

TITLE 3: TAXATION
CHAPTER 11: MOTOR VEHICLE TAXES AND FEES
PART 4: SALE OR TRANSFER OF VEHICLES

3.11.4.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[3/15/96; 3.11.4.1 NMAC - Rn, 3 NMAC 11.4.1, 12/14/00]

3.11.4.2 SCOPE: General public, dealers in motor vehicles, agencies of the United States government, NATO forces.
[3/15/96; 3.11.4.2 NMAC - Rn, 3 NMAC 11.4.2, 12/14/00]

3.11.4.3 STATUTORY AUTHORITY: Sections 9-11-6.2 and 7-14-11 NMSA 1978.
[3/15/96; 3.11.4.3 NMAC - Rn, 3 NMAC 11.4.3, 12/14/00]

3.11.4.4 DURATION: Permanent.
[3/15/96; 3.11.4.4 NMAC - Rn, 3 NMAC 11.4.4, 12/14/00]

3.11.4.5 EFFECTIVE DATE: 7/31/96, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[3/15/96, 7/31/96; 3.11.4.5 NMAC - Rn & A, 3 NMAC 11.4.5, 12/14/00]

3.11.4.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Motor Vehicle Excise Tax Act.
[3/15/96; 3.11.4.6 NMAC - Rn, 3 NMAC 11.4.6, 12/14/00]

3.11.4.7 DEFINITIONS:

A. "Member of a NATO force" means the military and civilian personnel of the NATO force and their dependents.

B. "NATO force" means any NATO signatory's military unit or force or civilian component thereof present in New Mexico in accordance with the north Atlantic treaty.

C. "NATO signatory" means a nation, other than the United States of America, that is a contracting party to the north Atlantic treaty.

D. "Price paid" is the dollar amount to which the motor vehicle excise tax is applied and (except as provided in Section 7-14-4 NMSA 1978 if the price paid does not represent the value of the vehicle) is the total net purchase price paid by the buyer for the vehicle itself, including any deposit or down payment, at the time of sale. "Price paid" includes any charges to the buyer for accessories, transportation, delivery and dealer preparation. "Price paid" is reduced by the value of any vehicle trade-in and by any discounts or rebates that are applied to the buyer's balance due at time of sale. "Price paid" is also reduced by the value of any manufacturer's or other rebate that is contractually guaranteed to the buyer at time of sale, even though the rebate is received by the buyer at a later date.
[3/15/96; 3.11.4.7 NMAC - Rn, 3 NMAC 11.4.7, 12/14/00; A, 2/13/09]

3.11.4.8 VEHICLES SOLD UNDER CERTAIN AGREEMENTS ARE NOT TRADE-INS: A "factory repurchase agreement" is an agreement under which a person who maintains a fleet of vehicles purchased through one or more dealers sells used vehicles from its fleet directly to the manufacturer. Because two separate transactions with different parties are occurring, the value of the vehicles sold by the fleet owner to the manufacturer under a factory repurchase agreement may not be deducted for purposes of the motor vehicle excise tax as an allowance for vehicles traded in when the fleet owner purchases new vehicles from a dealer.
[12/14/93, 7/31/96; 3.11.4.8 NMAC - Rn, 3 NMAC 11.4.8, 12/14/00]

3.11.4.9 VEHICLES SOLD TO THE UNITED STATES: Because issuance of a certificate of title is not required with respect to vehicles sold to the United States, the motor vehicle excise tax does not apply to vehicles sold or transferred to the United States. This regulation applies to sales or transfers of vehicles on or after July 1, 1988.
[3/15/96; 3.11.4.9 NMAC - Rn, 3 NMAC 11.4.9, 12/14/00]

3.11.4.10 VEHICLES SOLD TO NATO FORCE: Because issuance of a certificate of title is not required with respect to vehicles sold or transferred to a NATO force, the motor vehicle excise tax does not apply to vehicles sold or transferred to the NATO force. This regulation applies to sales or transfers of vehicles on or after July 1, 1995.

[3/15/96; 3.11.4.10 NMAC - Rn, 3 NMAC 11.4.10, 12/14/00]

3.11.4.11 VEHICLES SOLD TO A MEMBER OF A NATO FORCE: The sale or transfer of a vehicle to a member of a NATO force is not subject to the motor vehicle excise tax by operation of the provisions of the North Atlantic Treaty. This regulation is retroactively applicable to sales or transfers of vehicles in New Mexico on or after July 1, 1995.

