

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 220: DEDUCTION - GROSS RECEIPTS TAX - AGRICULTURAL IMPLEMENTS - AIRCRAFT - VEHICLES THAT ARE NOT REQUIRED TO BE REGISTERED

3.2.220.1 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; 3.2.220.1 NMAC - Rn, 3 NMAC 2.62.1, 6/14/01]

3.2.220.2 SCOPE: This part applies to each person engaging in business in New Mexico.
[11/15/96; 3.2.220.2 NMAC - Rn, 3 NMAC 2.62.2, 6/14/01]

3.2.220.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/96; 3.2.220.3 NMAC - Rn, 3 NMAC 2.62.3, 6/14/01]

3.2.220.4 DURATION: Permanent.
[11/15/96; 3.2.220.4 NMAC - Rn, 3 NMAC 2.62.4, 6/14/01]

3.2.220.5 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; 3.2.220.5 NMAC - Rn, 3 NMAC 2.62.5 & A, 6/14/01]

3.2.220.6 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; 3.2.220.6 NMAC - Rn, 3 NMAC 2.62.6, 6/14/01]

3.2.220.7 DEFINITIONS: [Reserved.]
[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, 7/31/98; Rp, 1/29/99; 3.2.220.7 NMAC - Rn, 3 NMAC 2.62.7, 6/14/01]

3.2.220.8 TRADE-IN ALLOWANCES:

A. The deduction provided by Section 7-9-62 NMSA 1978 applies to the net receipts from the sale after any trade-in allowance for the same type of equipment has been applied.

B. Example: A is engaged in the business of selling heavy equipment. A sells B a D-11 tractor for \$50,000. A allows B \$5,000 on a used tractor which B trades in. A must compute the tax liability as follows:

\$50,000	
5,000	(trade-in under Section 7-9-71 NMSA 1978)
\$45,000	
<u>22,500</u>	(50% deduction)
\$22,500	
<u>x .05</u>	(rate of tax)
\$ 1,125	tax due

Therefore A owes a tax of \$1,125.

[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; 3.2.220.8 NMAC - Rn, 3 NMAC 2.62.8 & A, 6/14/01]

3.2.220.9 PROPORTIONING PUMPS: Proportioning pumps used to distribute metered amounts of fertilizer, herbicides, pesticides, fumigants and the like to crop land by mixing those substances with irrigation water are agricultural implements as that term is used in Section 7-9-62 NMSA 1978. Accordingly, fifty percent of the receipts from selling these pumps may be deducted from gross receipts.
[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; 3.2.220.9 NMAC - Rn, 3 NMAC 2.62.9 & A, 6/14/01]

3.2.220.10 [Reserved.]

[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, 7/31/98; Rp 1/29/99; 3.2.220.10 NMAC - Rn, 3 NMAC 2.62.10, 6/14/01]

3.2.220.11 FEED STORAGE: Metal bins and similar devices designed to store feed on a farm or ranch, which, in addition to storing, measure and control the flow of livestock, are agricultural implements. Therefore, 50% of the receipts derived from selling those articles may be deducted from gross receipts pursuant to Section 7-9-62 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; 3.2.220.11 NMAC - Rn, 3 NMAC 2.62.11 & A, 6/14/01; A, 10/31/05]

3.2.220.12 FUEL FOR IRRIGATION PUMPS: Receipts derived from the sale of butane, propane, natural gas, electricity, or other fuel which is used in the operation of irrigation pumps are not receipts from the sale of agricultural implements and, therefore, are not subject to the 50% deduction from gross receipts provided by Section 7-9-62 NMAC 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; 3.2.220.12 NMAC - Rn, 3 NMAC 2.62.12 & A, 6/14/01]

3.2.220.13 [Reserved]

[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; 3.2.220.13 NMAC - Rn, 3 NMAC 2.62.13 & A, 6/14/01; Repealed, 10/31/07]

3.2.220.14 MOTORIZED GOLF CARTS: Fifty percent of the receipts from selling motorized golf carts may be deducted from gross receipts because motorized golf carts are vehicles that are not required to be registered under the Motor Vehicle Code, Chapter 66.

[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; 3.2.220.14 NMAC - Rn, 3 NMAC 2.62.14 & A, 6/14/01]

3.2.220.15 BALING WIRE: Baling wire is not an agricultural implement within the meaning of Section 7-9-62 NMSA 1978, and therefore, the seller of baling wire to a farmer may not take the fifty percent deduction allowed under Section 7-9-62 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; 3.2.220.15 NMAC - Rn, 3 NMAC 2.62.15 & A, 6/14/01]

3.2.220.16 MINING EQUIPMENT: Mining equipment must be a “vehicle” as that term is defined in the Motor Vehicle Code in order to qualify for the deduction provided in Section 7-9-62 NMSA 1978 and Section 7-9-77 NMSA 1978. A “motor vehicle” as defined in the Motor Vehicle Code is a vehicle which is self-propelled. Mining equipment that receives its power from a trailing cable which conveys electricity to it from an outside source is not self-propelled.

[3/16/79, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.220.16 NMAC - Rn, 3 NMAC 2.62.16 & A, 6/14/01]

3.2.220.17 WRITTEN STATEMENT OF FARMING OR RANCHING:

A. The written statement required by Section 7-9-62 NMSA 1978 for receipts from the sale of agricultural implements on or after July 1, 1998 shall be in the form set out in Subsection B of Section 3.2.216.8 NMAC and must be signed personally by the purchaser or the purchaser’s agent. The written statement must be accepted in good faith by the seller in order for the seller to take the deduction authorized by Section 7-9-62 NMSA 1978 with respect to transactions occurring on or after July 1, 1998. The good faith acceptance requirement applies to each transaction intended to be covered by the written statement.

B. Receipts from the sale of agricultural implements on or after July 1, 1998 may not be deducted under Section 7-9-62 NMSA 1978 unless the sale is made to a person who makes a written statement in compliance with Section 7-9-62 NMSA 1978.

C. For the purposes of Section 7-9-62 NMSA 1978, it is sufficient if the seller receives one written

statement from each purchaser, provided the seller maintains that statement on file.

D. When a seller accepts in good faith a person's written statement that the person is regularly engaged in the business of farming or ranching, the written statement shall be conclusive evidence that the receipts from the transaction with the person having made the statement are deductible from the seller's gross receipts under Section 7-9-62 NMSA 1978.

[7/31/98; 3.2.220.17 NMAC - Rn, 3 NMAC 2.62.17 & A, 6/14/01]

HISTORY OF 3.2.220 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: 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 2.62, Deduction - Gross Receipts Tax - Agricultural Implements - Aircraft, Vehicles That Are Not Required To Be Registered, filed 11/4/96.

3.2.220 NMAC, Deduction - Gross Receipts Tax - Agricultural Implements - Aircraft, Vehicles That Are Not Required To Be Registered, filed 6/4/2001.