

**TITLE 3: TAXATION**  
**CHAPTER 2: GROSS RECEIPTS TAXES**  
**PART 12: LIABILITY OF USER FOR PAYMENT OF COMPENSATING TAX**

**3.2.12.1 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; 3.2.12.1 NMAC - Rn, 3 NMAC 2.9.1, 4/30/01]

**3.2.12.2 SCOPE:** This part applies to each person using property in New Mexico.  
[11/15/96; 3.2.12.2 NMAC - Rn, 3 NMAC 2.9.2, 4/30/01]

**3.2.12.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
[11/15/96; 3.2.12.3 NMAC - Rn, 3 NMAC 2.9.3, 4/30/01]

**3.2.12.4 DURATION:** Permanent.  
[11/15/96; 3.2.12.4 NMAC - Rn, 3 NMAC 2.9.4, 4/30/01]

**3.2.12.5 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; 3.2.12.5 NMAC - Rn & A, 3 NMAC 2.9.5, 4/30/01]

**3.2.12.6 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; 3.2.12.6 NMAC - Rn, 3 NMAC 2.9.6, 4/30/01]

**3.2.12.7 DEFINITIONS:** [Reserved.]  
[11/15/96; 3.2.12.7 NMAC - Rn, 3 NMAC 2.9.7, 4/30/01]

**3.2.12.8 SEPARATE STATING OF THE TAX:** A seller of property who is required to collect and pay over to the department the compensating tax due on the value of property sold for delivery into New Mexico must separately state the compensating tax on the invoice. If the compensating tax is not separately stated on the invoice, it will be presumed that it was not collected and paid over and the buyer must pay the compensating tax. The seller who is liable to collect and pay over the compensating tax may become liable for penalties and interest if the seller fails to collect and pay over.  
[7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.12.8 NMAC - Rn, 3 NMAC 2.9.8, 4/30/01]

**3.2.12.9 GENERAL EXAMPLE:**  
A. The following example illustrates the application of Section 7-9-9 NMSA 1978.  
B. Example: A purchases a piece of equipment from X, an El Paso dealer, for \$1,000. X is registered with the department as an agent for collection of compensating tax. X bills A as follows:

Equipment	\$ 1,000
N.M. Comp. Tax	<u>50</u>
	\$ 1,050

Since X is registered as an agent to collect and pay over compensating tax pursuant to Section 7-9-10 NMSA 1978 and collected compensating tax from A, A is relieved of any compensating tax liability, even if X fails to remit the tax to the department.  
[2/15/85, 4/2/86, 11/26/90, 11/15/96; 3.2.12.9 NMAC - Rn & A, 3 NMAC 2.9.9, 4/30/01]

**HISTORY OF 3.2.12 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 2.9, Liability of User for Payment of Compensating Tax, filed 11/4/96.

3.2.12 NMAC, Liability of User for Payment of Compensating Tax, filed 4/17/2001.