

TITLE 3 TAXATION
CHAPTER 2 GROSS RECEIPTS TAXES
PART 250 DEDUCTION - GROSS RECEIPTS AND COMPENSATING TAXES - LOCOMOTIVE FUEL

3.2.250.1 ISSUING AGENCY: Economic Development Department
[3.2.250.1 NMAC - N, 7/1/2012]

3.2.250.2 SCOPE: This part applies to each person claiming the locomotive fuel deduction from gross receipts or in computing the compensating tax.
[3.2.250.2 NMAC - N, 7/1/2012]

3.2.250.3 STATUTORY AUTHORITY: The promulgation of rules for the issuance of a certificate of eligibility for the purposes of claiming a deduction of receipts from the sale of fuel loaded or used by a common carrier in a locomotive engine from gross receipts and of claiming a deduction of the value of fuel to be loaded or used by a common carrier in a locomotive engine in computing the compensating tax shall be the responsibility of the economic development department pursuant to the governing legislation, NMSA 1978, Section 7-9-110.3(D).
[3.2.250.3 NMAC - N, 7/1/2012]

3.2.250.4 DURATION: Permanent.
[3.2.250.4 NMAC - N, 7/1/2012]

3.2.250.5 EFFECTIVE DATE: July 1, 2012.
[3.2.250.5 NMAC - N, 7/1/2012]

3.2.250.6 OBJECTIVE: The purpose of the deduction of receipts from the sale of fuel loaded or used by a common carrier in a locomotive engine from gross receipts and of the deduction of the value of fuel to be loaded or used by a common carrier in a locomotive engine in computing the compensating tax is to encourage the construction, renovation, maintenance and operation of railroad locomotive refueling facilities and related activities in New Mexico.
[3.2.250.6 NMAC - N, 7/1/2012]

3.2.250.7 DEFINITIONS: For the purposes of this section, "locomotive engine" means a wheeled vehicle consisting of a self-propelled engine that is used to draw trains along railway tracks.
[3.2.250.7 NMAC - N, 7/1/2012]

3.2.250.8 QUALIFICATIONS AND REQUIREMENTS:

A. To be eligible for the deduction of receipts from the sale of fuel loaded or used by a common carrier in a locomotive engine from gross receipts, the sale shall be made to a common carrier that, after July 1, 2011, made a capital investment of one hundred million dollars (\$100,000,000) or more in new construction or renovations at the railroad locomotive refueling facility in which the fuel is sold, and the common carrier shall deliver an appropriate nontaxable transaction certificate to the seller.

B. To be eligible for the deduction of the value fuel loaded or used by a common carrier in a locomotive engine in computing the compensating tax, the fuel shall be used or loaded by a common carrier that, after July 1, 2011, made a capital investment of one hundred million dollars (\$100,000,000) or more in new construction or renovations at the railroad locomotive refueling facility in which the fuel is loaded or used.

C. A common carrier may request a certificate of eligibility from the economic development department to provide to the taxation and revenue department to establish eligibility for a nontaxable transaction certificate for the deduction of receipts from the sale of fuel loaded or used by a common carrier in a locomotive engine from gross receipts and for the deduction of the value of fuel loaded or used by a common carrier in a locomotive engine in computing the compensating tax.

(1) A common carrier shall apply to the economic development department for a certificate of eligibility on forms provided by the economic development department.

(2) Applications shall be considered in the order received.

(3) A common carrier requesting a certificate of eligibility from the economic development department shall provide such information as the economic development department deems necessary to determine

that the common carrier has made a capital investment of one hundred million dollars (\$100,000,000) or more in new construction or renovations at a railroad locomotive refueling facility after July 1, 2011.

(4) If the economic development department determines that a common carrier has applied for a certificate of eligibility on forms provided by the economic development department in the manner prescribed by these rules, made a capital investment of one hundred million dollars (\$100,000,000) or more in new construction or renovations at the railroad locomotive refueling facility in which the fuel is sold, and complied with all reporting requirements, it shall issue a certificate of eligibility to the common carrier.

(5) The certificate of eligibility shall be dated.

[3.2.250.8 NMAC - N, 7/1/2012]

3.2.250.9 REPORTING:

A. Every taxpayer that claims a deduction under Section 7-9-110.1 NMSA 1978 shall report to the economic development department, on forms provided by the department, the following information no later than August 1 for the full year ending on the previous June 30:

- (1) the amount of the deduction claimed;
- (2) the number of permanent jobs created by the taxpayer as a result of the deductions claimed;
- (3) the number of temporary jobs created by the taxpayer as a result of the deductions claimed; and
- (4) an estimate of the net revenue to the state as a result of the deductions claimed.

B. Every taxpayer that claims a deduction under Section 7-9-110.2 NMSA 1978 shall report to the economic development department, on forms provided by the department, the amount of the deduction claimed, no later than 30 days after reporting the deduction to the taxation and revenue department.

C. If any deduction amount reported in Subsections A and B above is subsequently denied by the taxation and revenue department, the taxpayer must report the amount of the denial to the economic development department no later than 30 days after receiving notice of the denial or after the resolution of all administrative proceedings, whichever is later.

[3.2.250.9 NMAC - N, 7/1/2012; A, 7/1/2012]

HISTORY OF 3.2.250 NMAC: [RESERVED]