

NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to amend the following rules:

Gross Receipts and Compensating Tax Act, Section 7-9-3.3 NMSA 1978

3.2.1.12 NMAC - Engaging in Business

Gross Receipts and Compensating Tax Act, Section 7-9-3.5 NMSA 1978

3.2.1.14 NMAC - Gross Receipts - General

The proposals were placed on file in the Office of the Secretary on June 28, 2018. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about August 28, 2018.

A public hearing will be held on the proposals on Monday, August 13, 2018, at 10:00 a.m. in the Secretary's Conference Room on the third floor of the Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Alicia Romero at alicia.romero@state.nm.us. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing. Accessible copies of the proposals are available upon request; contact the Tax Policy Office at policy.office@state.nm.us. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 or by email to policy.office@state.nm.us on or before August 13, 2018. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.

3.2.1.12 - ENGAGING IN BUSINESS

A. Affiliated corporations:

(1) When a corporation is carrying on or causing to be carried on, with a wholly owned subsidiary, any activity with the purpose of direct or indirect benefit, both the corporation and the subsidiary are "engaging in business".

(2) Example: B corporation, which operates a hotel supply house, sells supplies only to C Hotel Corporation, which owns all the stock in B Corporation. B claims that since it sells only to C, its parent corporation, it is not engaging in business. B and C are each engaging in business because the purpose of their activities is to benefit either or both corporations.

B. Corporation not for profit: When a corporation not for profit is carrying on or is causing to be carried on any activity with the purpose of direct or indirect benefit it is "engaging in business".

C. Leasing property:

(1) Persons leasing property employed in New Mexico are engaging in business within the state for the purpose of direct or indirect benefit.

(2) Example: X, an out of state business, leases construction machinery to Y who employs the leased property in New Mexico. X asks if X is engaged in business in New Mexico for purpose of registration, reporting and paying the gross receipts tax. X is engaged in business in New Mexico.

D. Hotels and motels providing interstate telecommunications service to guests:

(1) Hotels, motels and similar establishments offering interstate telecommunications service to guests in conjunction with the rental of rooms or other facilities are not "engaging in interstate telecommunications business" for purposes of the Interstate Telecommunications Gross Receipts Tax Act.

(2) A hotel, motel or similar establishment is primarily engaged in the business of renting rooms and meeting facilities to the general public. Providing interstate telephone service or other interstate telecommunications services to guests is incidental to the primary business of the hotel, motel or similar establishment. Receipts from providing such service are additional receipts from engaging in the primary business and are subject to the provisions of the Gross Receipts and Compensating Tax Act.

(3) Subsection D of 3.2.1.12 NMAC is retroactively applicable to transactions occurring on or after July 1, 1992.

E. Persons not engaging in business - foster parents: Individuals who enter into an agreement with the state of New Mexico to provide foster family care for children placed with them by the state are not thereby engaging in business. Receipts of the individuals from providing foster care pursuant to such an agreement are not receipts from engaging in business.

F. Persons not engaging in business - certain caretakers: Individuals who enter into an agreement with the state of New Mexico to provide non-medical personal care and housekeeping assistance to low income disabled adults pursuant to the critical in home care program are not thereby engaging in business. Receipts of the individuals from such caretaking activities are not receipts from engaging in business.

G. Persons not engaging in business - home care for developmentally disabled family members: Any individual who enters into an agreement with the state of New Mexico to provide home based support services for developmentally disabled individuals in the home of the developmentally disabled individuals or the home of the support provider and receives payments which under 26 USCA 131 are "qualified foster care payments" is not thereby engaging in business. Receipts of the individuals which are "qualified foster care payments" from providing such home based support services pursuant to such an agreement are not receipts from engaging in business.

H. Owner engaged in business when selling to an owned entity:

(1) Except as provided in Paragraph (2) of this Subsection, when an owner of an entity sells property in New Mexico to, leases property employed in New Mexico to, or performs services in New Mexico for the entity or other owners of the entity, the owner is engaging in business in New Mexico except when the transaction may be characterized for federal income tax purposes as a contribution of capital.

