion will result in an increase
8 of not less than twenty percent in the value of the ~~[call]~~
9 customer or business support center ~~[facility]~~ for property
10 tax purposes over three tax years; and

11 ~~[B. the call center is located in a rural area;~~
12 ~~and~~

13 ~~E.]~~ B. the owner or operator certifies to the
14 department that the total value over three years of capital
15 equipment purchased for use in the ~~[call]~~ customer or
16 business support center will total at least two hundred fifty
17 thousand dollars (\$250,000) if the customer or business
18 support center is located in a rural area and at least one
19 million dollars (\$1,000,000) if the customer or business
20 support center is not located in a rural area."

21 Section 6. Section 7-9D-8 NMSA 1978 (being Laws 1999,
22 Chapter 178, Section 8) is amended to read:

23 "7-9D-8. REPORTING REQUIREMENTS--WHEN TAXPAYER LIABLE
24 FOR REPAYMENT OF TAX CREDIT.--

25 A. Every eligible ~~[call]~~ customer or business
support center claiming a tax credit pursuant to the Capital
Equipment Tax Credit Act shall report annually to the

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1 department the following information for the prior calendar
2 year:

- 3 (1) the total value of capital equipment
4 purchased during that year;
5 (2) the total amount of tax credit claimed;
6 and
7 (3) the value of the ~~[call]~~ customer or
8 business support center ~~[facility]~~ for property tax purposes
9 for the year.

10 B. After claiming a tax credit pursuant to the
11 Capital Equipment Tax Credit Act, if any of the following
12 occur, the taxpayer who owns or operates the business shall
13 be liable for repayment of an amount of the credit claimed
14 pursuant to that act as provided in Subsection C of this
15 section:

- 16 (1) the ~~[call]~~ customer or business support
17 center no longer meets the requirements of the Capital
18 Equipment Tax Credit Act for qualifying as an eligible ~~[call]~~
19 customer or business support center;
20 (2) the taxpayer who owns or operates the
21 business closes the ~~[call]~~ customer or business support
22 center; or
23 (3) capital equipment that has not been
24 fully depreciated and for which the tax credit was claimed is
25 moved from the ~~[call]~~ customer or business support center.

C. If the provisions of Paragraph (1), (2) or (3)
of Subsection B of this section occur within twenty-four

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1 months of the date a tax credit pursuant to the Capital
2 Equipment Tax Credit Act is approved, the taxpayer who owns
3 or operates the business shall be liable for repayment of the
4 amount of all credit claimed pursuant to that act. If any of
5 those provisions occur after twenty-four months but before
6 forty-eight months after the date a tax credit is approved,
7 the taxpayer who owns or operates the business shall be
8 liable for repayment of one-half of the amount of all credit
9 claimed."

10 Section 7. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2000.