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SENATE BILL 714

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

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO TAXATION; CHANGING THE LENGTH OF THE RENEWAL PERIOD
FOR NONTAXABLE TRANSACTION CERTIFICATES.

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

Section 1. Section 7-9-43 NMSA 1978 (being Laws 1966,
Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS--RENEWAL. --

A. All nontaxable transaction certificates of the
appropriate series executed by buyers or lessees should be in
the possession of the seller or lessor for nontaxable
transactions at the time the return is due for receipts from
the transactions. If the seller or lessor is not in possession
of the required nontaxable transaction certificates within

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sixty days from the date that the notice requiring possession of these nontaxable transaction certificates is given the seller or lessor by the department, deductions claimed by the seller or lessor that require delivery of these nontaxable transaction certificates shall be disallowed. The nontaxable transaction certificates shall contain the information and be in a form prescribed by the department. The department by regulation may deem to be nontaxable transaction certificates documents issued by other states or the multistate tax commission to taxpayers not required to be registered in New Mexico. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates issued by the department. If the seller or lessor has been given an identification number for tax purposes by the department, the seller or lessor shall disclose that identification number to the buyer or lessee prior to or upon acceptance of a nontaxable transaction certificate. When the seller or lessor accepts a nontaxable transaction certificate within the required time and in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's or

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1 lessor's gross receipts.

2 B. Properly executed documents required to support
3 the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74
4 NMSA 1978 should be in the possession of the seller at the time
5 the return is due for receipts from the transactions. If the
6 seller is not in possession of these documents within sixty
7 days from the date that the notice requiring possession of
8 these documents is given to the seller by the department,
9 deductions claimed by the seller or lessor that require
10 delivery of these documents shall be disallowed. These
11 documents shall contain the information and be in a form
12 prescribed by the department. When the seller accepts these
13 documents within the required time and in good faith that the
14 buyer will employ the property or service transferred in a
15 nontaxable manner, the properly executed documents shall be
16 conclusive evidence, and the only material evidence, that the
17 proceeds from the transaction are deductible from the seller's
18 gross receipts.

19 C. Notice, as used in this section, is sufficient
20 if the notice is mailed or served as provided in Subsection A
21 of Section 7-1-9 NMSA 1978. Notice by the department under
22 this section shall not be given prior to the commencement of an
23 audit of the seller required to be in possession of the
24 documents.

25 D. On January 1, 1992, every nontaxable transaction

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1 certificate, except for nontaxable transaction certificates of
2 the series applicable to the [~~ten-year~~] twelve-year period
3 beginning January 1, 1992 and issued by the department prior to
4 that date, is void with respect to transactions after December
5 31, 1991. The department shall issue separate series of
6 nontaxable transaction certificates for the [~~ten-year~~] twelve-
7 year period beginning January 1, 1992 and for each [~~ten-year~~]
8 twelve-year period beginning on January 1 of every [~~tenth~~]
9 twelfth year succeeding calendar year 1992. A series of
10 nontaxable transaction certificates issued by the department
11 for any [~~ten-year~~] twelve-year period may be executed by buyers
12 or lessees for transactions occurring within or prior to that
13 [~~ten-year~~] twelve-year period but [~~are~~] is not valid for
14 transactions occurring after that [~~ten-year~~] twelve-year
15 period. For administrative convenience, the department may
16 accept and approve qualifying applications for the privilege of
17 executing nontaxable transaction certificates and pre-issue
18 certificates of any series within the six-month period
19 immediately preceding the beginning of the [~~ten-year~~] twelve-
20 year period to which the series of nontaxable transaction
21 certificates applies.

22 E. To exercise the privilege of executing
23 appropriate nontaxable transaction certificates, a buyer or
24 lessee shall apply to the department for permission to execute
25 nontaxable transaction certificates, except with respect to

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1 documents issued by other states or the multistate tax
2 commission that the department has deemed to be nontaxable
3 transaction certificates. If a person is shown on the
4 department's records to be a delinquent taxpayer, the
5 department may refuse to approve the application of the person
6 until the person is no longer shown to be a delinquent
7 taxpayer, and the taxpayer may protest that refusal pursuant to
8 Section 7-1-24 NMSA 1978. Upon the department's approval of
9 the application, the buyer or lessee may request appropriate
10 nontaxable transaction certificates for execution by the buyer
11 or lessee; provided that if a person is shown on the
12 department's records to be a delinquent taxpayer, the
13 department may refuse to issue nontaxable transaction
14 certificates to the person until the person is no longer shown
15 to be a delinquent taxpayer, and the taxpayer may protest that
16 refusal pursuant to Section 7-1-24 NMSA 1978. The department
17 may require [any] a buyer or lessee requesting and receiving
18 nontaxable transaction certificates for execution by that buyer
19 or lessee to report to the department annually the names,
20 addresses and identification numbers assigned by the department
21 of the sellers and lessors to whom they have delivered
22 nontaxable transaction certificates. The department may
23 require [any] a seller or lessor engaged in business in New
24 Mexico to report to the department annually the names,
25 addresses and federal employer identification numbers or state

1 identification numbers for tax purposes issued by the
2 department of the buyers or lessees from whom the seller or
3 lessor has accepted nontaxable transaction certificates. "

4 Section 2. EFFECTIVE DATE. -- The effective date of the
5 provisions of this act is July 1, 2001.

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