

NOTICE OF PROPOSED RULEMAKING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes amend/repeal/replace and enact certain rules and regulations pertaining to digital advertising services under the Gross Receipts and Compensating Tax Act and further clarification for engaging in business as authorized by Section 9-11-6.2 NMSA 1978:

Summary of Proposed Changes:

The New Mexico Taxation and Revenue Department proposes to amend and enact the following rule(s):

Tax Administration Act

Section 7-1-14 NMSA 1978

3.1.4.13 – Reporting According to Business Location [Applicable to periods beginning July 1, 2021] (Amend)

Gross Receipts and Compensating Tax Act

Section 7-9-3.3 NMSA 1978

3.2.1.12 – Engaging in Business (Amend)

Section 7-9-55 NMSA 1978

3.2.213.13 – Receipts of a Digital Platform that Displays Digital Advertising (New)

Technical Information: No technical information was consulted in drafting these proposed rule changes.

Purpose of Proposed Rule: The proposed rules are being amended to clarify the taxation of digital advertising, the correct reporting location to use when reporting these gross receipts and deductions that may be available, and further clarifies engaging in business for those taxpayers that only have economic presence in New Mexico. The proposed regulations detail which receipts from the sale of digital advertising services are subject to gross receipts taxation and which are deductible, and also clarifies the sourcing rules for such receipts.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on Thursday, November 9, 2023, from 10 AM to 11 AM at the 3rd floor in the Montoya Building, 1100 South St. Francis Drive, Santa Fe, New Mexico 87504. The hearing will be recorded, and oral comments can be made during the public hearing. Written comments can be submitted as outlined at the end of this notice. Virtual meeting access also available using Zoom

[https://us02web.zoom.us/j/85402950259?pwd=Si9RNDhLdGxsK2JlekdlUnpGVUdvQT09_Meeting ID: 854 0295 0259](https://us02web.zoom.us/j/85402950259?pwd=Si9RNDhLdGxsK2JlekdlUnpGVUdvQT09_Meeting+ID%3A854+0295+0259+Passcode%3A682655) Passcode: 682655

The rule proposals were placed on file in the Office of the Secretary on September 25, 2023. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about November 24, 2023.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Bobbie Marquez at BobbieJ.Marquez@tax.nm.gov. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Copies of the proposed rules may be found at <https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/> or are available upon request by contacting the Tax Policy Office at policy.office@tax.nm.gov.

Notice of Acceptance of Written Public Comment: Written comments on the proposals can be submitted by email to policy.office@tax.nm.gov or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or by 5PM on Thursday, November 9, 2023. All

written comments received by the agency will be posted on <https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/> no more than 3 business days following receipt to allow for public review.