

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 223: DEDUCTION - GROSS RECEIPTS TAX - CHEMICALS AND REAGENTS

3.2.223.1 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; 3.2.223.1 NMAC - Rn, 3 NMAC 2.65.1, 6/14/01]

3.2.223.2 SCOPE: This part applies to each person engaging in business in New Mexico.
[11/15/96; 3.2.223.2 NMAC - Rn, 3 NMAC 2.65.2, 6/14/01]

3.2.223.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/96; 3.2.223.3 NMAC - Rn, 3 NMAC 2.65.3, 6/14/01]

3.2.223.4 DURATION: Permanent.
[11/15/96; 3.2.223.4 NMAC - Rn, 3 NMAC 2.65.4, 6/14/01]

3.2.223.5 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; 3.2.223.5 NMAC - Rn, 3 NMAC 2.65.5 & A, 6/14/01]

3.2.223.6 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; 3.2.223.6 NMAC - Rn, 3 NMAC 2.65.6, 6/14/01]

3.2.223.7 DEFINITIONS:

A. **“Lots” defined:**

(1) As used in Section 7-9-65 NMSA 1978 the term “lots” means a parcel or single article which is the subject matter of a separate sale or delivery, whether or not it is sufficient to perform the contract.

(2) Example: H sells P fifteen tons of hydrochloric acid on March 1, 1978. On April 15, 1978, H sells P another ten tons of chemicals. P does not use the chemicals for exempt purposes. H wants to deduct the gross receipts from these sales since the total amount of chemicals sold exceeded eighteen tons. In this case one lot amounted to fifteen tons, the other to ten tons. The sales may not be added for the purpose of this deduction. The deduction will be disallowed.

B. **“Chemical” defined:** As used in Section 7-9-65 NMSA 1978 the term “chemical” means a substance used for producing a chemical reaction.
[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, 10/23/85, 4/2/86, 11/26/90, 11/15/96; 3.2.223.7 NMAC - Rn, 3 NMAC 2.65.7 & A, 6/14/01]

3.2.223.8 WELL-DRILLING MUD: Mud used in the drilling of wells is not a chemical or reagent.
[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; 3.2.223.8 NMAC - Rn, 3 NMAC 2.65.8, 6/14/01]

3.2.223.9 NATURAL GAS WELLS: SALT WATER DISPOSAL WELLS AND INJECTION WELLS:

A. For purposes of Section 7-9-65 NMSA 1978, natural gas wells are oil wells, since they produce condensate or oil as a by-product. Receipts from the sale of chemicals or reagents for use in acidizing such wells may be deducted from the seller's gross receipts.

B. For purposes of deductions under Section 7-9-65 NMSA 1978, salt water disposal wells and injection wells are not oil wells. Receipts from the sale of chemicals or reagents, in lots of less than eighteen tons, for use in acidizing such wells may not be deducted from the seller's 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; 3.2.223.9 NMAC - Rn, 3 NMAC 2.65.9 & A, 6/14/01]

3.2.223.10 TREATMENT FOR INHIBITING CORROSION: Receipts from selling chemicals or reagents used in treating oil wells for purposes of inhibiting or removing scale or corrosion, removing paraffin deposits and breaking down the oil-water-sludge demolition into separate components are not receipts from selling chemicals or reagents for use in acidizing the wells pursuant to Section 7-9-65 NMSA 1978. However, receipts from selling these chemicals or reagents in lots in excess of eighteen tons may be deducted from gross receipts pursuant to Section 7-9-65 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; 3.2.223.10 NMAC - Rn, 3 NMAC 2.65.10 & A, 6/14/01]

3.2.223.11 GENERAL EXAMPLE: Y Company sells salt to the X Mining Company which uses the salt as a reagent in processing ores in a well, smelter or refinery. Y may deduct the receipts from this sale, whether or not the salt was sold to X in lots in excess of eighteen tons.

[3/20/74, 7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.223.11 NMAC - Rn, 3 NMAC 2.65.11, 6/14/01]

HISTORY OF 3.2.223 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 2.65, Deduction - Gross Receipts Tax - Chemicals and Reagents, filed 11/4/96.

3.2.223 NMAC, Deduction - Gross Receipts Tax - Chemicals and Reagents, filed 6/4/2001.