

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 to amend/repeal/replace and enact certain rules and regulations pertaining to the Gross Receipts and Compensating Tax Act. The State Records Center and Archives Administrative Law Division is requiring a repeal and replace of the entire regulation part Title 3: Taxation, Chapter 2: Gross Receipts Taxes, Part 116 Exemption - Gross Receipts Tax - Occasional Sale of Property or Services & Title 3: Taxation, Chapter 2: Gross Receipts Taxes, Part 211: Deduction - Gross Receipts Tax - Sale or Lease of Real Property and Lease of Manufactured Homes. - Applicability in order to make this amendment, citing Regulation Subsection C of 1.24.11.9 NMAC:

Summary of Proposed Changes:

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

Imposition of Gross Receipts and Compensating Tax Act

For ease of reference these changes are shown as amendments, see below on where to locate copies of the proposed rules:

Section 7-9-28 NMSA 1978

- 3.2.116.8 - *Criteria Used In Determining Isolated Or Occasional Sales*
- 3.2.116.9 - *License To Do Business Or Holding Out To Do Business*
- 3.2.116.10 - ~~*[Persons Hangin Three Or Fewer Rental Units]*~~ *Persons Having Rental Units*
- 3.2.116.11 - *Sale Or Leasing The Same Or Similar Property:*
- 3.2.116.12 - *Executors' And Administrators' Fees:*
- 3.2.116.13 - *Trustee Fees:*
- 3.2.116.14 - *Safe Harbor Lease - Seller/Lessee*

Section 7-9-53 NMSA 1978

- 3.2.211.7 - *Definitions:*
- 3.2.211.8 - *Receipts From Providing Accommodations:*
- 3.2.211.9 - *Amount Attributable To Improvements And The Cost Of Land:*
- 3.2.211.10 - *Remodeling Or Other Improvements:*
- 3.2.211.11 - *Utilities - Sale Of Company Facilities*
- 3.2.211.12 - *Lease Of ~~[Advertising Signs]~~ Tangible Personal Property:*
- 3.2.211.13 - ~~*[Gasoline Service Station Equipment Lease Receipts:]*~~
- 3.2.211.14 - *General Examples:*
- 3.2.211.16 - *Locker Rooms In A Warehouse/Self Storage Warehouse Units:*
- 3.2.211.17 - *Receipts From License To Use Real Property:*
- New - 3.2.211.18 - Assisted Living Facilities*

Section 7-9-58.1 NMSA 1978

- New - 7.3.30X.7 - Definition*
- New - 7.3.30X.8 - Claiming*

Section 7-9-121 NMSA 1978

- New - 7.3.30X.7 - Definition*
- New - 7.3.30X.8 - Claiming*

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

Purpose of Proposed Rule: The proposed repeal and replace is in accordance with the SRCA requirements. The regulation changes to Section 7-9-28 NMSA 1978 are to update the exemption language to clarify that short-term

rentals that are similar to hotels and motels do not qualify for the isolated and occasional exemption from gross receipts tax. It also clarifies for certain types of transactions why a person would not be seen as engaging in business in New Mexico and would therefore qualify for the isolated and occasional exemption. These regulations are also updated to make them more general focusing on the language of the statute rather than a specific industry. The regulation under Section 7-9-53 NMSA 1978 is updated to address assisted living facilities and make examples more general where possible. The new regulation parts are to address the two new gross receipts tax credits that will be effective July 1, 2024, in HB-252 from the 2024 legislative session, Section 14: Credit - gross receipts tax - legal services for wildfire compensation recovery, and Section 15: credit - gross receipts tax - sale of dyed special fuel used for agricultural purposes.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on Thursday, June 20, 2024, from 1 PM to 2 PM 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 Join Zoom Meeting:

<https://us02web.zoom.us/j/6586491797?pwd=eHl6YlVtYjZlZVNIenZ0S3VUV2Nudz09&omn=86021613310>
Meeting ID: 658 649 1797 Passcode: 062024

The rule proposals were placed on file in the Office of the Secretary on May 6, 2024. 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 July 16, 2024.

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, June 20, 2024. 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.