

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 101: EXEMPTIONS - GROSS RECEIPTS TAX - GOVERNMENTAL AGENCIES

3.2.101.1 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; 3.2.101.1 NMAC - Rn, 3 NMAC 2.13.1, 5/15/01]

3.2.101.2 SCOPE: This part applies only to governments.
[11/15/96; 3.2.101.2 NMAC - Rn, 3 NMAC 2.13.2, 5/15/01]

3.2.101.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/96; 3.2.101.3 NMAC - Rn, 3 NMAC 2.13.3, 5/15/01]

3.2.101.4 DURATION: Permanent.
[11/15/96; 3.2.101.4 NMAC - Rn, 3 NMAC 2.13.4, 5/15/01]

3.2.101.5 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; 3.2.101.5 NMAC - Rn, 3 NMAC 2.13.5 & A, 5/15/01]

3.2.101.6 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; 3.2.101.6 NMAC - Rn, 3 NMAC 2.13.6, 5/15/01]

3.2.101.7 DEFINITIONS: [Reserved.]
[11/15/96; 3.2.101.7 NMAC - Rn, 3 NMAC 2.13.7, 5/15/01]

3.2.101.8 GOVERNMENTALLY-OWNED UTILITIES - INSTALLATION AND STAND-BY CHARGES - MINIMUM CHARGES:

A. Receipts of a gas or electric utility owned or operated by a county, municipality or other political subdivision of the state of New Mexico from connect, disconnect, installation or stand-by charges are exempt from the gross receipts tax.

B. "Stand-by" charges are receipts other than from the sale of gas or electricity by a utility and are imposed only where gas or electricity has not been connected or is not being furnished. Minimum usage charges imposed upon persons connected to the utility are charges for the sale of gas or electricity and are not stand-by charges.

C. Section 3.2.101.8 NMAC applies to receipts from transactions occurring on or after July 1, 1991.
[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, 9/17/91, 11/15/96; 3.2.101.8 NMAC - Rn, 3 NMAC 2.13.8 & A, 5/15/01]

3.2.101.9 RECEIPTS OF GOVERNMENTAL ENTITIES:

A. Except for the receipts from the sale of gas or electricity by a utility owned or operated by a political subdivision of the state and receipts of a municipality from the ownership or operation of a cable television station owned by the municipality, the receipts of the United States or any agency or instrumentality of the United States, the state of New Mexico or any political subdivision of the state or any Indian nation, tribe or pueblo from activities or transactions occurring on its sovereign territory are exempt from the gross receipts tax. This exemption applies to the receipts of such governmental entity from the sale, leasing or licensing of property, granting a franchise or from the sale of a service by that governmental entity. This exemption, however, does not apply to the imposition of the governmental gross receipts tax under the provisions of Section 7-9-4.3 NMSA 1978.

B. Example 1: A New Mexico municipality publishes and sells to the public a compilation of all its municipal ordinances. The receipts from these sales are not subject to the gross receipts tax but the receipts will be subject to the governmental gross receipts tax.

C. Example 2: X Sporting Goods Store sells a hunting license for \$7.50. Of this \$7.50, X remits \$7.25 to the state of New Mexico and \$0.25 is retained by X as a commission. The \$7.25 that is remitted to the state

is exempt from the gross receipts tax. However, the \$0.25 retained by X is subject to the gross receipts tax. This amount is not deductible under Section 7-9-66 NMSA 1978 because a license is not tangible personal property under Section 7-9-3 NMSA 1978. The \$0.25 is a receipt derived from services performed in New Mexico.

D. Example 3: M Utility Company obtains a franchise from a New Mexico municipality to operate an electric utility. The receipts the municipality obtains from M for granting of this franchise are exempt from the gross receipts tax.

E. Example 4: The university of New Mexico sells copies of transcripts to students. These receipts are not subject to the gross receipts tax because the university of New Mexico is the state of New Mexico. Provided that the conditions set forth in 3.2.20.21 NMAC are met, the receipts from selling the transcript copies are not governmental gross receipts.

F. Example 5: The receipts of a public housing authority which is an agency either of the state of New Mexico or any political subdivision thereof or of the United States or any agency or instrumentality thereof are exempted from the gross receipts tax to the extent provided in Section 7-9-13 NMSA 1978. The receipts of the public housing authority from the sale of tangible personal property from a facility open to the general public or providing refuse collection, refuse disposal or sewage services are governmental gross receipts subject to the governmental gross receipts tax; its receipts in the form of rentals are not governmental gross receipts.

G. Example 6: The receipts of concessionaires who are not agencies or instrumentalities of the federal government or the state of New Mexico or any political subdivision of the state from carrying on activities within a federal area are subject to the gross receipts tax.

[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, 9/17/91, 3/19/92, 10/28/94, 11/15/96, 1/15/98; 3.2.101.9 NMAC - Rn, 3 NMAC 2.13.9 & A, 5/15/01; A, 12/30/10]

3.2.101.10 AMERICAN NATIONAL RED CROSS: The American national red cross chartered pursuant to 36 U.S.C. 300101 et seq. is immune from state taxation as an instrumentality of the federal government. As such, its receipts are exempt from gross receipts tax under Section 7-9-13 NMSA 1978.

[5/31/97; 3.2.101.10 NMAC - Rn, 3 NMAC 2.13.10 & A, 5/15/01; A, 12/30/10]

HISTORY OF 3.2.101 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 2.13, Exemptions - Gross Receipts Tax - Governmental Agencies, filed 11/4/96.

3.2.101 NMAC, Exemptions - Gross Receipts Tax - Governmental Agencies, filed 4/30/2001.