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HOUSE BILL 34

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

David E. Adkins

AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR SALES MADE ON THE FIRST SATURDAY AFTER THANKSGIVING BY A BUSINESS OR RESTAURANT IF THE BUSINESS OR RESTAURANT HAS AN AVERAGE BUSINESS INCOME OF LESS THAN TWO MILLION DOLLARS (\$2,000,000) PER YEAR.

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--RETAIL SALES BY CERTAIN BUSINESSES.--

A. Prior to July 1, 2020, receipts from the sale at retail of tangible personal property or from the sale of food at a restaurant may be deducted if:

- (1) the sale occurs during the period

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1 beginning at 12:01 a.m. on the first Saturday after  
2 thanksgiving day and ending at midnight on the same Saturday;  
3 and

4 (2) the sale is made by a seller that:

5 (a) has been operating as a business for  
6 at least one year; and

7 (b) in the most recent five years, has  
8 an average business income from all businesses for which the  
9 seller has an equity interest of less than two million dollars  
10 (\$2,000,000) per year.

11 B. The purpose of the deduction provided by this  
12 section is to increase sales at small local businesses and  
13 restaurants.

14 C. A taxpayer allowed a deduction pursuant to this  
15 section shall report the amount of the deduction separately in  
16 a manner required by the department.

17 D. The department shall compile an annual report on  
18 the deduction provided by this section that shall include the  
19 number of taxpayers that claimed the deduction, the aggregate  
20 amount of deductions claimed and any other information  
21 necessary to evaluate the effectiveness of the deduction.

22 Beginning in 2019 and each year thereafter that the deduction  
23 is in effect, the department shall compile and present the  
24 annual reports to the revenue stabilization and tax policy  
25 committee and the legislative finance committee with an

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1 analysis of the effectiveness and cost of the deduction and  
2 whether the deduction is performing the purpose for which it  
3 was created.

4 E. As used in this section:

5 (1) "business income" means that part of a  
6 taxpayer's income from a business that:

7 (a) is defined as taxable income upon  
8 which the federal income tax is calculated in the Internal  
9 Revenue Code of 1986 for income tax purposes and claimed by the  
10 taxpayer for that year;

11 (b) includes interest received on a  
12 state or local bond; and

13 (c) is treated as nonpassive income  
14 pursuant to Section 469 of the Internal Revenue Code of 1986,  
15 as that section was in effect on January 1, 2016, or net  
16 earnings from self-employment as that term is defined in  
17 Section 1402 of the Internal Revenue Code of 1986; and

18 (2) "restaurant" means an establishment where  
19 meals are prepared and may be served for on-premises  
20 consumption and that has a kitchen and the employees necessary  
21 for preparing, cooking and serving meals."

22 SECTION 2. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2016.