

NOTICE OF PROPOSED RULEMAKING AND PUBLIC RULE HEARING

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 enact, amend, repeal and replace rules regarding destination based sourcing, marketplace providers and compensating tax as authorized by Section 9-11-6.2 NMSA 1978:

Summary of Proposed Changes:

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

Tax Administration Act, Section 7-1-14 NMSA 1978

3.1.4.13 NMAC – Reporting According to Business Location

Gross Receipts and Compensating Tax Act, Section 7-9-6 NMSA 1978

3.2.6.8 NMAC – Separately Stating the Gross Receipts Tax

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

Gross Receipts and Compensating Tax Act, Section 7-9-3 NMSA 1978

3.2.1.7 NMAC – Definitions

Gross Receipts and Compensating Tax Act, Section 7-9-3.3 NMSA 1978

3.2.1.12 NMAC – Engaging in Business

Gross Receipts and Compensating Tax Act, Section 7-9-3.5 NMSA 1978

3.2.1.14 NMAC – Gross Receipts – General

3.2.1.15 NMAC – Gross Receipts; Tangible Personal Property

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

Gross Receipts and Compensating Tax Act, Section 7-9-3.5 NMSA 1978

3.2.1.20 NMAC – Gross Receipts of Marketplace Providers and Marketplace Sellers

Gross Receipts and Compensating Tax Act, Section 7-9-7 NMSA 1978

3.2.10.23 NMAC Compensating Tax on Services Performed Outside the State

3.2.10.24 NMAC – Purchaser Entitled to Rely on Seller’s Statement as to Whether Tax Was Charged

Gross Receipts and Compensating Tax Act, Section 7-9-12 NMSA 1978

3.2.100.10 NMAC – Exemptions of Gross Receipts of Marketplace Sellers and Marketplace Providers

Gross Receipts and Compensating Tax Act, Section 7-9-45 NMSA 1978

3.2.203.11 NMAC – Deductions of Gross Receipts of Marketplace Providers and Marketplace Sellers

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

Gross Receipts and Compensating Tax Act, Section 7-9-7 NMSA 1978

3.2.10.10 NMAC – The Use in New Mexico of a Service Performed Entirely Outside New Mexico

Gross Receipts and Compensating Tax Act, Section 7-9-10 NMSA 1978

3.2.13.8 NMAC – Guidelines for “Activity”

3.2.13.9 NMAC – Third Party Sales by Agents for Collection of Compensating Tax

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

Purpose of Proposed Rule: The proposed rules are being enacted, amended, repealed, and repealed and replaced to align with current law and provide guidance on the new method of sourcing, and to marketplace providers and sellers.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on April 29, 2021 from 12:00 PM to 2:00PM through the internet, email, and telephonic means in response to concerns surrounding COVID-19 and in accordance with Executive Order 2020-004, Declaration of a Public Health Emergency, and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19.

The Public Hearing will be accessible via WebEx <https://nm-tax.webex.com/nm-tax/j.php?MTID=mf62ce1c91ba6017f237a822566543bbb> Meeting number (access code): 132 352 9832 Meeting password: 04292021 or by telephone by dialing 1-844-621-3956. Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@state.nm.us.

The proposals were placed on file in the Office of the Secretary on March 12, 2021. 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 May 27, 2021.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Alicia Romero at alicia.romero@state.nm.us. 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@state.nm.us.

Notice of Acceptance of Written Public Comment: Written comments on the proposals can be submitted by email to policy.office@state.nm.us 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 before April 29, 2021 at 5:00 PM. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.