

QUAY COUNTY

ORDINANCE NO. 2 -

AN ORDINANCE ENACTED PURSUANT TO SECTIONS 7-21-1 to
7-21-7 NMSA 1978 AUTHORIZING A COUNTY SALES TAX

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
QUAY COUNTY THAT:

Section 1. Title.

This ordinance may be cited as the "QUAY County Sales Tax Ordinance."

Section 2. Declaration of intent and purpose.

Pursuant to the County Sales Tax Act (Sections 7-21-1 to 7-21-7 NMSA 1978) which authorizes counties to enact a sales tax, it is hereby declared the purpose and intent of the Board of Commissioners of QUAY County to so enact an ordinance imposing a sales tax of one-fourth of one percent (1/4 of 1%) in compliance with the County Sales Tax Act. It is the further declared purpose and intent that this ordinance shall conform to the definitions and applicable gross receipts tax provisions of the New Mexico Gross Receipts and Compensating Tax, and any interpretation of this ordinance should be in conformity with the applicable sections of the Gross Receipts and Compensating Tax Act.

Section 3. Definitions.

As used in the QUAY County Sales Tax Ordinance:

A. "bureau" means the revenue division of the taxation and revenue department, the director of that division or any employee of the division exercising authority lawfully delegated to him by the director;

B. "buying" or "selling" means any transfer of property for consideration or any performance of service for consideration;

C. "construction" means building, altering, repairing or demolishing in the ordinary course of business any:

- (1) road, highway, bridge, parking area, or related project;

- (2) building, stadium, or other structure;
- (3) airport, subway, or similar facility;
- (4) park, trial, athletic field, golf course, or similar facility;
- (5) dam, reservoir, canal, ditch, or similar facility;
- (6) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;
- (7) sewerage, water, gas or other pipeline;
- (8) transmission line;
- (9) radio or other tower;
- (10) water, oil or other storage tank;
- (11) shaft, tunnel or other mining appurtenance; or
- (12) similar work;

"construction" also means:

- (13) leveling or clearing land;
- (14) excavating earth;
- (15) drilling wells of any type, including seismograph shot holes or core drilling; or
- (16) similar work;

D. "financial corporation" means any savings and loan association, or any incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

E. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

F. "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing property employed in New Mexico, or from performing services in New Mexico, and includes any receipts from sales of tangible personal property handled on consignment but excludes cash discounts allowed and taken, New Mexico gross receipts tax payable on

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transactions for the reporting period and taxes imposed pursuant to the provisions of the County Sales Tax Act, County Gross Receipts Tax Act or the Municipal Gross Receipts Tax Act which are payable on transactions for the reporting period and any type of time-price differential.

In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged.

When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers his interest in any such contract to a third person, he shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential.

"Gross receipts," for the purpose of the business of buying, selling or promoting the purchase, sale or leasing, as an agent or broker, on a commission or fee basis, of any property, service, stock, bond or security, includes only the total commission or fees derived from the business.

"Gross receipts" also includes amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization;

G. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business but does not include construction;

H. "person" means:

- (1) any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or

operated by a county, municipality or other political subdivision of the state; or

(2) the United States or any agency or instrumentality thereof, the state of New Mexico, or any political subdivision thereof;

I. "property" means real property, tangible personal property, licenses, franchises, patents, trademarks and copyrights. Tangible personal property includes electricity and mobile homes;

J. "leasing" means any arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property;

K. "service" means all activities engaged in for other persons for a consideration, which activities involve predominately the performance of a service as distinguished from selling property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling.

"Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. However, sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property;

L. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state;

M. "director" means the director of the revenue division of the taxation and revenue department;

N. "division" means the revenue division of the taxation and revenue department, the director of that division or any employee of the division exercising authority lawfully delegated to him by the director;

O. "mobile home" means a house trailer that exceeds either a width of eight feet or a length of forty feet when equipped for the road;

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P. "County" means QUAY County; and

Q. "County sales tax" means the county sales tax imposed by the
QUAY County Sales Tax Ordinance.

Section 4. Imposition and rate of tax; presumption of tax liability.

A. There is hereby imposed on the gross receipts of all retail businesses and services within the County an excise tax to be referred to as the County sales tax. The rate of the tax shall be equal to one-fourth of one percent (1/4 of 1%) of the gross receipts of all retail businesses and services within the County.

