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SENATE BILL 17

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2010**

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; PHASING OUT THE GROSS RECEIPTS TAX  
DEDUCTION FOR THE SALE OF FOOD; AMENDING AND REPEALING SECTIONS  
OF THE NMSA 1978.

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

Section 1. Section 7-9-92 NMSA 1978 (being Laws 2004,  
Chapter 116, Section 5) is amended to read:

"7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT  
RETAIL FOOD STORE.--

A. On or after July 1, 2010 but before July 1,  
2011, eighty percent of receipts from the sale of food at a  
retail food store that are not exempt from gross receipts  
taxation and are not deductible pursuant to another provision  
of the Gross Receipts and Compensating Tax Act may be deducted  
from gross receipts.

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1           B. On or after July 1, 2011 but before July 1,  
2           2012, sixty percent of receipts from the sale of food at a  
3           retail food store that are not exempt from gross receipts  
4           taxation and are not deductible pursuant to another provision  
5           of the Gross Receipts and Compensating Tax Act may be deducted  
6           from gross receipts.

7           C. On or after July 1, 2012 but before July 1,  
8           2013, forty percent of receipts from the sale of food at a  
9           retail food store that are not exempt from gross receipts  
10           taxation and are not deductible pursuant to another provision  
11           of the Gross Receipts and Compensating Tax Act may be deducted  
12           from gross receipts.

13           D. On or after July 1, 2013 but before July 1,  
14           2014, twenty percent of receipts from the sale of food at a  
15           retail food store that are not exempt from gross receipts  
16           taxation and are not deductible pursuant to another provision  
17           of the Gross Receipts and Compensating Tax Act may be deducted  
18           from gross receipts.

19           E. The deduction provided by this section shall be  
20           separately stated by the taxpayer. The taxpayer shall not pass  
21           on to a purchaser of food with respect to which the deduction  
22           will be claimed a gross receipts tax charge in excess of the  
23           amount the taxpayer will owe on the transaction.

24           ~~[B.]~~ F. For the purposes of this section:

25                   (1) "food" means any food or food product for

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1 home consumption that meets the definition of food in 7 USCA  
2 2012[~~(g)~~](k)(1) for purposes of the federal [~~food stamp~~]  
3 supplemental nutrition assistance program; and

4 (2) "retail food store" means an establishment  
5 that sells food for home preparation and consumption and that  
6 meets the definition of retail food store in 7 USCA  
7 2012[~~(k)~~](p)(1) for purposes of the federal [~~food stamp~~]  
8 supplemental nutrition assistance program, whether or not the  
9 establishment participates in the [~~food stamp~~] supplemental  
10 nutrition assistance program."

11 Section 2. DELAYED REPEAL.--Section 7-9-92 NMSA 1978  
12 (being Laws 2004, Chapter 116, Section 5, as amended by Section  
13 1 of this act) is repealed effective July 1, 2014.

14 Section 3. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2010.

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