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SENATE BILL 269

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR SALES OR RENTALS OF DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES.

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

SECTION 1. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--DURABLE MEDICAL EQUIPMENT--MEDICAL SUPPLIES.--

A. Receipts from the sale of prescription drugs and oxygen and oxygen services provided by a licensed medicare durable medical equipment provider may be deducted from gross receipts and governmental gross receipts.

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1           B. ~~[For the purposes of this section]~~ Receipts from  
2 transactions occurring prior to July 1, 2023 and that are from  
3 the sale or rental of prescribed durable medical equipment and  
4 prescribed medical supplies may be deducted from gross receipts  
5 and governmental gross receipts.

6           C. The purpose of the deductions provided in this  
7 section is to help protect jobs and retain businesses in New  
8 Mexico that sell or rent prescribed durable medical equipment,  
9 infusion therapy services and prescribed medical supplies.

10          D. Deductions pursuant to this section shall be  
11 stated separately by the taxpayer on forms provided by the  
12 department.

13          E. The department shall annually report to the  
14 interim legislative revenue stabilization and tax policy  
15 committee aggregate amounts of each deduction taken pursuant to  
16 this section, the number of taxpayers claiming each deduction  
17 and any other information necessary to determine that the  
18 deduction is performing the purposes for which it is enacted.

19          F. The deductions provided in Subsection B of this  
20 section shall be taken only by a taxpayer participating in the  
21 New Mexico medicaid program whose gross receipts are no less  
22 than ninety percent derived from the sale or rental of  
23 prescribed durable medical equipment, prescribed medical  
24 supplies, oxygen or oxygen services or infusion therapy  
25 services, including the medications used in infusion therapy

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1 services.

2 G. As used in this section:

3 (1) "durable medical equipment" means a  
4 medical assistive device or other equipment that:

5 (a) can withstand repeated use;

6 (b) is primarily and customarily used to  
7 serve a medical purpose and is not useful to an individual in  
8 the absence of an illness, injury or other medical necessity,  
9 including improved functioning of a body part;

10 (c) is appropriate for use at home  
11 exclusively by the eligible recipient for whom the durable  
12 medical equipment is prescribed; and

13 (d) is prescribed by a physician or  
14 other person licensed by the state to prescribe durable medical  
15 equipment;

16 (2) "infusion therapy services" means the  
17 administration of prescribed medication through a needle or  
18 catheter;

19 (3) "medical supplies" means items for a  
20 course of medical treatment, including nutritional products,  
21 that are:

22 (a) necessary for an ongoing course of  
23 medical treatment;

24 (b) disposable and cannot be reused; and

25 (c) prescribed by a physician or other

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1 person licensed by the state to prescribe medical supplies;

2 (4) "prescribe" means to authorize the use of  
3 an item or substance for a course of medical treatment; and

4 (5) "prescription drugs" means insulin and  
5 substances that are:

6 [~~1~~] (a) dispensed by or under the  
7 supervision of a licensed pharmacist or by a physician or other  
8 person authorized under state law to do so;

9 [~~2~~] (b) prescribed for a specified  
10 person by a person authorized under state law to prescribe the  
11 substance; and

12 [~~3~~] (c) subject to the restrictions on  
13 sale contained in Subparagraph 1 of Subsection (b) of 21 USCA  
14 353."

15 **SECTION 2. EFFECTIVE DATE.**--The effective date of the  
16 provisions of this act is July 1, 2013.

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