

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 21: IMPOSITION AND RATE OF GOVERNMENTAL GROSS RECEIPTS TAX

3.2.21.1 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; 3.2.21.1 NMAC - Rn, 3 NMAC 2.101.1, 4/30/01]

3.2.21.2 SCOPE: This part applies to all governmental bodies of the state of New Mexico and its political subdivisions.
[11/15/96; 3.2.21.2 NMAC - Rn, 3 NMAC 2.101.2, 4/30/01]

3.2.21.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/96; 3.2.21.3 NMAC - Rn, 3 NMAC 2.101.3, 4/30/01]

3.2.21.4 DURATION: Permanent.
[11/15/96; 3.2.21.4 NMAC - Rn, 3 NMAC 2.101.4, 4/30/01]

3.2.21.5 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; 3.2.21.5 NMAC - Rn & A, 3 NMAC 2.101.5, 4/30/01]

3.2.21.6 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; 3.2.21.6 NMAC - Rn, 3 NMAC 2.101.6, 4/30/01]

3.2.21.7 DEFINITIONS: [Reserved.]
[11/15/96; 3.2.21.7 NMAC - Rn, 3 NMAC 2.101.7, 4/30/01]

3.2.21.8 APPLICATION OF GOVERNMENTAL GROSS RECEIPTS TAX: The governmental gross receipts tax is imposed only on agencies, institutions, instrumentalities and political subdivisions of the state of New Mexico. The tax is not imposed on any other person.
[6/28/91, 10/2/92, 11/15/96; 3.2.21.8 NMAC - Rn, 3 NMAC 2.101.8, 4/30/01]

3.2.21.9 LICENSED ENTITIES PROVIDING HEALTH CARE SERVICES:

A. On and after July 1, 1992, the governmental gross receipts tax does not apply to receipts of any entity primarily engaged in providing health care services if the entity is licensed by the New Mexico department of health.

B. Examples of entities providing health care services: general and special hospitals, nursing homes, diagnostic and treatment centers, rehabilitation centers and home health care services.

C. If the receipts of an entity licensed by the New Mexico department of health are principally from engaging in the provision of health care services, none of the entity's receipts are subject to the governmental gross receipts tax.

D. Example: Hospital H is an institution of the state of New Mexico, principally engaged in the provision of health care services. The hospital is licensed by the New Mexico department of health. The hospital operation includes a cafeteria and vending machines for the convenience of staff, patients and visitors. None of the receipts of H, including receipts from operating the cafeteria and vending machines, are subject to the governmental gross receipts tax.

E. A licensed entity may be either an agency, institution, instrumentality or political subdivision of the state of New Mexico or may be only a component of such an agency, institution, instrumentality or political subdivision. When that entity is an agency, institution, instrumentality or political subdivision of the state, the receipts of that agency, institution, instrumentality or political subdivision are not subject to the governmental gross receipts tax. If that entity is only a component of an agency, institution, instrumentality or political subdivision, the exception under Section 7-9-4.3 NMSA 1978 to the imposition of the governmental gross receipts tax applies only to the receipts of the entity and not to receipts from other components if those other components either are not

principally engaged in providing health care services or are not licensed by the New Mexico department of health. The receipts of the agency, institution, instrumentality or political subdivision from taxable activities through its components which are not principally engaged in providing health care services or licensed by the New Mexico department of health are subject to the governmental gross receipts tax.

F. Example 1: County C owns and operates a hospital licensed by the New Mexico department of health to provide health care services for its residents. County C has no other components principally engaged in the provision of health care services. The county, through its non-hospital components, has receipts from taxable activities, such as receipts from operating landfills and selling tangible personal property in facilities open to the general public. The receipts of County C from taxable activities conducted by its components other than the hospital are subject to governmental gross receipts.

G. Example 2: University N, an institution of the state of New Mexico, operates a teaching hospital licensed by the New Mexico department of health. The hospital's primary purpose is to provide health care services even though it is also a facility for teaching health care professionals. The other components of the university provide educational services, sell tangible personal property to the general public, conduct athletic and entertainment services in facilities open to the general public and provide lodging. The exception from the imposition of the governmental gross receipts tax applies only to the receipts of the university from the hospital; it does not apply to the receipts from taxable activities of other components of the university.

[10/2/92, 11/15/96, 4/30/99; 3.2.21.9 NMAC - Rn & A, 3 NMAC 2.101.9, 4/30/01]

HISTORY OF 3.2.21 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 2.101, Imposition and Rate of Governmental Gross Receipts Tax, filed 11/4/96.

3.2.21 NMAC, Imposition and Rate of Governmental Gross Receipts Tax, filed 4/17/2001.