(2) When a partner or interest holder in an entity taxed as a partnership is allocated profits or receives a guaranteed payment or other distributions for activities undertaken as a partner on behalf of the partnership such as administrative services done solely for the benefit of the partnership or for activities for third-parties transacting business with the partnership, the partner is not engaging in business separately from the partnership and the allocations, payments, or distributions are not gross receipts. A partner may, however engage in business separately from the partnership and any transactions between that partner and the partnership, where the partner is not acting as a partner on behalf of the partnership, constitute gross receipts from engaging in business. Indicia that a partner is not acting as a partner on behalf of the partnership may include:

(a) that the partner engages in similar transactions with third parties other than the partnership, or

(b) that the allocation, payment, or distribution made by the partnership is not made under the partnership agreement, or

(c) that the partner's transaction(s) with the partnership involve the sale or lease of goods or the sale of services not provided by the partnership to third parties.

~~(2)~~ (3) For the purposes of Subsection H of 3.2.1.12 NMAC, an "entity" means any business organization or association other than a sole proprietorship.

I. Persons not engaging in business - sale or exchange of renewable-fueled electricity generated from a system installed in a personal residence. Any individual who sells or transfers electricity to an entity engaged in the business of selling electricity, for which the individual receives monetary compensation or credit against a future month's electricity use, is not engaged in business if the electricity is generated from a renewable-fueled system installed in a personal residence.

[12/5/1969, 3/9/1972, 3/20/1974, 7/26/1976, 6/18/1979, 4/7/1982, 5/4/1984, 4/2/1986, 11/26/1990, 9/3/1992, 7/19/1994, 11/15/1996, 5/14/1999, 6/15/1999, 10/29/1999; 3.2.1.12 NMAC - Rn & A, 3 NMAC 2.1.12, 4/30/2001; A, 9/30/2010; A, xx/xx/2018]

3.2.1.14 - GROSS RECEIPTS - GENERAL

A. Gross receipts: Unless the receipt is from one or more of the following, it is not taxable:

(1) selling property in New Mexico;

(2) leasing property employed in New Mexico;

(3) performing services outside of New Mexico the product of which is initially used in New Mexico; or

(4) performing services in New Mexico.

B. Credit card sales: Gross receipts of the seller of property or services or the lessor of property include the full sale or lease contract amount of any property or service sold or of any property leased when payment is made through the use of a credit card which has been issued by a third party. The seller or lessor may not deduct

from gross receipts the amount charged by the credit card company for converting the account into cash.

C. Consideration other than money:

(1) If the consideration received by the seller or lessor for the item sold or leased or for the service performed is in a form other than money, the fair market value of the consideration received or the fair market value of the item sold or of the lease or of the service performed must be included in gross receipts. The value of the consideration received or the item sold or of the lease or of the service performed is the fair market value at the time of the transaction.

(2) Example 1: X has Y, a garage owner, repair X's automobile. In exchange for the service performed by Y, X gives Y a deer rifle. The fair market value of the rifle at the time of the transaction is the measure of Y's gross receipts.

(3) Example 2: X, a New Mexico construction company, contracts with Y Electric Co op Association for the construction of transmission lines. The contract requires X to furnish all materials and labor for a fixed price; however, it permits a reduction of the contract price in the amount of the value of materials furnished by Y. The gross receipts of X include the value of any material supplied by the cooperative.

(4) Example 3: X is a firm engaged in the construction business in New Mexico. The receipts of X from the sale of a completed construction project include the value of construction services performed by the buyer of the construction project pursuant to a "sweat labor contract" if the performance of services are required to fulfill a contractual obligation of X. A "sweat labor contract", as used in this example, is a contract whereby the buyer of a completed construction project agrees to perform certain construction services for the seller of the construction project as partial payment of the sale price of the construction project.

