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HOUSE BILL 188

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Daniel P. Silva

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS OF A FRANCHISOR FOR CERTAIN SHARED EXPENSES AND FOR CERTAIN RECEIPTS OF A RESERVATION FUND OR AN ADVERTISING COOPERATIVE FROM FRANCHISORS OR FRANCHISEES; DECLARING AN EMERGENCY.

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

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

" NEW MATERIAL DEDUCTION-- GROSS RECEIPTS TAX-- FRANCHISORS AND FRANCHISEES-- CERTAIN SHARED EXPENSES AND COOPERATIVE ADVERTISING RECEIPTS. --

A. Receipts of a reservation fund from a franchisor or its franchisees for the purpose of developing, maintaining or modifying a reservation system are deductible

underscored material = new
[bracketed material] = delete

1 from gross receipts. Such receipts must be used by the fund
2 for the primary purposes of developing, operating, maintaining
3 or modifying a reservation system for the benefit of the
4 franchisor or franchisees that make payment to the fund.

5 B. Receipts of a franchisor engaged in the
6 hospitality industry from a franchisee for the purpose of
7 reimbursing a franchisor for payments made by the franchisor
8 to travel agents for commission earned for booking a guest in
9 the franchisee's facility are deductible from gross receipts.

10 C. Receipts of a franchisor from a franchisee for
11 the purpose of reimbursing a franchisor for the costs of
12 providing training to a franchisee and its employees regarding
13 procedures required for compliance with the franchise
14 agreement are deductible from gross receipts.

15 D. Receipts of an advertising cooperative from
16 franchisors or franchisees are deductible from gross receipts.
17 Such receipts must be used by the advertising cooperative for
18 the primary purpose of procuring advertising or marketing
19 services for the benefit of the members that make payments to
20 it.

21 E. For the purposes of this section:

22 (1) "advertising cooperative" means any form
23 of pooling of funds or other cost-sharing arrangement that is
24 contractually or otherwise limited to expending the funds only
25 on advertising and marketing, including:

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[bracketed material] = delete

1 (a) any form of escrow, actual or
2 constructive trust or segregated account; or

3 (b) any entity that directly or
4 indirectly derives receipts from its members or other
5 contributors for the primary purpose of procuring advertising
6 or marketing services for the benefit of the members;

7 (2) "hospitality industry" means a hotel,
8 motel, resort or similar facility that provides accommodations
9 for overnight stays; and

10 (3) "reservation fund" means any form of
11 pooling of funds or other cost-sharing arrangements in which a
12 franchisor is contractually or otherwise limited to expending
13 the funds for the primary purposes of developing, operating,
14 maintaining and modifying a reservation system, including:

15 (a) any form of escrow, actual or
16 constructive trust or segregated account maintained by a
17 franchisor; or

18 (b) any entity designated by a
19 franchisor that directly or indirectly derives receipts from a
20 franchisor or its franchisees for the primary purposes of
21 developing, operating, maintaining or modifying a reservation
22 system for the benefit of the franchisor or its franchisees. "

23 Section 2. EFFECTIVE DATE. -- The effective date of the
24 provisions of this act is May 1, 2001 if this act passes with
25 the emergency clause. Otherwise, the effective date of the

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[bracketed material] = delete

1 provisions of this act is July 1, 2001.

2 Section 3. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect
4 immediately.

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