

TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS TAXES
PART 227: DEDUCTION - GROSS RECEIPTS TAX - REFUNDS - UNCOLLECTIBLE DEBTS

3.2.227.1 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; 3.2.227.1 NMAC - Rn, 3 NMAC 2.67.1, 6/14/01]

3.2.227.2 SCOPE: This part applies to each person engaging in business in New Mexico.
[11/15/96; 3.2.227.2 NMAC - Rn, 3 NMAC 2.67.2, 6/14/01]

3.2.227.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[11/15/96; 3.2.227.3 NMAC - Rn, 3 NMAC 2.67.3, 6/14/01]

3.2.227.4 DURATION: Permanent.
[11/15/96; 3.2.227.4 NMAC - Rn, 3 NMAC 2.67.4, 6/14/01]

3.2.227.5 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; 3.2.227.5 NMAC - Rn, 3 NMAC 2.67.5 & A, 6/14/01]

3.2.227.6 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; 3.2.227.6 NMAC - Rn, 3 NMAC 2.67.6, 6/14/01]

3.2.227.7 DEFINITIONS: [Reserved.]
[11/15/96, 3.2.227.7 NMAC - Rn, 3 NMAC 2.67.7, 6/14/01]

3.2.227.8 TRADING STAMPS:
A. Trading stamps are not allowances within the meaning of Section 7-9-67 NMSA 1978. Trading stamps represent promotional services and may not be deducted from gross receipts or governmental gross receipts pursuant to Section 7-9-67 NMSA 1978.
B. Example: B is in the business of selling groceries. When one of B's customers purchases groceries, B will give the customer trading stamps. B wishes to deduct the cost of the trading stamps, saying that they are an allowance. Trading stamps are not allowances, but represent promotional service. No deduction is allowed.
[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, 10/28/94, 11/15/96; 3.2.227.8 NMAC - Rn, 3 NMAC 2.67.8 & A, 6/14/01]

3.2.227.9 REFUNDABLE DEPOSITS:
A. Receipts from selling soft drinks include amounts received in the form of refundable deposits on bottles, cartons and cases.
B. The amount of deposits refunded to purchasers of soft drinks may be deducted from gross receipts or governmental gross receipts under Section 7-9-67 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, 10/28/94, 11/15/96; 3.2.227.9 NMAC - Rn, 3 NMAC 2.67.9 & A, 6/14/01]

3.2.227.10 GENERAL EXAMPLES:
A. The deduction for refunds and allowances made to buyers is applicable to taxpayers reporting gross receipts or governmental gross receipts on either a cash or an accrual basis, but the deduction for uncollectible accounts is available only to taxpayers who report gross receipts or governmental gross receipts on an accrual basis. The transaction or transactions which gave rise to either the refund or allowance or to the amount written off the books as an uncollectible account must have originally been subject to the gross receipts tax or governmental gross receipts tax.
B. Example 1: C operates an appliance store. C sells D an air conditioner for \$200. D returns the air

conditioner and C credits D's account with \$150. C may deduct \$150 from gross receipts. However, C must include the remaining \$50 in gross receipts.

C. Example 2: A buys goods for \$100. A sells them for \$25. A wishes to deduct the loss from gross receipts. The loss may not be deducted. A must pay tax on the \$25 or the fair market value of the item sold, whichever is greater.

D. Example 3: X is an accrual basis taxpayer. Y buys a suit from X but does not pay for it. X reports the receipts from the sale on X's return. X then discovers that X cannot collect the sales price of the suit. X may take the deduction upon proper proof of the bad debt. This rule, however, would not apply if X had never reported the receipts from the sale.

E. Example 4: U is a university bookstore which reports governmental gross receipts on an accrual basis. U sells books and other materials to a student on account, reporting governmental gross receipts in the month of sale. The student subsequently leaves the university without fully settling the account. Because the receipts from the sale had already been reported, U may take the deduction upon proper proof of the bad debt.

[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, 10/28/94, 11/15/96; 3.2.227.10 NMAC - Rn, 3 NMAC 2.67.10, 6/14/01]

3.2.227.11 SALE OF REPOSSESSED PROPERTY: A person reporting gross receipts or governmental gross receipts on an accrual basis is entitled to deduct amounts written off the books as an uncollectible debt for the amount credited to the buyer from whom the property was repossessed. Receipts from a subsequent sale of the same property are subject to the gross receipts tax or governmental gross receipts.

[7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 10/28/94, 11/15/96; 3.2.227.11 NMAC - Rn, 3 NMAC 2.67.11, 6/14/01]

3.2.227.12 RETURNED CHECKS AND CREDIT CARD REVERSALS:

A. When a check is received, deposited, dishonored and returned, and not subsequently honored within the same reporting period, the taxpayer has no gross receipts with respect to the check. If the check is received within one reporting period, gross receipts are reported with respect to that check for that period and the check is dishonored, returned and not subsequently honored in a subsequent reporting period, the taxpayer may claim a deduction under Section 7-9-67 NMSA 1978 for the amount of the returned check for the period in which the check was dishonored.

B. When a credit card charge is reversed within the same reporting period, the taxpayer has no gross receipts with respect to the charge. If the credit card charge is made within one reporting period, gross receipts are reported with respect to that charge for the period and the charge is reversed in a subsequent reporting period, the taxpayer may claim a deduction under Section 7-9-67 NMSA 1978 for the amount of the reversed credit card charge for the period in which the reversal occurred.

[10/15/98; 3.2.227.12 NMAC - Rn, 3 NMAC 2.67.12 & A, 6/14/01]

HISTORY OF 3.2.227 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 2.67, Deduction - Gross Receipts Tax - Refunds - Uncollectable Debts, filed 11/4/96.

3.2.227 NMAC, Deduction - Gross Receipts Tax - Refunds - Uncollectable Debts, filed 6/4/2001.