(5) Example 4: M agrees to drill an oil well for the XYZ oil company. The contract provides that M will drill the well for \$7.50 per foot and a ~~[4/8]~~ one-eighth interest in the minerals which belong to XYZ. The well, when completed, produces forty barrels of oil per day for a period which is expected to last for ~~[ten]~~ 10 years. M admits that the \$7.50 per foot that is received from drilling the well are gross receipts subject to the gross receipts tax. M questions whether the value of the ~~[4/8]~~ one-eighth interest is gross receipts. The value of the mineral interest is consideration and must be included in M's gross receipts. It will be valued at its fair market value at the time the well is completed.

(6) Example 5: The A oil company hires the B drilling company to drill a well on its property. A furnishes drill bits to B, but A has the right to deduct the rental value of the bits from the total footage or day rate price it agrees to pay B for the drilling. The use of the drill bits is partial consideration, furnished by A, for the performance of the drilling service by B and the reasonable value of their use must be included in B's gross receipts. A also must include the rental value of the bits in its gross receipts because it is leasing the drill bits to B. However, if A furnishes drill bits to B and does not have the right to deduct the rental value of the bits from the total footage or day rate price which it has agreed to pay B for the drilling, then no amounts from the drill bit transaction are includable in either A's or B's gross receipts. The same applies if B furnishes the drill bits.

D. Consideration less than fair market value:

(1) In a transaction where the actual consideration received does not represent the fair market value of the property sold or leased or of the service sold, the fair market value shall be included in the gross receipts of the seller or lessor. Fair market value is the value which the property or service can command in an arms length transaction between two independent parties in an open market.

(2) The following example illustrates the application of Section 7-9-3.5 NMSA 1978 with respect to consideration less than fair market value. Example: X, a land and cattle company, is a corporation which is affiliated with Y, an equipment company. Because of their affiliation, X leases a \$30,000 tractor from Y for \$1.00 a month. Y reports that its gross receipts from this transaction are \$1.00. Y's gross receipts are the market value of a monthly lease of a \$30,000 tractor. Y must pay gross receipts tax on the adjusted amount.

E. Sale of commercial paper:

(1) The full sale or leasing contract amount of property or service sold, excluding any type of time price differential, is included in the seller's gross receipts even though the seller subsequently sells the contract and does not receive the total contract price in money. No deduction is allowed for discounts suffered from the sale of commercial paper arising from a sale or lease.

(2) Example: X sells a washing machine to Y under a conditional sales contract in which the full sale contract amount, excluding time price differential, is \$120. The principal on the washing machine is to be paid for over a twelve month period at \$10 a month. X collects \$20 of principal under the contract and then assigns its rights to W for \$90. Depending upon the method regularly used for reporting gross receipts, X would either pay tax on the full contract amount for the month in which the sale was made (accrual basis) or pay tax measured by the receipts as they were received (cash basis). If X had elected to pay tax measured by its receipts as they were

received, X would have reported \$20 during the first two months from this transaction. When X assigned the contract, X would have to include \$100 in the gross receipts for the third month since a deduction is not allowed for a discount suffered upon the transfer of a conditional sales contract.

F. Interdepartmental transfers:

(1) Receipts derived from an interdepartmental transfer of services or property are not subject to the gross receipts tax. To qualify as an interdepartmental transfer, the transfer must be a transfer of services or property within the same corporation or other taxable entity.

(2) Example: C, a company located in New Mexico, operates both an electric utility and a water utility. C records on its books the sale of the electricity to the water utility in order to comply with the ~~[Public Service Commission]~~ public service commission regulations but does not thereby incur gross receipts as that term is used in the Gross Receipts and Compensating Tax Act. Such book entries do not record receipts from selling property in New Mexico but record interdepartmental transfers. However, the value of the electricity at the time of its conversion to use by the water utility is subject to the compensating tax.

G. Service charges computed on balances:

(1) Service charges on accounts receivable balances or installment sales contracts which are not computed at the time of sale, are time-price differential charges, are not subject to the gross receipts tax and are not to be included in the sales price of an item brought into New Mexico for the purpose of computing the compensating tax.

