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SENATE BILL 177

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT FOR SMALL
BUSINESSES THAT REMOVE BARRIERS AND MAKE OTHER MODIFICATIONS
TO PROVIDE ACCESS TO DISABLED INDIVIDUALS AND ENABLE THE
BUSINESS TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT OF
1990.

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

Section 1. A new section of the Income Tax Act is
enacted to read:

" NEW MATERIAL CREDIT-- SMALL BUSINESSES-- DISABLED ACCESS
EXPENDITURES. --

A. To encourage small businesses to provide access
to disabled individuals and to comply with the Americans with
Disabilities Act of 1990, a taxpayer that files an individual
New Mexico income tax return and that owns an eligible small

1 business or an owner of a pass-through business entity that is
2 an eligible small business that has claimed a disabled access
3 credit for eligible access expenditures made in the taxable
4 year, pursuant to Section 44 of the Internal Revenue Code, may
5 claim a credit in an amount equal to twenty-five percent of
6 those eligible access expenditures made in the taxable year,
7 not to exceed five thousand dollars (\$5,000).

8 B. The taxpayer may claim the credit provided in
9 this section for each taxable year in which the taxpayer
10 qualifies as an eligible small business and claims the federal
11 disabled access credit for eligible access expenditures.

12 C. The credit provided in this section may only be
13 deducted from the taxpayer's income tax liability. Any
14 portion of the maximum tax credit provided by this section
15 that remains unused at the end of the taxpayer's taxable year
16 may be carried forward for two consecutive taxable years;
17 provided that the total tax credits claimed under this section
18 shall not exceed the maximum amount of credit allowed for any
19 taxable year.

20 D. A husband and wife who file separate returns
21 for a taxable year in which they could have filed a joint
22 return may each claim only one-half of the credit that would
23 have been allowed on a joint return.

24 E. A taxpayer that otherwise qualifies and claims
25 a credit for qualified expenditures made by a pass-through

underscored material = new
[bracketed material] = delete

1 business entity of which the taxpayer is an owner may claim a
2 credit only in proportion to his ownership share of the pass-
3 through business entity. The total credit claimed by all
4 members of the pass-through business entity shall not exceed
5 the aggregate amount of credit allowed pursuant to this
6 section.

7 F. As used in this section:

8 (1) "owner" means:

9 (a) a partner in a partnership not
10 taxed as a corporation for federal income tax purposes for the
11 taxable year;

12 (b) a shareholder of an S corporation
13 or of a corporation other than an S corporation that is not
14 taxed as a corporation for federal income tax purposes for the
15 taxable year;

16 (c) a member of a limited liability
17 company; or

18 (d) any similar person holding an
19 ownership interest in a pass-through business entity; and

20 (2) "pass-through business entity" means any
21 business association other than:

22 (a) a sole proprietorship;

23 (b) an estate or trust; or

24 (c) a corporation, limited liability
25 company, partnership or other entity not a sole proprietorship

underscored material = new
[bracketed material] = delete

1 taxed as a corporation for federal income tax purposes for the
2 taxable year. "

3 Section 2. A new section of the Corporate Income and
4 Franchise Tax Act is enacted to read:

5 " [NEW MATERIAL] CREDIT--SMALL BUSINESSES--DISABLED ACCESS
6 EXPENDITURES. --

7 A. To encourage small businesses to provide access
8 to disabled individuals and to comply with the Americans with
9 Disabilities Act of 1990, a taxpayer that files a New Mexico
10 corporate income tax return and that is an eligible small
11 business that has claimed a disabled access credit for
12 eligible access expenditures made in the taxable year,
13 pursuant to Section 44 of the Internal Revenue Code, may claim
14 a credit in an amount equal to twenty-five percent of those
15 eligible access expenditures made in the taxable year, not to
16 exceed five thousand dollars (\$5,000).

17 B. The taxpayer may claim the credit provided in
18 this section for each taxable year in which the taxpayer
19 qualifies as an eligible small business and claims the federal
20 disabled access credit for eligible access expenditures.

21 C. The credit provided in this section may only be
22 deducted from the taxpayer's income tax liability. Any
23 portion of the maximum tax credit provided by this section
24 that remains unused at the end of the taxpayer's taxable year
25 may be carried forward for three consecutive taxable years;

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underscored material = new
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1 provided that the total tax credits claimed under this section
2 shall not exceed the maximum amount of credit allowed for any
3 taxable year. "

4 Section 3. APPLICABILITY. -- The provisions of this act
5 apply to taxable years beginning on or after January 1, 2002.

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