B. To prevent evasion of the County sales tax and to aid in its administration, it is presumed that all receipts of retail businesses and services within the County are subject to the County sales tax. Any person engaged solely in transactions specifically exempt under the provisions of the County Sales Tax Ordinance shall not be required to register or file a return under this ordinance.

Section 5. Deposit of proceeds.

All revenues distributed to the County by the division pursuant to the provisions of the County Sales Tax Ordinance shall be deposited in the County Indigent Hospital Claims Fund of the County.

Section 6. Date payment due.

The taxes imposed by this ordinance are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs, or as otherwise authorized by the division.

Section 7. Exemptions.

A. No County sales tax shall be imposed on the gross receipts arising from:

- (1) transmitting long distance or toll telecommunications; or
- (2) transporting for hire persons or property by railroad, motor vehicle, air transportation or any other means from one point within the County to another point outside the County.

B. Exempted from the County sales tax are those receipts exempted in paragraphs (1) through (21) of this Subsection of Section 7 of the County Sales Tax Ordinance.

(1) **Governmental agencies.** Exempted from the County sales tax are the receipts of the United States or any agency or instrumentality thereof or the state of New Mexico or any political subdivision thereof. Receipts from the sale of gas, water or electricity by a utility owned or operated by a county, municipality or other political subdivision of the state are not exempted from the County sales tax.

(2) **Certain nonprofit facilities.** Exempted from the County sales tax are the receipts of nonprofit entities from the operation of facilities designed and used for providing accommodations for retired elderly persons.

(3) **Wages.** Exempted from the County sales tax are the receipts of employees from wages, salaries, commissions, or from any other form of remuneration for personal services.

(4) **Agricultural products.** Exempted from the County sales tax are the receipts of growers, producers, trappers, or nonprofit marketing associations from selling livestock, live poultry, unprocessed agricultural products, hides or pelts. Persons engaged in the business of buying and selling wool or mohair or of buying and selling livestock on their own account are producers for the purposes of this section. Receipts from selling dairy products at retail are not exempted from the County sales tax.

(5) **Livestock feeding.** Exempted from the County sales tax are the receipts of any person derived from feeding or pasturing livestock. Receipts derived from penning or handling livestock prior to sale are receipts derived from feeding livestock for the purpose of this section. Receipts derived from training livestock are receipts derived from feeding livestock for the purposes of this section.

(6) **Vehicles.** Exempted from the County sales tax are the receipts from selling vehicles on which a tax is imposed by Section 66-6-27 NMSA 1978 and on vehicles subject to registration under Section 66-3-16 NMSA 1978.

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(7) **Insurance companies.** Exempted from the County sales tax are the receipts of insurance companies or any agent thereof from premiums.

(8) **Dividends and interest.** Exempted from the County sales tax are the receipts received as interest on money loaned or deposited, receipts received as dividends or interest from stocks, bonds or securities or receipts from the sale of stocks, bonds or securities.

(9) **Fuel.** Exempted from the County sales tax are the receipts from selling and the use of gasoline or special fuel on which the tax imposed by Sections 7-13-3 or 7-16-3 NMSA 1978 has been paid and not refunded.

(10) **Occasional sale of property or services.** Exempted from the County sales tax are the receipts from the isolated or occasional sale of or leasing of property or a service by a person who is neither regularly engaged nor holding himself out as engaged in the business of selling or leasing the same or similar property or service.

(11) **Certain organizations.** Exempted from the County sales tax are the receipts of organizations that demonstrate to the Bureau that they 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 United States Internal Revenue Code of 1954, as amended or renumbered.

This section does not apply to receipts derived from an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1954, as amended or renumbered.

(12) **Resale activities of an armed forces instrumentality.** Exempted from the County sales tax are the receipts from selling tangible personal property and the use of property by an instrumentality of the armed forces of the United States engaged in resale activities.

(13) **Oil and gas or mineral interests.** Exempted from the County sales tax are the receipts from the sale of or leasing of oil, natural gas or mineral interests.

