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HOUSE BILL 571

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Mary Helen Garcia

AN ACT

RELATING TO TAXATION; CREATING A CHILE PRODUCTION INCOME TAX  
CREDIT AND A CHILE PRODUCTION CORPORATE INCOME TAX CREDIT.

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]~~ CHILE PRODUCTION INCOME TAX CREDIT.--

A. The tax credit that may be claimed pursuant to  
this section may be referred to as the "chile production income  
tax credit".

B. For taxable years beginning on or after January  
1, 2009 but prior to January 1, 2012, a taxpayer who is a chile  
producer and who files an individual New Mexico income tax  
return may claim a chile production income tax credit in an  
amount equal to two hundred dollars (\$200) per acre of chile

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1 planted and reported in a taxable year to the farm service  
2 agency of the United States department of agriculture. The  
3 minimum acreage for which a credit may be claimed is one acre.

4 C. To claim the chile production income tax credit,  
5 a taxpayer shall submit with the taxpayer's New Mexico income  
6 tax return a copy of the form FSA 578 submitted stating the  
7 number of acres planted in chile by the taxpayer in the taxable  
8 year to the farm service agency of the United States department  
9 of agriculture.

10 D. A husband and wife who file separate returns for  
11 a taxable year in which they could have filed a joint return  
12 may each claim only one-half of the chile production income tax  
13 credit that would have been allowed on a joint return.

14 E. A taxpayer who otherwise qualifies and claims a  
15 chile production income tax credit and who is a member of a  
16 partnership or owns interest in a business entity that is a  
17 chile producer may claim that credit only in proportion to the  
18 taxpayer's interest in the partnership or business entity. The  
19 total chile production income tax credit claimed by all members  
20 of the partnership or all of the owners of the business entity  
21 shall not exceed the total chile production income tax credit  
22 that could have been claimed by a sole proprietor for the  
23 number of acres the taxpayer reported on the form FSA 578 to  
24 have been planted by the total partnership or business entity.  
25 A taxpayer claiming a chile production income tax credit for a

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1 taxable year pursuant to this section shall not claim a chile  
2 production corporate income tax credit pursuant to the  
3 Corporate Income and Franchise Tax Act for that same taxable  
4 year.

5 F. If the chile production income tax credit  
6 exceeds the amount of the taxpayer's liability in the taxable  
7 year in which it is claimed, the balance of the unpaid credit  
8 may be carried forward for three years. The chile production  
9 income tax credit is not refundable.

10 G. The chile production income tax credit shall be  
11 applied first to the tax liability of the taxpayer prior to all  
12 other tax credits allowed pursuant to the Income Tax Act. Any  
13 chile production income tax credit carried forward from a prior  
14 taxable year shall be applied following application of the  
15 credit for the current taxable year.

16 H. As used in this section:

17 (1) "chile" means a pungent variety of one of  
18 the species of Capsicum, commonly Capsicum annuum, but does not  
19 include bell peppers, sweet peppers or other fruit lacking  
20 pungent characteristics caused by capsaicin; and

21 (2) "chile producer" means a person who grows  
22 chile for sale on land in New Mexico."

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

25 "[NEW MATERIAL] CHILE PRODUCTION CORPORATE INCOME TAX

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1 CREDIT.--

2 A. The tax credit that may be claimed pursuant to  
3 this section may be referred to as the "chile production  
4 corporate income tax credit".

5 B. For taxable years beginning on or after January  
6 1, 2009 but prior to January 1, 2012, a taxpayer that is a  
7 chile producer and that files a corporate income tax return may  
8 claim a chile production corporate income tax credit in an  
9 amount equal to two hundred dollars (\$200) per acre of chile  
10 planted and reported in a taxable year to the farm service  
11 agency of the United States department of agriculture. The  
12 minimum acreage for which a credit may be claimed is one acre.

13 C. To claim the chile production corporate income  
14 tax credit, the taxpayer shall submit with the taxpayer's New  
15 Mexico corporate income and franchise tax return a copy of the  
16 form FSA 578 submitted with the number of acres planted in  
17 chile by the taxpayer in the taxable year to the farm service  
18 agency of the United States department of agriculture.

19 D. A taxpayer that otherwise qualifies and claims a  
20 chile production corporate income tax credit and that is a  
21 member of a partnership or owns interest in a business entity  
22 that is a chile producer may claim a chile production corporate  
23 income tax credit only in proportion to the taxpayer's interest  
24 in the partnership or business entity. The total chile  
25 production corporate income tax credit claimed by all members

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1 of the partnership or all of the owners of a business entity  
2 shall not exceed the total chile production corporate income  
3 tax credit that could have been claimed by a sole entity for  
4 the number of acres reported on the form FSA 578 to have been  
5 planted in chile by the total partnership or business entity.  
6 A taxpayer claiming a chile production corporate income tax  
7 credit for a taxable year pursuant to this section shall not  
8 claim a chile production income tax credit pursuant to the  
9 Income Tax Act for that same taxable year.

10 E. If the chile production corporate income tax  
11 credit exceeds the amount of the taxpayer's liability in the  
12 taxable year in which it is claimed, the balance of the credit  
13 may be carried forward for three years. The chile production  
14 corporate income tax credit is not refundable.

15 F. The chile production corporate income tax credit  
16 shall be applied first to the tax liability of the taxpayer  
17 prior to all other credits allowed by the department pursuant  
18 to the Corporate Income and Franchise Tax Act for the taxable  
19 year in which it is claimed. Any balance from a prior taxable  
20 year's chile production income tax credit shall be applied  
21 following application of the credit for the current taxable  
22 year.

23 G. As used in this section:

24 (1) "chile" means a pungent variety of one of  
25 the species of Capsicum, most usually Capsicum annum, but does

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1 not include bell peppers, sweet peppers or other fruit lacking  
2 pungent characteristics caused by capsaicin; and

3 (2) "chile producer" means a person that grows  
4 chile for sale on land in New Mexico."

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