

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 206

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

AN ACT

RELATING TO TAXATION; CLARIFYING CERTAIN SECTIONS OF THE NMSA
1978; REPEALING CERTAIN TAX DEDUCTIONS AND CREDITS THAT ARE
SELDOM USED OR HAVE EXPIRED.

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

SECTION 1. Section 7-9-55 NMSA 1978 (being Laws 1969,
Chapter 144, Section 45, as amended) is amended to read:

"7-9-55. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--GOVERNMENTAL~~
GROSS RECEIPTS [~~TAX~~]~~--EXPORTS~~--TRANSACTION IN INTERSTATE
COMMERCE.--

A. Receipts from transactions in interstate or
foreign commerce may be deducted from gross receipts and
governmental gross receipts to the extent that the imposition
of the gross receipts tax would be unlawful under the United
States constitution.

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underscoring material = new
[bracketed material] = delete

1 ~~[B. Receipts from transactions in interstate~~
2 ~~commerce may be deducted from governmental gross receipts.~~

3 G.] B. Receipts from transmitting messages or
4 conversations by radio other than from one point in this state
5 to another point in this state and receipts from the sale of
6 radio or television broadcast time when the advertising message
7 is supplied by or on behalf of a national or regional seller or
8 advertiser not having its principal place of business in or
9 being incorporated under the laws of this state may be deducted
10 from gross receipts. Commissions of advertising agencies from
11 performing services in this state may not be deducted from
12 gross receipts under this section.

13 C. Receipts from selling tangible personal property
14 in interstate or foreign commerce may be deducted from gross
15 receipts when the order for the property is placed from outside
16 the state and the seller ships or delivers the tangible
17 personal property to a location outside New Mexico for use
18 outside New Mexico.

19 D. Receipts from leasing or licensing personal
20 property in interstate or foreign commerce may be deducted from
21 gross receipts when the order for the property is placed from
22 outside the state and the property is employed outside New
23 Mexico.

24 E. Receipts from granting a right to use a
25 franchise in interstate or foreign commerce may be deducted

1 from gross receipts when the franchise is employed outside New
 2 Mexico.

3 F. Receipts from selling in interstate or foreign
 4 commerce a service performed in New Mexico may be deducted from
 5 gross receipts when the seller ships or delivers the product of
 6 the service to a location outside New Mexico for initial use
 7 outside New Mexico."

8 SECTION 2. Section 7-9-65 NMSA 1978 (being Laws 1969,
 9 Chapter 144, Section 56) is amended to read:

10 "7-9-65. DEDUCTION--GROSS RECEIPTS TAX--CHEMICALS AND
 11 REAGENTS.--Receipts from selling chemicals or reagents to any
 12 mining, milling or oil company for use in processing ores or
 13 oil in a mill, smelter or refinery or in acidizing oil wells
 14 [~~and receipts from selling chemicals or reagents in lots in~~
 15 ~~excess of eighteen tons]~~ may be deducted from gross receipts.
 16 Receipts from selling explosives, blasting powder or dynamite
 17 and receipts from selling chemicals or reagents for use as fuel
 18 may not be deducted from gross receipts pursuant to this
 19 section."

20 SECTION 3. Section 7-9-66 NMSA 1978 (being Laws 1969,
 21 Chapter 144, Section 57, as amended) is amended to read:

22 "7-9-66. DEDUCTION--GROSS RECEIPTS TAX--COMMISSIONS.--
 23 [A.] Receipts derived from commissions on sales of tangible
 24 personal property [~~which~~] that are not subject to the gross
 25 receipts tax may be deducted from gross receipts.