(14) **Persons subject to Oil and Gas Emergency School Tax Act.** When a privilege tax is imposed by the Oil and Gas Emergency School Tax Act, the provisions

of such act shall apply and determine the full measure of tax liability for the privilege of engaging in the business stated in the act, and no provision of the County Sales Tax Ordinance shall apply to or create a tax liability for such privilege; except that any person engaging in the business of severing oil, natural gas or liquid hydrocarbons from the soil of this state, who sells oil, natural gas or liquid hydrocarbons other than for subsequent resale in the ordinary course of business or for use as an ingredient or component part of a manufactured product is subject to the County Sales Tax Ordinance as to those sales, as well as to the Oil and Gas Emergency School Tax Act. No provision of the County Sales Tax Ordinance shall apply to the storage of oil, natural gas or liquid hydrocarbons, individually or any combination thereof, or to the use of such products for fuel in the operation of a "production unit" as defined by the Oil and Gas Emergency School Tax Act.

(15) Refiners and persons subject to the Natural Gas Processors Tax Act.

When a privilege tax is imposed by the Natural Gas Processors Tax Act, the provisions of the act shall apply and determine the full measure of tax liability for the privilege of engaging in the business stated in the act and no provision of the County Sales Tax Ordinance shall apply to or create a tax liability for such privilege, except that any producer or processor of natural gas or liquid hydrocarbons who sells natural gas or liquid hydrocarbons other than for subsequent resale in the ordinary course of business or for use as an ingredient or component part of a manufactured product is subject to the County Sales Tax Ordinance as to those sales, as well as to the Natural Gas Processors Tax Act. No provision of the County Sales Tax Ordinance shall apply to the storage or use of oil, natural gas or liquid hydrocarbons, individually or any combination thereof, when stored or used by a "processor," as defined by the Natural Gas Processors Tax Act, or by a person engaged in the business of refining oil, natural gas or liquid hydrocarbons, who stores or uses the oil, natural gas or liquid hydrocarbons in the regular course of his refining business.

(16) Persons subject to Resources Excise Tax Act.

When a privilege tax is imposed by the Resources Excise Tax Act, the provisions of the act shall apply and

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determine the full measure of tax liability for the privilege of engaging in the business stated in the act, and no provision of the County Sales Tax Ordinance shall apply to or create a tax liability for such privilege, except as is provided in Section 7-25-8 NMSA 1978.

(17) **Oil and gas consumed in the pipeline transportation of oil and gas products.** Exempted from the County sales tax are receipts from the sale of oil, natural gas, liquid hydrocarbon or any combination thereof consumed as fuel in the pipeline transportation of such products.

(18) **Fees from social organizations.**

(a) Exempted from the County sales tax are the receipts from dues and registration fees of nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues.

(b) For the purposes of this section:

1. "dues" means amounts that a member of an organization pays at recurring intervals to retain membership in an organization where such amounts are used for the general maintenance and upkeep of the organization; and

2. "registration fees" means amounts paid by persons to attend a specific event sponsored by an organization to defray the cost of the event.

(19) **Purses and jockey remuneration at New Mexico racetracks.** Exempted from the County sales tax are the receipts of horsemen, jockeys and trainers from purses at New Mexico horse racetracks subject to taxes levied under Section 60-1-15 NMSA 1978.

(20) **Religious activities.** Exempted from the County sales tax are the receipts of a minister of a religious organization, which organization has been granted an exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended or renumbered, from religious services provided by the minister to an individual recipient of the service.

(21) **Theatrical and television films and tapes.** Exempted from the County sales tax are the receipts from the leasing or licensing of theatrical and television films and tapes of any kind.

Section 8. Nontaxable transaction certificates, farmers' and ranchers' statements, and other evidence required to entitle persons to deductions.

A. All nontaxable transaction certificates executed by buyers or lessees should be in the possession of the seller or lessor for nontaxable transactions at the time the nontaxable transactions occur. If the seller or lessor is not in possession of these nontaxable transaction certificates within sixty days from the date notice requiring the possession of these nontaxable transaction certificates is given the seller or lessor by the director or his delegate, deductions claimed by the seller or lessor which require delivery of these nontaxable transaction certificates shall be disallowed. The nontaxable transaction certificates shall contain the information and be in a form prescribed by the bureau. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates. When the seller or lessor accepts a nontaxable transaction certificate within the required time and in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's or lessor's gross receipts.

B. Properly executed documents required to support the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74 NMSA 1978 should be in the possession of the seller at the time the nontaxable transactions occur. If the seller is not in possession of these documents within sixty days from the date notice requiring the possession of these documents is given to the seller by the director or his delegate, deductions claimed by the seller or lessor which require delivery of these documents shall be disallowed. These documents shall contain the information, and be in a form,

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prescribed by the bureau. When the seller accepts these documents within the required time and in good faith that the buyer will employ the property or service transferred in a nontaxable manner, the properly executed documents shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's gross receipts.