[7/31/96; 3.11.4.11 NMAC - Rn, 3 NMAC 11.4.11, 12/14/00]

3.11.4.12 RESPONSIBILITY OF AGENTS FOR PAYMENT OF TAX:

A. For the purposes of the motor vehicle excise tax, a “remittance agent” is a person who has contracted with the buyer of a vehicle to collect from the buyer and to report and remit on behalf of the buyer the motor vehicle excise tax due on the purchase. A remittance agent is responsible for correctly reporting the transaction and remitting the full amount of motor vehicle excise tax collected from the buyer.

B. Any excess tax remitted by the remittance agent will be refunded by the department to the buyer. If the remittance agent remits the full amount collected from the buyer but the amount collected and remitted is less than the tax due, the department will assess the buyer for the deficiency. If the remittance agent remits less than the full amount collected from the buyer and the amount remitted is less than the tax due, the remittance agent will be assessed for that part of the deficiency equal to the difference between the amount remitted by the remittance agent and the amount collected by the remittance agent from the buyer; the buyer will be assessed for any remaining amount due.

C. Failure of a remittance agent who is licensed in accordance with Sections 66-4-1 through 66-4-9 NMSA 1978 to remit the full amount of motor vehicle excise tax collected from the buyer is grounds for revocation of the agent’s license.

[3/31/99; 3.11.4.12 NMAC - Rn & A, 3 NMAC 11.4.12, 12/14/00]

3.11.4.13 TRADE-INS:

A. In determining taxable value, Section 7-14-4 NMSA 1978 allows the value of “vehicle trade-ins” to be deducted from the price paid for, or the reasonable value of, a purchased vehicle. Only the value of vehicles may be deducted but, except as provided otherwise in 3.11.4.13 NMAC, the value of any vehicle traded-in on the purchase of any other vehicle may be deducted. For example, the value of a horse traded-in for a vehicle may not be deducted from the price paid for, or reasonable value of, the vehicle. A horse is not a vehicle. As another example, the value of a recreational vehicle traded-in may be deducted in determining the taxable value of a purchased truck. Both are vehicles.

B. Because the motor vehicle excise tax is not imposed on manufactured homes, the value of a manufactured home trade-in on the purchase of a vehicle other than a manufactured home may not be deducted in determining the taxable value of the purchased vehicle. For the same reason, when the owner of a vehicle whose liability for the motor vehicle excise tax was suspended pursuant to Section 7-14-7.1 NMSA 1978 trades the vehicle in on the purchase of another vehicle, the owner may not deduct the value of the trade-in vehicle in the determining the taxable value of a purchased vehicle.

[10/29/99; 3.11.4.13 NMAC - Rn & A, 3 NMAC 11.4.13, 12/14/00]

3.11.4.14 REASONABLE VALUE: With respect to transfers in which the parties are related and to other non-arm’s-length transfers, the price paid in itself cannot be relied upon to indicate the market value of the vehicle transferred. In such cases the department will presume that the reasonable value of the vehicle transferred is no less than the average trade-in (wholesale) value for the make, model and year of the vehicle reported by the National Automobile Dealers Association (N.A.D.A.) at the time of transfer. For vehicles not covered by the applicable N.A.D.A. guide, the comparable value reported by any comparable guide may be used. The taxpayer may rebut the presumption by presenting evidence sufficient in the opinion of the director, motor vehicle division, to establish a lower value. Evidence that merely establishes or confirms the price paid is not evidence of reasonable value.

3.11.4.14 NMAC does not apply to voluntary transfers without consideration or to transfers by operation of law.

[3/31/00; 3.11.4.14 NMAC - Rn & A, 3 NMAC 11.4.14, 12/14/00]

3.11.4.15 GIFTS: To establish that a voluntary transfer without consideration has occurred, the department may require the parties to complete affidavits under penalty of perjury that a voluntary transfer without consideration has occurred and to submit such other evidence as is appropriate under the circumstances of the transfer.

[3/31/00; 3.11.4.15 NMAC - Rn, 3 NMAC 11.4.15, 12/14/00]

3.11.4.16 SALE OF ATV SUBJECT TO TAX: All-terrain vehicles (ATVs) are subject to the registration and titling provisions of the Motor Vehicle Code. Therefore the motor vehicle excise tax and not the gross receipts tax applies to the sale of ATVs.

[3.11.4.16 - N, 5/15/01]

HISTORY 3.11.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: TRD Regulation MVE 4:1, Regulations Pertaining to the Motor Vehicle Excise Tax Act, Section 7-14-4 NMSA 1978, filed 12/14/93.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 11.4, Sale or Transfer of Vehicles, filed 3/4/96.

3.11.4 NMAC, Sale or Transfer of Vehicles, filed 12/1/00.