

**TITLE 3: TAXATION**  
**CHAPTER 2: GROSS RECEIPTS TAXES**  
**PART 214: DEDUCTION - GROSS RECEIPTS TAX - INTRASTATE TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE**

**3.2.214.1 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; 3.2.214.1 NMAC - Rn, 3 NMAC 2.56.1, 5/31/01]

**3.2.214.2 SCOPE:** This part applies to each person engaging in business in New Mexico.  
[11/15/96; 3.2.214.2 NMAC - Rn, 3 NMAC 2.56.2, 5/31/01]

**3.2.214.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
[11/15/96; 3.2.214.3 NMAC - Rn, 3 NMAC 2.56.3, 5/31/01]

**3.2.214.4 DURATION:** Permanent.  
[11/15/96; 3.2.214.4 NMAC - Rn, 3 NMAC 2.56.4, 5/31/01]

**3.2.214.5 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; 3.2.214.5 NMAC - Rn, 3 NMAC 2.56.5 & A, 5/31/01]

**3.2.214.6 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; 3.2.214.6 NMAC - Rn, 3 NMAC 2.56.6, 5/31/01]

**3.2.214.7 DEFINITIONS:** [Reserved.]  
[11/15/96; 3.2.214.7 NMAC - Rn, 3 NMAC 2.56.7, 5/31/01]

**3.2.214.8 GENERAL EXAMPLES:**

A. The deduction provided by Subsections A and B of Section 7-9-56 NMSA 1978 apply to the receipts of persons who are not a party to a single contract for the transportation of property or persons in interstate commerce but who are selling such services to the person who is obligated to furnish the transportation in interstate commerce under the terms of the contract.

B. Example 1: X, a pipe supply house in Durango, Colorado, sells C in Las Cruces, New Mexico, a truckload of pipe. T, a truck line service, regularly transports property from Durango to Albuquerque. B, another truck line service, has New Mexico authority to transport property from Albuquerque to Las Cruces. X ships the pipe under a through bill of lading to Las Cruces with T. T carries the pipe to Albuquerque. At Albuquerque B attaches a tractor to T's trailer and carries the pipe on to Las Cruces. B can deduct the receipts which B receives from hauling the pipe from a point in New Mexico to another point in New Mexico. The pipe is being shipped in interstate commerce under a single contract. T can deduct its receipts from this transaction under the provisions of Section 7-9-56 NMSA 1978.

C. Example 2: H, an employee of a national chain store, is transferred by the company from Los Angeles to Albuquerque. H contracts with B, a moving company, to move H's household goods from Los Angeles to B's warehouse in Albuquerque. H also contracts with B's Albuquerque agent for interim storage and drayage of the goods pending H's location of housing in Albuquerque. The receipts of B's agents from performing the second contract are subject to the gross receipts tax.

D. Example 3: Y orders materials from an out-of-state supplier and the materials are shipped to Albuquerque under a single contract. The materials are stored in Albuquerque and then Y hires X, a local hauler, to take the materials from the place of storage to the job site. X claims receipts from performing this service are deductible under Section 7-9-56 NMSA 1978. X's receipts are not deductible. X's hauling was not under the single contract or tariff for the interstate shipment. The single contract has previously been completed.  
[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, 4/30/99; 3.2.214.8 NMAC - Rn, 3 NMAC 2.56.8 & A, 5/31/01]

### **3.2.214.9 COMMISSIONS OF NEW MEXICO AGENTS:**

A. Commissions to a person in New Mexico for originating interstate transportation of persons are not deductible pursuant to either Section 7-9-56 NMSA 1978 or Section 7-9-66 NMSA 1978. Such commissions are a fee for service rendered in New Mexico.

B. Example: A, an airline company, secures passage on an interstate flight of another airline for one of its passengers because all of its flights to that particular destination are full. A receives a commission from the other airline for originating the transportation for that airline. The commission A receives is 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, 11/15/96; 3.2.214.9 NMAC - Rn, 3 NMAC 2.56.9 & A, 5/31/01]

**3.2.214.10 REPAIR OF DAMAGED HOUSEHOLD EFFECTS:** When damage occurs to personal effects during transit by an interstate carrier and the carrier is required to hire a repair facility to restore the damaged articles, receipts of the repair facility are not deductible pursuant to Section 7-9-56 NMSA 1978. Such receipts are not from transporting property in interstate commerce or performing accessorial services under a single contract. The interstate carrier cannot issue a nontaxable transaction certificate pursuant to Section 7-9-48 NMSA 1978 since it is not reselling but is consuming the repair service.

[3/16/79, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.214.10 NMAC - Rn, 3 NMAC 2.56.10 & A, 5/31/01]

### **3.2.214.11 PUBLIC DISTRIBUTION WAREHOUSE:**

A. A "public distribution warehouse center" is a person who is engaged in the business of storing and distributing the property of others and who performs the following package of services for at least the majority of its clients:

- (1) stores tangible personal property owned by the client; and
- (2) upon order of the client,
  - (a) withdraws the tangible personal property from storage;
  - (b) re-packages or otherwise prepares the tangible personal property for delivery; and
  - (c) delivers the tangible personal property to customers of the client from the client's stored

property, regardless of whether delivery is accomplished through the person's own employees and vehicles or through those of a third party.

B. Section 3.2.214.11 NMAC is retroactively applicable to transactions occurring on or after July 1, 1994.

[2/22/95, 11/15/96; 3.2.214.11 NMAC - Rn, 3 NMAC 2.56.11 & A, 5/31/01]

### **HISTORY OF 3.2.214 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 2.56, Deduction - Gross Receipts Tax - Intrastate Transportation and Services in Interstate Commerce, filed 11/4/96.

3.2.214 NMAC, Deduction - Gross Receipts Tax - Intrastate Transportation and Services in Interstate Commerce, filed 5/17/2001.