

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 13: AGENTS FOR COLLECTION OF COMPENSATING TAX - DUTIES

3.2.13.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[11/15/1996; 3.2.13.1 NMAC - Rn, 3 NMAC 2.10.1, 4/30/2001]

3.2.13.2 SCOPE: This part applies to each person using property in New Mexico.
[11/15/1996; 3.2.13.2 NMAC - Rn, 3 NMAC 2.10.2, 4/30/2001]

3.2.13.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/1996; 3.2.13.3 NMAC - Rn, 3 NMAC 2.10.3, 4/30/2001]

3.2.13.4 DURATION: Permanent.
[11/15/1996; 3.2.13.4 NMAC - Rn, 3 NMAC 2.10.4, 4/30/2001]

3.2.13.5 EFFECTIVE DATE: 11/15/1996, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[11/15/1996; 3.2.13.5 NMAC - Rn & A, 3 NMAC 2.10.5, 4/30/2001]

3.2.13.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Gross Receipts and Compensating Tax Act.
[11/15/1996; 3.2.13.6 NMAC - Rn, 3 NMAC 2.10.6, 4/30/2001]

3.2.13.7 DEFINITIONS: [RESERVED]
[11/15/1996; 3.2.13.7 NMAC - Rn, 3 NMAC 2.10.7, 4/30/2001]

3.2.13.8 [RESERVED]
[12/5/1969, 3/9/1972, 11/20/1972, 3/20/1974, 7/26/1976, 6/18/1979, 4/7/1982, 5/4/1984, 3/3/1986, 4/2/1986, 11/26/1990, 11/15/1996; 3.2.13.8 NMAC - Rn, 3 NMAC 2.10.8, 4/30/2001; Repealed, 7/7/2021]

3.2.13.9 [RESERVED]
[6/18/1979, 4/7/1982, 5/4/1984, 3/3/1986, 4/2/1986, 11/26/1990, 11/15/1996; 3.2.13.9 NMAC - Rn, 3 NMAC 2.10.9, 4/30/2001; Repealed, 7/7/2021]

3.2.13.10 COLLECTION OF COMPENSATING TAX BY BROADCASTERS:

A. Receipts from the sale by a New Mexico radio or television broadcaster to an out-of-state advertising agency of broadcast time which is intended for subsequent sale to a national or regional seller or advertiser not having its principal place of business in or being incorporated in New Mexico but which broadcast time is resold instead to an in-state seller or advertiser (a New Mexico seller or advertiser or a national or regional seller or advertiser having its principal place in or incorporated in New Mexico) are subject to compensating tax pursuant to Subsection B of Section 7-9-7 NMSA 1978. The initial sale to the advertising agency was not subject to gross receipts tax but the subsequent use of that service by the in-state seller or advertiser means the sale should have been subject to the gross receipts tax. The New Mexico radio or television broadcaster providing the broadcast service used by the in-state seller or advertiser under these circumstances shall act as agent for collection of compensating tax from the in-state seller or advertiser pursuant to Section 7-9-10 NMSA 1978 and shall collect, report and pay over such compensating tax unless the out-of-state advertising agency pays gross receipts tax or collects, reports and pays over the compensating tax on the transaction.

B. The New Mexico radio or television broadcaster may effect collection of such compensating tax from the in-state seller or advertiser or the national or regional seller or advertiser having its principal place of business in or being incorporated in New Mexico by collecting the compensating tax through the out-of-state advertising agency representing the seller or advertiser. When collecting the compensating tax from the advertising agency, the radio or television broadcaster must identify the seller or advertiser and the amount of compensating tax due in its billing to the advertising agency. Payment of the compensating tax by the advertising agency to the

broadcaster discharges the liability, under Section 7-9-9 NMSA 1978, of the in-state seller or advertiser for the compensating tax arising from the use of the broadcast services.

C. If the out-of-state advertising agency resells the time to another out-of-state entity (“cooperative advertising group”) which, in turn, resells the time to in-state sellers or advertisers, the broadcaster is relieved from responsibility for identifying the seller or advertiser if the broadcaster's records identify the out-of-state other entity to which the out-of-state advertising agency resold the time. When the advertising agency resells the time to an out-of-state cooperative advertising group, the in-state seller or advertiser is discharged from liability for compensating tax if, on audit, the seller or advertiser presents an accounting from the out-of-state cooperative advertising group showing payment of the applicable compensating tax by the out-of-state cooperative advertising group to the advertising agency.

[2/14/1986, 3/3/1986, 4/2/1986, 12/29/1989, 11/26/1990, 12/31/1991, 11/15/1996; 3.2.13.10 NMAC - Rn & A, 3 NMAC 2.10.10, 4/30/2001]

HISTORY OF 3.2.13 NMAC:

Pre-NMAC History:

BOR 67-2, NM Gross Receipts and Compensating Tax Regulations, September 1967, filed 9/29/1967.

BOR 69-4, Regulations in Effect and Pertaining to the New Mexico Gross Receipts and Compensating Tax Act, 12-5-69, filed 12/5/1969.

BOR 72-4, Regulations in Effect and Pertaining to the New Mexico Gross Receipts and Compensating Tax Act, 3/9/1972, filed 3/9/1972.

BOR 74-2, Regulations in Effect and Pertaining to the New Mexico Gross Receipts and Compensating Tax Act, 12/15/1973, filed 3/20/1974.

BOR 76-1, Regulations in Effect and Pertaining to the New Mexico Gross Receipts and Compensating Tax Act, 7/26/1976, filed 7/26/1976.

R.D.79-1, Gross Receipts and Compensating Tax Act Regulations, filed 6/18/1979.

R.D. Rule No. 82, Regulations Pertaining to the Gross Receipts and Compensating Tax Act, Sections 7-9-1 to 7-9-80.1 NMSA 1978, filed 4/7/1982.

R.D. Rule No. 84, Regulations Pertaining to the Gross Receipts and Compensating Tax Act, Sections 7-9-1 to 7-9-80.1 NMSA 1978, filed 5/4/1984.

TRD Rule No. 9-86, Regulations Pertaining to the Gross Receipts and Compensating Tax Act, Sections 7-9-1 to 7-9-80.1 NMSA 1978, filed 4/2/1986.

TRD Rule GR-90, Regulations Pertaining to the Gross Receipts and Compensating Tax Act, Sections 7-9-1 to 7-9-80.1 NMSA 1978, filed 11/26/1990.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 2.10, Agents for the Collection of Compensating Tax - Duties, filed 11/4/1996.

3.2.13 NMAC, Agents for the Collection of Compensating Tax - Duties, filed 4/17/2001.