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1 ~~[B. Receipts of the owner of a dealer store derived~~
2 ~~from commissions received for performing the service of selling~~
3 ~~from the owner's dealer store a principal's tangible personal~~
4 ~~property may be deducted from gross receipts.~~

5 ~~C. As used in this section, "dealer store" means a~~
6 ~~merchandise facility open to the public that is owned and~~
7 ~~operated by a person who contracts with a principal to act as~~
8 ~~an agent for the sale from that facility of merchandise owned~~
9 ~~by the principal.]"~~

10 SECTION 4. TEMPORARY PROVISION--EXHAUSTION OF CREDITS.--

11 A. If a taxpayer has met the eligibility
12 requirements to apply for and claim a credit pursuant to
13 Section 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2A-8.8 or
14 7-2A-15 NMSA 1978 or a credit pursuant to the Venture Capital
15 Investment Act for a period prior to the effective date of this
16 2018 act, the taxpayer may claim, and the taxation and revenue
17 department may approve, the credit for those periods, including
18 amounts that may be carried forward pursuant to those sections
19 and acts as they were in effect prior to the effective date of
20 this 2018 act.

21 B. If a taxpayer has claimed and been awarded a
22 credit pursuant to Section 7-2-18.4, 7-2-18.5, 7-2-18.8,
23 7-2-18.21, 7-2A-8.8 or 7-2A-15 NMSA 1978 or a credit pursuant
24 to the Venture Capital Investment Act, but a portion of the
25 credit claimed remains unused, the taxpayer may claim the

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1 unused portion, including amounts that could have been carried
 2 forward pursuant to those sections and acts as they were in
 3 effect prior to the effective date of this 2018 act.

4 **SECTION 5. REPEAL.**---Sections 7-1-6.55, 7-9-26.1,
 5 7-9-54.1, 7-9-57, 7-9-74, 7-9-76, 7-9-76.2, 7-9-79.2, 7-9-86,
 6 7-9-91, 7-9-94, 7-9-96, 7-9-97, 7-9-99 through 7-9-102,
 7 7-9-103.1, 7-9-103.2, 7-9-105 and 7-9-106 NMSA 1978 (being Laws
 8 2007, Chapter 331, Section 4, Laws 2003, Chapter 62, Section 1,
 9 Laws 1992, Chapter 40, Section 1, Laws 1969, Chapter 144,
 10 Section 47, Laws 1971, Chapter 217, Section 2, Laws 1977,
 11 Chapter 288, Section 2, Laws 1984, Chapter 2, Section 6, Laws
 12 2007, Chapter 204, Section 9, Laws 1995, Chapter 80, Section 1,
 13 Laws 2001, Chapter 135, Section 1, Laws 2005, Chapter 104,
 14 Sections 23 and 26, Laws 2005, Chapter 169, Section 1, Laws
 15 2006, Chapter 35, Sections 1 and 2, Laws 2007, Chapter 3,
 16 Sections 16 and 17, Laws 2012, Chapter 12, Sections 2 and 3,
 17 Laws 2007, Chapter 45, Section 6 and Laws 2007, Chapter 172,
 18 Section 8, as amended) are repealed.

19 **SECTION 6. ADDITIONAL REPEAL.**---Sections 7-2-18.4,
 20 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2A-8.8, 7-2A-15, 7-2D-1,
 21 7-2D-2 and 7-2D-4 through 7-2D-14 NMSA 1978 (being Laws 1994,
 22 Chapter 115, Section 1, Laws 1998, Chapter 97, Section 2, Laws
 23 2001, Chapter 73, Section 1, Laws 2007, Chapter 204, Section 7,
 24 Laws 1998, Chapter 97, Section 3, Laws 1994, Chapter 115,
 25 Section 2, Laws 1993, Chapter 313, Sections 1, 2 and 4 through

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1 8, Laws 1995, Chapter 89, Section 8 and Laws 1993, Chapter 313,
2 Sections 9 through 14, as amended) are repealed.

3 SECTION 7. APPLICABILITY.--The provisions of Section 6 of
4 this act apply to taxable years beginning on or after January
5 1, 2019.

6 SECTION 8. EFFECTIVE DATE.--

7 A. The effective date of the provisions of Sections
8 1 through 5 of this act is July 1, 2018.

9 B. The effective date of the provisions of Section
10 6 of this act is January 1, 2019.