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HOUSE BILL 434

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; MAKING PERMANENT THE HIGH-WAGE JOBS TAX CREDIT; AMENDING A SECTION OF THE NMSA 1978 AND REPEALING A SECTION OF LAWS 2004.

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

Section 1. Section 7-9G-1 NMSA 1978 (being Laws 2004, Chapter 15, Section 1) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

A. A taxpayer who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each new high-wage economic-based job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The high-wage jobs tax credit may be claimed and

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1 allowed in an amount equal to ten percent of the wages and
2 benefits distributed to an eligible employee in a new high-wage
3 economic-based job, but shall not exceed twelve thousand
4 dollars (\$12,000).

5 C. The high-wage jobs tax credit may be claimed by
6 an eligible employer for each new high-wage economic-based job
7 performed for the year in which the new high-wage economic-
8 based job is created and for the three following qualifying
9 periods.

10 D. A new high-wage economic-based job shall not be
11 eligible for a credit pursuant to this section unless the
12 eligible employer's total number of employees with new
13 high-wage economic-based jobs on the last day of the qualifying
14 period at the location at which the job is performed or based
15 is at least one more than the number on the day prior to the
16 date the job was created.

17 E. With respect to each new high-wage
18 economic-based job for which an eligible employer seeks the
19 high-wage jobs tax credit, the employer shall certify:

20 (1) the amount of wages paid to each eligible
21 employee in a new high-wage economic-based job during each
22 qualifying period;

23 (2) the number of weeks the position was
24 occupied during the qualifying period;

25 (3) whether the new high-wage economic-based

1 job was in a municipality with a population of forty thousand
2 or more or with a population of less than forty thousand
3 according to the most recent federal decennial census and
4 whether the job was in the unincorporated area of a county; and

5 (4) the total number of employees employed by
6 the employer at the job location on the day prior to the
7 qualifying period and on the last day of the qualifying period.

8 F. To receive a high-wage jobs tax credit with
9 respect to any qualifying period, an eligible employer shall
10 apply to the taxation and revenue department on forms and in
11 the manner prescribed by the department. The application shall
12 include a certification made pursuant to Subsection E of this
13 section.

14 G. The credit provided in this section may be
15 deducted from the modified combined tax liability of a
16 taxpayer. If the credit exceeds the modified combined tax
17 liability of the taxpayer, the excess shall be refunded to the
18 taxpayer.

19 H. As used in this section:

20 (1) "benefits" means any employee benefit plan
21 as defined in Title 1, Section 3 of the federal Employee
22 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

23 (2) "eligible employee" means an individual
24 who is employed by an eligible employer and who is a resident
25 of New Mexico; "eligible employee" does not include an

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1 individual who:

2 (a) bears any of the relationships
3 described in Paragraphs (1) through (8) of 26 U.S.C. Section
4 152(a) to the employer or, if the employer is a corporation, to
5 an individual who owns, directly or indirectly, more than fifty
6 percent in value of the outstanding stock of the corporation
7 or, if the employer is an entity other than a corporation, to
8 an individual who owns, directly or indirectly, more than fifty
9 percent of the capital and profits interest in the entity;

10 (b) if the employer is an estate or
11 trust, is a grantor, beneficiary or fiduciary of the estate or
12 trust or is an individual who bears any of the relationships
13 described in Paragraphs (1) through (8) of 26 U.S.C. Section
14 152(a) to a grantor, beneficiary or fiduciary of the estate or
15 trust;

16 (c) is a dependent, as that term is
17 described in 26 U.S.C. Section 152(a)(9), of the employer or,
18 if the taxpayer is a corporation, of an individual who owns,
19 directly or indirectly, more than fifty percent in value of the
20 outstanding stock of the corporation or, if the employer is an
21 entity other than a corporation, of an individual who owns,
22 directly or indirectly, more than fifty percent of the capital
23 and profits [~~interests~~] interest in the entity or, if the
24 employer is an estate or trust, of a grantor, beneficiary or
25 fiduciary of the estate or trust; or

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1 (d) is working or has worked as an
2 employee or as an independent contractor for an entity that
3 directly or indirectly owns stock in a corporation of the
4 eligible employer or other interest of the eligible employer
5 that represents fifty percent or more of the total voting power
6 of that entity or has a value equal to fifty percent or more of
7 the capital and profits interest in the entity;

8 (3) "eligible employer" means an employer
9 that:

10 (a) made more than fifty percent of its
11 sales to persons outside New Mexico during the most recent
12 twelve months of the employer's modified combined tax liability
13 reporting periods ending prior to claiming a high-wage jobs tax
14 credit; ~~and~~ or

15 (b) is eligible for development training
16 program assistance pursuant to Section 21-19-7 NMSA 1978;

17 (4) "modified combined tax liability" means
18 the total liability for the reporting period for the gross
19 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
20 any tax collected at the same time and in the same manner as
21 the gross receipts tax, such as the compensating tax, the
22 withholding tax, the interstate telecommunications gross
23 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
24 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
25 minus the amount of any credit other than the high-wage jobs

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1 tax credit applied against any or all of these taxes or
2 surcharges; but "modified combined tax liability" excludes all
3 amounts collected with respect to local option gross receipts
4 taxes;

5 (5) "new high-wage economic-based job" means a
6 job created by an eligible employer on or after July 1, 2004
7 [~~and prior to July 1, 2009~~] that is occupied for at least
8 forty-eight weeks of a qualifying period by an eligible
9 employee who is paid wages calculated for the qualifying period
10 to be at least:

11 (a) forty thousand dollars (\$40,000) if
12 the job is performed or based in a municipality with a
13 population of forty thousand or more according to the most
14 recent federal decennial census; and

15 (b) twenty-eight thousand dollars
16 (\$28,000) if the job is performed or based in a municipality
17 with a population of less than forty thousand according to the
18 most recent federal decennial census or in the unincorporated
19 area of a county;

20 (6) "qualifying period" means the period of
21 twelve months beginning on the day an eligible employee begins
22 working in a new high-wage economic-based job or the period of
23 twelve months beginning on the anniversary of the day an
24 eligible employee began working in a new high-wage economic-
25 based job; and

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(7) "wages" means wages as defined in
Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

Section 2. REPEAL.--Laws 2004, Chapter 15, Section 2 is
repealed.