

**TITLE 3: TAXATION**  
**CHAPTER 2: GROSS RECEIPTS TAXES**  
**PART 217: DEDUCTION - GROSS RECEIPTS TAX - WAREHOUSING, THRESHING, HARVESTING, GROWING, CULTIVATING AND PROCESSING AGRICULTURAL PRODUCTS**

**3.2.217.1 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; 3.2.217.1 NMAC - Rn, 3 NMAC 2.59.1, 6/14/01]

**3.2.217.2 SCOPE:** This part applies to each person engaging in business in New Mexico.  
[11/15/96; 3.2.217.2 NMAC - Rn, 3 NMAC 2.59.2, 6/14/01]

**3.2.217.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
[11/15/96; 3.2.217.3 NMAC - Rn, 3 NMAC 2.59.3, 6/14/01]

**3.2.217.4 DURATION:** Permanent.  
[11/15/96; 3.2.217.4 NMAC - Rn, 3 NMAC 2.59.4, 6/14/01]

**3.2.217.5 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; 3.2.217.5 NMAC - Rn, 3 NMAC 2.59.5 & A, 6/14/01]

**3.2.217.6 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; 3.2.217.6 NMAC - Rn, 3 NMAC 2.59.6, 6/14/01]

**3.2.217.7 DEFINITIONS:** [Reserved.]  
[11/15/96; 3.2.217.7 NMAC - Rn, 3 NMAC 2.59.7, 6/14/01]

**3.2.217.8 FERTILIZERS AND INSECTICIDES:** Receipts from the application of fertilizer and insecticide by the use of custom application rigs are the receipts from "growing" agricultural products and are deductible from gross receipts pursuant to Section 7-9-59 NMSA 1978.  
[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; 3.2.217.8 NMAC - Rn, 3 NMAC 2.59.8 & A, 6/14/01]

**3.2.217.9 STORAGE, GRADING AND PACKING APPLES:** The receipts of a marketing association or corporation, whether or not organized for profit, from storing, grading or packing apples for apple growers are receipts from warehousing and processing agricultural products and may be deducted from gross receipts pursuant to Section 7-9-59 NMSA 1978. This deduction applies to the total receipts from the grading and packing contract even though the cost of the cartons used in the packing is included in the charge for service.  
[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; 3.2.217.9 NMAC - Rn, 3 NMAC 2.59.9 & A, 6/14/01]

**3.2.217.10 GINNING OF COTTON:** The receipts of a cotton gin from the ginning of cotton, including the charge for bagging and ties used in the ginning, may be deducted from gross receipts pursuant to Section 7-9-59 NMSA 1978.  
[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; 3.2.217.10 NMAC - Rn, 3 NMAC 2.59.10 & A, 6/14/01]

**3.2.217.11 HAULING OF AGRICULTURAL PRODUCTS.**

A. The receipts from hauling agricultural products from point to point in New Mexico or from loading or unloading agricultural products in New Mexico are subject to the gross receipts tax. These receipts are derived from performing services in New Mexico and are not derived from warehousing, threshing or cleaning agricultural products within the meaning of Section 7-9-59 NMSA 1978.

B. Receipts from hauling agricultural products from point to point, however, does not include receipts from hauling which is an integral part of the harvesting process nor does it include transportation of milk from the place of production to a place of processing. Such receipts are deductible under Section 7-9-59 NMSA 1978.

C. *Example 1:* H is a commercial harvester of grain who owns combines and trucks. For consideration, H will contract with a farmer to harvest the farmer's grain. As part of the contract, H delivers the harvested grain from the farmer's land to an elevator owned by a third party. H's receipts from harvesting the farmer's grain is deductible under Section 7-9-59 NMSA 1978 but H's receipts from hauling the harvested grain to the elevator are not deductible.

D. *Example 2:* X is engaged in the business of transporting for farmers alfalfa hay from the field where the alfalfa is raised to the farmer's own storage facility. The distance from the field to the farmer's storage facility may be three or four miles. X's hauling is part of the harvesting process and X's receipts are deductible under Section 7-9-59 NMSA 1978.

E. *Example 3:* Y is engaged in the business of hauling potatoes from farms to the plant of a potato chip maker. Y picks up harvested potatoes from farmers' storage facilities and delivers them to the potato chip maker's receiving facility. Y's receipts from this activity are not deductible under Section 7-9-59 NMSA 1978.

F. *Example 4:* V, a labor contractor, negotiates an agreement with a farmer for the harvesting of onions. After the agreement is made V hires people to harvest the onions. Harvesting begins with pulling the onions out of the ground by hand and clipping off the roots and tops. The onions are put into buckets which are dumped into burlap sacks when full. The process continues with arranging the burlap sacks into straight rows in the field. The sacks are then loaded by a conveyor onto a truck, emptied, and the sacks tossed back to the ground. The onions are then delivered to the processing shed by the truck. V's receipts from these activities are deductible under Section 7-9-59 NMSA 1978.

[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, 3.2.217.11 NMAC - Rn, 3 NMAC 2.59.11 & A, 10/31/2000]

**3.2.217.12 SHEARING SHEEP:** Receipts from shearing sheep may be deducted from gross receipts pursuant to Section 7-9-59 NMSA 1978 because they are receipts from harvesting agricultural products.

[1/9/79, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 12/23/92, 11/15/96; 3.2.217.12 NMAC - Rn, 3 NMAC 2.59.12 & A, 6/14/01]

#### **HISTORY OF 3.2.217 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 2.59, Deduction - Gross Receipts Tax - Warehousing, Threshing, Harvesting, Growing, Cultivating and Processing Agricultural Products, filed 11/4/96.

3.2.217 NMAC, Deduction - Gross Receipts Tax - Warehousing, Threshing, Harvesting, Growing, Cultivating and Processing Agricultural Products, filed 6/4/2001.