

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 2: DATE PAYMENT DUE

3.2.2.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630.
[11/15/96; 3.2.2.1 NMAC - Rn, 3 NMAC 2.11.1, 4/30/01]

3.2.2.2 SCOPE: This part applies to each person engaging in business in New Mexico.
[11/15/96; 3.2.2.2 NMAC - Rn, 3 NMAC 2.11.2, 4/30/01]

3.2.2.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/96; 3.2.2.3 NMAC - Rn, 3 NMAC 2.11.3, 4/30/01]

3.2.2.4 DURATION: Permanent.
[11/15/96; 3.2.2.4 NMAC - Rn, 3 NMAC 2.11.4, 4/30/01]

3.2.2.5 EFFECTIVE DATE: 11/15/96, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[11/15/96; 3.2.2.5 NMAC - Rn & A, 3 NMAC 2.11.5, 4/30/01]

3.2.2.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Gross Receipts and Compensating Tax Act.
[11/15/96; 3.2.2.6 NMAC - Rn, 3 NMAC 2.11.6, 4/30/01]

3.2.2.7 DEFINITIONS: [Reserved.]
[11/15/96; 3.2.2.7 NMAC - Rn, 3 NMAC 2.11.7, 4/30/01]

3.2.2.8 EXTENSION OF TIME FOR PAYMENT: The time for payment of the tax may be extended under unusual circumstances upon proper application to the department prior to the due date.
[9/29/67, 12/5/69, 3/9/72, 11/20/72, 3/20/74, 7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.2.8 NMAC - Rn, 3 NMAC 2.11.8, 4/30/01]

3.2.2.9 DETERMINATION OF TIMELINESS: Determination of what timeliness is in relation to the filing of returns, notices, and applications and the making of payments is governed by Section 7-1-9 NMSA 1978 of the Tax Administration Act and regulations thereunder. Requirements for making payments equal to or in excess of \$25,000 are governed by Section 7-1-13.1 NMSA 1978 of the Tax Administration Act and regulations thereunder.
[3/9/72, 11/20/72, 3/20/74, 7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.2.9 NMAC - Rn & A, 3 NMAC 2.11.9, 4/30/01]

3.2.2.10 EFFECT OF SATURDAY, SUNDAY, OR HOLIDAY ON PAYMENT DATE: When the total tax due is less than \$25,000 and the last day for payment of the combined taxes on the CRS-1 Combined Report Form falls on Saturday, Sunday or a legal holiday, the payment shall be considered timely if it is postmarked or filed in person the next succeeding day which is not a Saturday, Sunday or a legal New Mexico or national holiday.
[12/5/69, 3/9/72, 11/20/72, 3/20/74, 7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96, 4/30/99; 3.2.2.10 NMAC - Rn, 3 NMAC 2.11.10, 4/30/01]

3.2.2.11 REPORTING OF PROGRESS PAYMENTS: A contractor who receives progress payments or other consideration for services performed on and materials provided for a construction project as defined in Section 7-9-3.4 NMSA 1978 must report such payments or other consideration as gross receipts. If the contractor is a cash-basis taxpayer, the contractor must report any such payments or other consideration actually received in a particular month as receipts for that month. If the contractor is an accrual basis taxpayer, any amounts which the contractor earned or billed or to which the contractor became entitled during a particular month must be reported as receipts for that month as required by Section 7-9-11 NMSA 1978.
[4/2/75, 7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.2.11 NMAC - Rn & A, 3 NMAC 2.11.11,

4/30/01; A, 12/30/03]

3.2.2.12 PETITION TO CHANGE ACCOUNTING METHODS:

A. A taxpayer who elects to report gross receipts tax on either the cash, modified accrual or accrual basis is bound by that election and must report the gross receipts tax on that basis unless the taxpayer petitions the secretary or the secretary's delegate in writing to allow a change in reporting method as required by Subsection C of Section 7-1-10 NMSA 1978 and the petition is granted. A change in accounting method operates prospectively from the date the petition for change of method is granted.

B. A taxpayer who elects to report governmental gross receipts tax on either the cash, modified accrual or accrual basis is bound by that election and must report the governmental gross receipts tax on that basis unless the taxpayer petitions the secretary or the secretary's delegate in writing to allow a change in reporting method as required by Subsection C of Section 7-1-10 NMSA 1978 and the petition is granted. A change in accounting method operates prospectively from the date the petition for change of method is granted.

[7/26/76, 6/18/79, 4/7/82, 1/6/84, 5/4/84, 4/2/86, 11/26/90, 6/28/91, 11/15/96; 3.2.2.12 NMAC - Rn & A, 3 NMAC 2.11.12, 4/30/01]

3.2.2.13 REPORTING OF GROSS RECEIPTS - SEMI-ANNUAL REPORTING OR QUARTERLY REPORTING: Taxpayers who have a tax liability which averages less than two hundred dollars (\$200) per month and have been granted authority to report gross receipts or governmental gross receipts on either a semi-annual filing basis or quarterly filing basis must file a return with payment on or before the twenty-fifth day of the month following the last month of the semi-annual filing period or of the quarterly filing period. The taxpayer does not have authority to change from one reporting interval to another without the prior approval of the secretary or the secretary's delegate.

[1/6/84, 5/4/84, 4/2/86, 11/26/90, 6/28/91, 11/15/96; 3.2.2.13 NMAC - Rn, 3 NMAC 2.11.13, 4/30/01]

3.2.2.14 ACCRUAL AND CASH BASIS REPORTING:

A. Cash basis taxpayers report as gross receipts or governmental gross receipts all cash and other consideration received during the tax reporting period.

B. Accrual basis taxpayers report as gross receipts or governmental gross receipts amounts of sales, including cash and charge sales, made during the tax reporting period.

[1/21/85, 4/2/86, 11/26/90, 6/28/91, 11/15/96; 3.2.2.14 NMAC - Rn, 3 NMAC 2.11.14, 4/30/01]

3.2.2.15 RETURN REQUIRED TO BE FILED: Taxpayers who are registered for gross receipts, governmental gross receipts, compensating or withheld income tax purposes must file a CRS-1 Combined Report Form for each reporting period whether or not any tax is due.

[1/21/85, 4/2/86, 11/26/90, 6/28/91, 11/15/96; 3.2.2.15 NMAC - Rn, 3 NMAC 2.11.15, 4/30/01]

HISTORY OF 3.2.2 NMAC:

Pre-NMAC History:

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

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

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

BOR 74-2, Regulations in Effect and Pertaining to the New Mexico Gross Receipts and Compensating Tax Act, 12/15/73, filed 3/20/74.

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

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

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 4/7/82.

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 5/4/84.

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 4/2/86.

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 11/26/90.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 2.11, Date Payment Due, filed 11/4/96.

3.2.2 NMAC, Date Payment Due, filed 4/17/2001.