

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 100: EXEMPTIONS

3.2.100.1 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; 3.2.100.1 NMAC - Rn, 3 NMAC 2.12.1, 5/15/2001]

3.2.100.2 SCOPE: This part applies to each person engaging in business in New Mexico.
[11/15/1996; 3.2.100.2 NMAC - Rn, 3 NMAC 2.12.2, 5/15/2001]

3.2.100.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/1996; 3.2.100.3 NMAC - Rn, 3 NMAC 2.12.3, 5/15/2001]

3.2.100.4 DURATION: Permanent.
[11/15/1996; 3.2.100.4 NMAC - Rn, 3 NMAC 2.12.4, 5/15/2001]

3.2.100.5 EFFECTIVE DATE: November 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; 3.2.100.5 NMAC - Rn, 3 NMAC 2.12.5 & A, 5/15/2001]

3.2.100.6 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; 3.2.100.6 NMAC - Rn, 3 NMAC 2.12.6, 5/15/2001]

3.2.100.7 DEFINITIONS: [RESERVED]
[11/15/1996; 3.2.100.7 NMAC - Rn, 3 NMAC 2.12.7, 5/15/2001]

3.2.100.8 REGISTRATION AND FILING:

A. If a person conducts only activities which are exempt from the Gross Receipts and Compensating Tax Act under the sections cited in Section 7-9-12 NMSA 1978, that person does not have to register to file tax returns under the Gross Receipts and Compensating Tax Act.

B. If a person is engaged in business or businesses in which some of the transactions are subject to the tax and some are exempt, that person must register and file reports. However, the person is not required to include in reported gross receipts those receipts which are exempt. The person also is not required to include in computing the compensating tax the value of property which is exempt from compensating tax.

C. Example: A Co., which employs eight persons, is engaged solely in the business of buying and selling livestock on its own account. Since A's receipts are exempt from taxation under Section 7-9-18 NMSA 1978, it is not required to register for gross receipts taxation with the department under this Act. However, A is required to register and file the necessary returns under the Withholding Tax Act, Sections 7-3-1 through 7-3-12 NMSA 1978 and comply with any other tax laws that pertain to A's business.

[9/29/1967, 12/5/1969, 3/9/1972, 11/20/1972, 3/20/1974, 7/26/1976, 6/18/1979, 4/7/1982, 5/4/1984, 4/2/1986, 11/26/1990, 11/15/1996; 3.2.100.8 NMAC - Rn, 3 NMAC 2.12.8 & A, 5/15/2001]

3.2.100.9 EXEMPTIONS FROM GROSS RECEIPTS: The exemptions provided in the Gross Receipts and Compensating Tax Act apply only to those receipts which are included in and defined as gross receipts pursuant to Section 7-9-3.5 NMSA 1978.

[10/21/1986, 11/26/1990, 11/15/1996; 3.2.100.9 NMAC - Rn, 3 NMAC 2.12.9 & A, 5/15/2001; A, 12/30/2010]

3.2.100.10 EXEMPTIONS OF GROSS RECEIPTS OF MARKETPLACE SELLERS AND MARKETPLACE PROVIDERS:

Under Section 7-9-3.5 NMSA 1978, marketplace sellers may have gross receipts from selling, leasing or licensing property or selling services in the state and marketplace providers may have receipts from receipts collected from selling, leasing, licensing property or selling services. The exemptions provided in the Gross Receipts and Compensating Tax Act apply to the gross receipts of marketplace sellers and marketplace providers to the extent that the sale, lease or licensing of property or selling of services would be exempt.

[3.2.100.10 NMAC - N, 7/7/2021]

HISTORY OF 3.2.100 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 2.12, Exemptions, filed 11/4/1996.

3.2.100 NMAC, Exemptions, filed 4/30/2001.