

**TITLE 3: TAXATION**  
**CHAPTER 2: GROSS RECEIPTS TAXES**  
**PART 123: EXEMPTION - GROSS RECEIPTS TAX - NATURAL RESOURCES SUBJECT TO RESOURCES EXCISE TAX ACT**

**3.2.123.1 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; 3.2.123.1 NMAC - Rn, 3 NMAC 2.35.1, 5/15/01]

**3.2.123.2 SCOPE:** This part applies to each person having receipts from the sale or processing of natural resources the sales or processing of which are subject to the Natural Resources Excise Tax Act.  
[11/15/96; 3.2.123.2 NMAC - Rn, 3 NMAC 2.35.2, 5/15/01]

**3.2.123.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
[11/15/96; 3.2.123.3 NMAC - Rn, 3 NMAC 2.35.3, 5/15/01]

**3.2.123.4 DURATION:** Permanent.  
[11/15/96; 3.2.123.4 NMAC - Rn, 3 NMAC 2.35.4, 5/15/01]

**3.2.123.5 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; 3.2.123.5 NMAC - Rn, 3 NMAC 2.35.5 & A, 5/15/01]

**3.2.123.6 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; 3.2.123.6 NMAC - Rn, 3 NMAC 2.35.6, 5/15/01]

**3.2.123.7 DEFINITIONS:** [Reserved.]  
[11/15/96; 3.2.123.7 NMAC - Rn, 3 NMAC 2.35.7, 5/15/01]

**3.2.123.8 RECEIPTS NOT EXEMPT:**

A. The receipts from any sale of natural resources made to the final consumer are not exempt under the provisions of Section 7-9-35 NMSA 1978. The receipts from certain types of transactions may qualify for specific deductions allowed under the provisions of the Gross Receipts and Compensating Tax Act in which instance the seller must report and deduct such receipts on a CRS-1 Combined Report Form. Only those receipts from sales for subsequent resale in the ordinary course of business and from sales for use as an ingredient or component part of a manufactured product are exempt under Section 7-9-35 NMSA 1978 and not required to be reported on a CRS-1 Combined Report Form.

B. Example: T Co. mines turquoise; it sells some of its turquoise in its turquoise shop at the mine site and sells the remainder to a jewelry manufacturer, who delivers a nontaxable transaction certificate pursuant to Section 7-9-46 NMSA 1978, or who delivers a written statement pursuant to Section 7-9-74 NMSA 1978, that the turquoise purchased will be used in manufacturing jewelry. Even though the T Co. is required to pay the resources excise tax under Section 7-25-8 NMSA 1978, the receipts from the turquoise sold in the shop are subject to gross receipts tax, because the sale is not a sale for subsequent sale in the ordinary course of business or for use as an ingredient or component part of a manufactured product. However the receipts from the sale to the jewelry manufacturer are not subject to the gross receipts tax unless pursuant to Section 7-9-74 NMSA 1978, supra, sales to the jewelry manufacturer exceed \$1,000 during a twelve-month period.

[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; 3.2.123.8 NMAC - Rn, 3 NMAC 2.35.8 & A, 5/15/01]

**3.2.123.9 CLEARING LAND FOR MINING OPERATIONS:** Leveling or clearing land, including the removal of trees, brush and the overburden in order to prepare the land for mining operations, is "construction" under Section 7-9-3 NMSA 1978, and subject to the gross receipts tax. Such activity is not severing or processing pursuant to Section 7-9-35 NMSA 1978 and, therefore, is not exempt from the gross receipts tax.  
[6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.123.9 NMAC - Rn, 3 NMAC 2.35.9 & A, 5/15/01]

**3.2.123.10** [Repealed.]

[11/8/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96, 9/15/98; R 1/29/99; 3.2.123.10 NMAC - Rn, 3 NMAC 2.35.10; 5/15/01]

**HISTORY OF 3.2.123 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 2.35, Exemption - Gross Receipts Tax - Natural Resources Subject to Resources Excise Tax Act, filed 11/4/96.

3.2.123 NMAC, Exemption - Gross Receipts Tax - Natural Resources Subject to Resources Excise Tax Act, filed 4/30/2001.