(2) Example: X corporation located outside New Mexico is engaged in the business of publishing books. X has several nonemployee salesmen soliciting orders on a commission basis in New Mexico. Every such order is forwarded to X's main office where it is reviewed and then either accepted or rejected. Accepted orders are shipped directly to the purchaser from X's binderies located outside of New Mexico. Since X has salesmen in New Mexico, it is an agent for collection of the compensating tax, pursuant to Section 7 9 10 NMSA 1978. The purchaser may elect to pay for the books on an installment basis. If after ~~[ninety (90)]~~ 90 days from purchase, the balance has not been paid, a one percent ~~[(1%)]~~ per month service charge is added to the balance. This charge is not precomputed and no portion thereof is due unless the purchaser elects to pay on an installment plan extending over ~~[ninety (90)]~~ 90 days. Such a charge is a time-price differential and is not a part of the sales price of the item. Therefore, it should not be included in the sales price when considering the amount of compensating tax that should be paid over to the state of New Mexico.

H. Corporations and organizations not organized for profit - fund raising activities:

(1) Receipts of a corporation or organization not organized for profit, other than an organization granted a 501(c)(3) determination by the internal revenue service, derived from fund raising activities which are in the nature of donations, gifts, and contributions are not subject to the gross receipts tax.

(2) The department will presume that the total receipts of such a nonprofit organization from a fund raising activity are receipts derived from a taxable activity if the project involves the performance of any service or the sale or lease of any property by the organization. This presumption may be overcome by establishing the following:

(a) the purchaser or lessee of the property or service intended by the purchase or lease to make a gift, donation, or contribution to the organization; and

(b) the purchase or lease price clearly exceeded the fair market value of the service or property or the fair rental value of the property.

(3) If these conditions are satisfied, the amount of consideration received by the organization in excess of the fair market price or fair rental value is not subject to the gross receipts tax.

I. Discount coupons: The gross receipts attributable to a sale in which a seller accepts discount coupons provided by buyers are measured by the cash received plus the value of the coupon. However, if the discount coupon is not redeemable by the seller, the acceptance of the coupon constitutes a cash discount allowed and taken and is excluded from gross receipts.

J. Gross receipts embezzled: Receipts that have been embezzled or lost through bookkeeping errors are not a cash discount allowed and taken; such receipts are not deductible under Section 7 9 67 NMSA 1978 because they are not a refund, allowance or uncollectible debt.

K. Vending machines:

(1) A vending machine is a device that, when the appropriate payment has been inserted into it, whether payment is made by coins, tokens, paper money, credit card, debit card or other means, dispenses tangible personal property, performs a service (including entertainment) or dispenses tickets, tokens or similar objects redeemable for money, tangible personal property or services; but "vending machine" does not include any device which is designed to primarily or solely to play a game of chance, such as slot machines, video gaming

machines and the like.

(2) Amounts received from allowing the vending machine to be placed in a location as well as amounts received from use of or sales from vending machines are gross receipts and are subject to the gross receipts tax. The vending machine owner is responsible for reporting the receipts and paying the gross receipts tax.

(3) Receipts derived from allowing vending machines to be placed in a location not owned or rented by the vending machine owner are gross receipts and are subject to the gross receipts tax. Except as provided otherwise in Subsection K of Section 3.2.1.14 NMAC, the person receiving the receipts is responsible for reporting the receipts and paying the gross receipts tax with respect to such receipts.

(4) If the vending machine owner and a person controlling the premises where the machine is located enter into a written agreement similar to the one below, the department will presume that a joint venture has been created, that the joint venture is registered with the department and that the vending machine owner has agreed to pay all gross receipts tax due with respect to the joint venture. In such a case, the person owning the machine, on behalf of the joint venture, will report and pay the gross receipts tax due on all the receipts derived from either allowing the vending machine to be placed in a location or sales from the vending machine for all parties in the joint venture and the person controlling the premises is relieved of the duty to report or pay gross receipts tax on those same receipts.

(5) Agreement: Total amounts collected from the vending machine shall be allocated between the vending machine owner and the person controlling the location. The vending machine owner will receive a percentage of the amounts collected net of gross receipts tax due, plus an amount equal to the gross receipts tax payable on the entire proceeds from the vending machine. The person controlling the location will receive a percentage of the amounts collected net of gross receipts tax due. The vending machine owner will report and pay any gross receipts tax due on all the receipts derived from either the use of or sales from the vending machine.