C. Notification, as that term is used in this section, is sufficient if the notice is mailed or served as provided in Subsection A of Section 7-1-9 NMSA 1978. Notice by the director under this section shall not be given prior to the commencement of an audit of the seller from whom the documents are required.

Section 9. Suspension of the right to use a nontaxable transaction certificate.

If the director suspends the right of any person to use nontaxable transaction certificates pursuant to Section 7-9-44 NMSA 1978, such suspension applies to the use of such certificates under the County Sales Tax Ordinance.

Section 10. Deductions.

In computing the County sales tax due, only those receipts specified in Subsections (A) through (FF) of Section 10 of the County Sales Tax Ordinance may be deducted. Receipts, whether specified once or several times in Subsections (A) through (FF) of Section 10, may be deducted only once from gross receipts.

A. **Sales to manufacturers.** Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as an ingredient or component part of the product which he is in the business of manufacturing.

B. **Sales of tangible personal property for resale.** Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must resell the tangible personal

property either by itself or in combination with other tangible personal property in the ordinary course of business.

C. **Sales of a service for resale.** Receipts from selling a service for resale may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate. The buyer delivering the nontaxable transaction certificate must separately state the value of the service purchased in his charge for the service on its subsequent sale, and the subsequent sale must be in the ordinary course of business and subject to the County sales tax.

D. **Sale of tangible personal property for leasing.** Receipts from selling tangible personal property, other than furniture or appliances, the receipts from the rental or lease of which are deductible under Subsection C of Section 7-9-53 NMSA 1978, and other than mobile homes may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must be engaged in a business which derives a substantial portion of its receipts from leasing or selling tangible personal property of the type leased. The buyer may not utilize the tangible personal property in any manner other than holding it for lease or sale, or leasing or selling it either by itself or in combination with other tangible personal property in the ordinary course of business.

E. **Lease for subsequent lease.** Receipts from leasing tangible personal property, other than furniture or appliances, the receipts from the rental or lease of which are deductible under Subsection C of Section 7-9-53 NMSA 1978, and other than mobile homes may be deducted from gross receipts if the lease is made to a lessee who delivers a nontaxable transaction certificate to the lessor. The lessee delivering the nontaxable transaction certificate may not use the tangible personal property in any manner other than for subsequent lease in the ordinary course of business.

F. **Sale of tangible personal property to persons engaged in the construction business.**

(1) Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person engaged in the construction business

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who delivers a nontaxable transaction certificate to the seller.

(2) The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as:

(a) an ingredient or component part of a construction project which is subject to the County sales tax upon its completion or upon the completion of the overall construction project of which it is a part; or

(b) an ingredient or component part of a construction project which is subject to the County sales tax upon the sale in the ordinary course of business of the real property upon which it was constructed.

G. Sale of construction services to persons engaged in the construction business.

(1) Receipts from selling a construction service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service.

(2) The buyer delivering the nontaxable transaction certificate must have the construction services performed upon:

(a) a construction project which is subject to the County sales tax upon its completion or upon the completion of the overall construction project of which it is a part; or

(b) a construction project which is subject to the County sales tax upon the sale in the ordinary course of business of the real property upon which it was constructed.

H. Sale or lease of real property and lease of mobile homes.

(1) Receipts from the sale or lease of real property, and from the lease of a mobile home and as provided in Subsection (2) of this section, other than receipts from the sale or lease of oil, natural gas or mineral interests exempted by Section 7-9-32 NMSA 1978 may be deducted from gross receipts. However, that portion of the receipts from the sale of real property which is attributable to improvements

constructed on the real property by the seller in the ordinary course of his construction business may not be deducted from gross receipts.

(2) Receipts received by hotels, motels, rooming houses, campgrounds, guest ranches, trailer parks, or similar facilities, except receipts received by trailer parts from the rental of a space or a mobile home for a period of at least one month, from lodgers, guests, roomers or occupants are not receipts from leasing real property for purposes of this section.

(3) Receipts attributable to the inclusion of furniture or appliances furnished as part of a leased or rented dwelling house, mobile home or apartment by the landlord or lessor may be deducted from gross receipts.

