

AN ACT

RELATING TO TAXATION; ENACTING A NEW SECTION OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT TO PROVIDE A COMPENSATING TAX DEDUCTION FOR CERTAIN CONTRIBUTIONS OF INVENTORY.

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:

"DEDUCTION--COMPENSATING TAX--CONTRIBUTIONS OF INVENTORY TO CERTAIN ORGANIZATIONS AND GOVERNMENTAL AGENCIES. --

A. Except as provided otherwise in Subsection D of this section, the value of tangible personal property that is removed from inventory and contributed to organizations that have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, may be deducted in computing the compensating tax due, provided that the contribution is deductible for federal income tax purposes by the person from whose inventory the property was withdrawn or, if the person from whose inventory the property was withdrawn is a pass-through entity as that term is defined in Section 7-3-2 NMSA 1978, the contribution is deductible by the owner or owners of the pass-through entity.

B. Except as provided otherwise in Subsection D of this section, the value of tangible personal property that is removed from inventory and contributed to the United States or New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof may be deducted in computing the compensating tax due.

C. Except as provided otherwise in Subsection D of this section, the value of tangible personal property that is removed from inventory and contributed to an Indian tribe, nation or pueblo or any governmental subdivision, agency, department or instrumentality thereof for use on that Indian reservation or pueblo grant may be deducted in computing the compensating tax due.

D. Unless contrary to federal law, the deduction provided by this section does not apply to:

(1) a contribution of metalliferous mineral ore;

(2) a contribution of tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;

(3) a contribution of tangible personal property that will become an ingredient or component part of a construction project; or

(4) a contribution of tangible personal

property utilized or produced in the performance of a service.

E. For purposes of this section:

(1) "inventory" means tangible personal property held for sale or lease in the ordinary course of business; and

(2) "contributed" or "contribution" means a transfer of ownership without consideration. Public acknowledgment of the contribution does not constitute consideration for the purpose of this section."

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