I. **Sales to governmental agencies.** Receipts from selling tangible personal property, other than nonfissionable metalliferous mineral ore, to the United States or any agency or instrumentality thereof, or the state of New Mexico or any political subdivision thereof may be deducted from gross receipts. Receipts from selling tangible personal property, other than nonfissionable metalliferous mineral ore, to the governing body of an Indian tribe or Indian pueblo for use on Indian reservations or pueblo grants may be deducted from gross receipts. That portion of the receipts from performing a service as defined in Subsection K of Section 7-9-3 NMSA 1978 which reflects the value of tangible personal property utilized or produced in performance of such service is not deductible.

J. **Transactions in interstate commerce.** Receipts from transactions in interstate commerce may be deducted from gross receipts to the extent that the imposition of the County sales tax would be unlawful under the United States Constitution. Receipts from transmitting messages or conversations by telegraph, telephone or radio other than from one point in this state to another point in this state and receipts from the sale of radio or television broadcast time when the advertising message is supplied by or on behalf of a national or regional seller or advertiser not having its principal place of business in or being incorporated under the laws of this state, may be deducted from gross receipts. Commissions of advertising agencies

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from performing services in this state may not be deducted from gross receipts under this section.

K. Intrastate transportation and services in interstate commerce.

(1) Receipts from transporting persons or property from one point to another in this state may be deducted from gross receipts when such persons or property, including any special or extra service reasonably necessary in connection therewith, are being transported in interstate or foreign commerce under a single contract.

(2) Receipts from handling, storage, drayage or packing of property or any other accessorial services on property, which property has moved or will move in interstate or foreign commerce, when such services are performed by a local agent for a carrier or a carrier, and when such services are performed under a single contract in relation to transportation services, may be deducted from gross receipts.

L. Sale of certain services to an out-of-state buyer.

(1) Receipts from performing a service other than a legal, accounting or architectural service may be deducted from gross receipts if the sale of the service is made to a buyer who delivers to the seller either a nontaxable transaction certificate or other evidence acceptable to the director that the transaction does not contravene the conditions set out in Subsection (3) of this section.

(2) The buyer delivering the nontaxable transaction certificate or other evidence acceptable to the director must not contravene the conditions set out in Subsection (3) of this section.

(3) Receipts from performance of a service shall not be subject to the deduction provided in this section if the buyer of the service, any of his employees or any person in privity with him:

- (a) makes initial use of the product of the service in New Mexico;
- (b) takes delivery of the product of the service in New Mexico; or

(c) concurrent with the performance of the service, has a regular place of work in New Mexico or spends more than brief and occasional periods of time in New Mexico and:

(i) has any communication in New Mexico related in any way to the subject matter, performance or administration of the service, with the person performing the service; or

(ii) himself performs work in New Mexico related to the subject matter of the service.

M. **Feed; fertilizers.** Receipts from selling feed for livestock, fish raised for human consumption, poultry or for animals raised for their hides or pelts, seeds, roots, bulbs, plants, soil conditioners, fertilizers, insecticides, fungicides or weedicides or water for irrigation purposes may be deducted from gross receipts if the sale is made to a person who states in writing that he is regularly engaged in the business of farming, ranching or the raising of animals for their hides or pelts. Receipts of auctioneers from selling livestock or other agricultural products at auction may also be deducted from gross receipts.

N. **Warehousing, threshing, harvesting, growing, cultivating and processing agricultural products.**

(1) Receipts from warehousing grain or other agricultural products may be deducted from gross receipts.

(2) Receipts from threshing, cleaning, growing, cultivating or harvesting agricultural products, including the ginning of cotton or processing for growers, producers or nonprofit marketing associations of other agricultural products raised for food and fiber, including livestock, may be deducted from gross receipts.

O. **Sales to certain organizations.** Receipts from selling tangible personal property, other than metalliferous mineral ore, 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 United States Internal Revenue Code of 1954, as amended or renumbered, may be deducted from

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gross receipts if the sale is made to an organization that delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must employ the tangible personal property in the conduct of the functions described in Section 501(c)(3) and must not employ the tangible personal property in the conduct of an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1954, as amended or renumbered. Receipts from selling tangible personal property that will become an ingredient or component part of a construction project are not receipts from selling tangible personal property for purposes of this section.

P. Certain receipts. Receipts from charges made in connection with the organization, making or assumption of a loan or from charges made for handling loan payments may be deducted from gross receipts.

Q. Agricultural implements, aircraft, vehicles that are not required to be registered. Fifty per cent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code (Chapter 66 NMSA 1978) may be deducted from gross receipts. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this section is computed.

R. Publication sales. Receipts from publishing newspapers or magazines, except from selling advertising space, may be deducted from gross receipts. Receipts from selling magazines at retail may not be deducted from gross receipts.

S. Newspaper sales. Receipts from selling newspapers, except from selling advertising space, may be deducted from gross receipts.

T. Chemicals and reagents. Receipts from selling chemicals or reagents to any mining, milling or oil company for use in processing ores or oil in a mill, smelter or refinery or in acidizing oil wells, and receipts from selling chemicals or reagents in lots in excess of eighteen tons may be deducted from gross receipts. Receipts from selling explosives, blasting powder or dynamite may not be deducted from gross receipts.

U. **Commissions.** Receipts derived from commissions on sales of tangible personal property which are not subject to the County sales tax may be deducted from gross receipts.

V. **Refunds; uncollectible debts.** Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting County sales tax on an accrual basis may be deducted from gross receipts. If debts reported uncollectible are subsequently collected, such receipts shall be included in gross receipts in the month of collection.

W. **Warranty obligations.** Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property may be deducted from gross receipts.

X. **Administrative and accounting services.** Receipts of a corporation for administrative and accounting services performed by it for a wholly owned subsidiary corporation upon a nonprofit or cost basis, and receipts from a wholly owned subsidiary for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis, may be deducted from gross receipts.

Y. **Rental or lease of vehicles used in interstate commerce.** Receipts from the rental or leasing of vehicles used in the transportation of passengers or property for hire in interstate commerce under the regulations or authorization of any agency of the United States may be deducted from gross receipts.

Z. **Trade-in allowance.** That portion of the receipts of a seller that is represented by a trade-in of tangible personal property of the same type being sold, except for the receipts represented by a trade-in of a mobile home, may be deducted from gross receipts.

AA. **Special fuel.**

(1) Receipts from the sale of special fuel, as defined in Section 7-16-2 NMSA 1978, may be deducted from gross receipts if the purchaser is a bonded special fuel user under Section 7-16-10 NMSA 1978 who delivers a nontaxable transaction certificate to the seller. If the purchaser delivering the nontaxable transaction

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certificate is not subsequently required to pay the excise tax imposed by Section 7-16-3 NMSA 1978 on a quantity of the special fuel purchased, the compensating tax is due on the value of the fuel upon which the excise tax was not paid when the special fuel is used.

(2) Receipts from the sale of special fuel delivered into the supply tank, as the term is defined in Section 7-16-2 NMSA 1978, of any vehicle the user of which is subject to the provisions of 7-16-9 NMSA 1978, may be deducted from gross receipts.

BB. Sale of prosthetic devices. Receipts from selling prosthetic devices may be deducted from gross receipts if the sale is made to a person who is licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, chiropractic or professional nursing and who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must deliver the prosthetic device incidental to the performance of a service and must include the value of the prosthetic device in his charge for the service.

CC. Sale of property used in the manufacture of jewelry. Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person who states in writing that he will use the property so purchased in manufacturing jewelry. The buyer must incorporate the tangible personal property as an ingredient or component part of the jewelry that he is in the business of manufacturing. The deduction allowed a seller under this section shall not exceed the sum of one thousand dollars (\$1,000) during any twelve-month period attributable to purchases by a single purchaser.

DD. Sale of certain services performed directly on product manufactured. Receipts from selling the service of combining or processing components or materials may be deducted from gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must have the

service performed directly upon tangible personal property which he is in the business of manufacturing or upon ingredients or component parts thereof.

EE. Travel agents' commissions paid by certain entities. Receipts of travel agents derived from commissions paid by maritime transportation companies and interstate airlines, railroads and passenger buses for booking, referral, reservation or ticket services may be deducted from gross receipts.

FF. Certain mobile homes. Receipts from the resale of a mobile home may be deducted from gross receipts if the sale is made of a mobile home that was subject to the gross receipts, compensating or motor vehicle excise tax upon its initial sale or use in New Mexico. The seller must retain and furnish proof satisfactory to the director that a gross receipts, compensating or motor vehicle excise tax was paid upon the initial sale or use in New Mexico of a mobile home, and in the absence of such proof, it is presumed that the tax was not paid. Proof that a New Mexico certificate of title was issued for a mobile home in 1972 or a prior year or proof that a mobile home for which a New Mexico certificate of title has been issued was manufactured in 1967 or a prior year is proof that a motor vehicle excise tax was paid on the initial sale or use in New Mexico of that mobile home.

Section 11. Revenue division as agent for collection; county liable on refunds.

The county hereby appoints the revenue division as its agent to administer and enforce the collection of the County sales tax. The Tax Administration Act, Sections 7-1-1 to 7-1-82 NMSA 1978, applies to the administration and enforcement of the County Sales Tax Ordinance. Any refund or other reimbursement which is due a taxpayer under the County Sales Tax Ordinance is a debt owing to such taxpayer from the County. The division may remit such refund or reimbursement to the taxpayer and deduct an equivalent amount from current collections attributable to the County. If the division is unable to otherwise satisfy all refunds and reimbursements that are due and owing, the division shall so advise the County, and the County shall treat such refunds and reimbursements as extraordinary, nonrecurring debts for which the County shall be liable as if it had been a party to the claim for refund or reimbursement. Such

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debts shall be satisfied by additional assessments of the citizens of the County or by any other legal means. Should the division require it, the County shall enter into a contract with the division the terms of which shall be the same as those set forth in this section.

Section 12. Cost of administration; deposit and use of revenues. All taxes and revenues collected pursuant to the County sales tax, with the exception of those amounts which are withheld from the County pursuant to Section 7-21-6 NMSA 1978 for administrative costs, shall be deposited by the County to the credit of the County Indigent Hospital Claims Fund of the County. This fund is to be used solely for the support of indigent hospital patients who are residents of the County.

Section 13. Effective date.

The effective date of the County Sales Tax Ordinance shall be JANUARY 1, 1983.

Section 14. Expiration date. The County Sales Tax Ordinance shall expire five years from the effective date of the ordinance.

Section 15. Vote of electorate; adoption.

A. The County Sales Tax Ordinance shall be submitted to a vote of the electorate of the County.

B. The ordinance shall be deemed to have been adopted on the date when the results of the election at which the ordinance is submitted to a vote of the electorate are certified to be in favor of its adoption.

Section 16. Severability.

If any part or parts or application of any part of the County Sales Tax Ordinance is held invalid, such holding shall not affect the validity of the remaining parts of the County Sales Tax Ordinance. The Board of County Commissioners hereby declares that it would have passed the remaining parts of the County Sales Tax Ordinance even if it had known that such part or parts or application of any part thereof would be declared invalid. Further, the Board of County Commissioners declares that if any deduction or exemption granted by the County Sales Tax Ordinance be held invalid, it

is the intent of the Board of County Commissioners that the unaffected remainder of the County Sales Tax Ordinance be continued in full force and effect, and that the taxpayers theretofore enjoying such deduction or exemption shall thenceforth, from the effective date of the declaration of invalidity, be liable for the rate of tax under Section 4 of the County Sales Tax Ordinance.

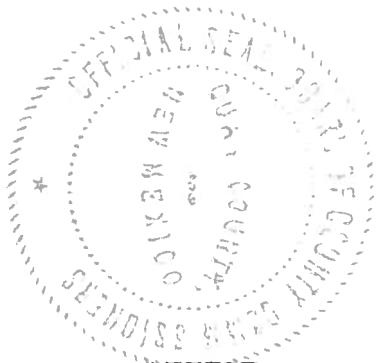
PASSED AND APPROVED AS TO FORM THIS 17th DAY OF May,
19 82.

BOARD OF COUNTY COMMISSIONERS
OF Quay COUNTY

Thomas H. Wilson
Chairman

Arud Barnett
~~Vice Chairman~~ Member

Russell C. Harris
Member



ATTEST:

Pat Clark
County clerk

APPROVED AS TO THE FORM AND LEGAL SUFFICIENCY THIS _____
DAY OF _____, 19__.

APPROVED AS TO THE FORM AND EFFECTIVE DATE THIS _____ DAY
OF _____, 19____.

Arthur B. Snead, Director
Revenue Division

We hereby certify that the Quay County Sales Tax Ordinance was
duly enacted by a vote of the electorate on July 13, 1982, and
the results were certified to us on July 16, 1982

BOARD OF COUNTY COMMISSIONERS
OF _____ COUNTY

Thomas H. Helman
Chairman

Fred Barnett
~~Vice Chairman~~ Member

Russell C. Harris
Member



ATTEST:

Pat Clark
County Clerk