(6) In the event that no such agreement exists, the department will presume that no joint venture exists. In such a case, the vending machine owner will be subject to gross receipts tax on the entire amounts collected from the use of or sales from the vending machine, and the person controlling the premises will be subject to gross receipts tax on the amount that person receives from the vending machine owner for allowing the placement of the machine on the premises.

(7) In the event the vending machines are leased to the person who services them, the term "vending machine owner" means the lessee of the vending machines.

L. "Gross receipts" excludes leased vehicle surcharge: For the purposes of Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-9-3.5 NMSA 1978, the term "leased vehicle gross receipts tax" includes the leased vehicle surcharge. The amount of any leased vehicle surcharge may be excluded from gross receipts.

M. Receipts from furnishing parts or labor under automotive service contract:

(1) When an automobile dealer, who is the promisor under an automotive service contract as that term is defined under Subsection C of Section 3.2.1.16 NMAC, furnishes parts or labor or both to satisfy the promisor's obligation to repair the breakdown involving a part specified in the contract, the dealer has taxable gross receipts equal to the retail value of the parts and labor furnished. A transfer of property or performance of service for a consideration has occurred and therefore a receipt from selling property or performing services has been realized by the dealer.

(2) The consideration received by the dealer is the discharge of the dealer's obligation to make the repair which obligation arose when the covered breakdown occurred.

(3) Receipts of a repair facility, including an automobile dealer, from furnishing parts and labor to fulfill the obligation of another person under an automotive service contract are gross receipts and not deductible under Sections 7 9 47 and 7 9 48 NMSA 1978, even though the seller has received NTTCs for other transactions.

N. Receipts from deductibles/co-payments under automotive service contracts: The receipts of a New Mexico automotive dealer or other repair facility, including the promisor under an automotive service contract, from the "deductible" or "co-payment" amount paid by a customer as required by automotive service contract as that term is defined in Subsection C of Section 3.2.1.16 NMAC in connection with the provision of repair services under contract are gross receipts.

O. Receipts of dealer from own reserve:

(1) The receipts of a New Mexico auto dealer for repairs provided by the dealer under an automotive service contract as that term is defined in Subsection C of Section 3.2.1.16 NMAC, on which the dealer is obligated as promisor are not gross receipts if:

(a) the receipts are paid from a reserve account established by the dealer under an

agreement with an auto service contract administrator or an insurance company, or both, and

(b) the dealer is entitled to a return of any amounts in the reserve account not used to pay for parts and labor or to pay other charges against the dealer in connection with the auto service contract.

(2) In this situation, the dealer is being “paid” from the dealer’s own funds and has no receipts. However, the dealer as promisor is liable for gross receipts tax on the retail value of the parts or labor or both furnished to discharge the dealer’s obligation.

P. Water conservation fee: Section 74-1-13 NMSA 1978 imposes the water conservation fee on the operator of a public water supply system. The fee is measured by the amount of water produced. The operator is not authorized to impose the water conservation fee on the operator’s customers. If the operator of the system separately bills an amount characterized as a reimbursement of the water conservation fee to the operator’s customers, the separately stated amount is simply an element of the price of the water sold and the “reimbursement” is included in gross receipts. The definition of “gross receipts” does not exclude the water conservation fee or amounts characterized as reimbursements of water conservation fee paid.

Q. Sales of items subject to the federal manufacturer’s excise tax:

(1) The gross receipts from sales of items such as motor vehicle tires include the total amount of money or the value of other consideration received even though this amount includes the Federal Manufacturer’s Excise Tax, 26 U.S.C.A. Section 4061 et seq (1986) which is separately stated on the invoice. Gross receipts do not include the amount of money attributable to the Federal Communications Excise Tax, 26 U.S.C.A. Section 4251, et seq (1986), and the Federal Air Transportation Excise Tax, 26 U.S.C.A. Section 4261 et seq (1986), which are user’s taxes.

(2) Example: A tire dealer sells a tire in New Mexico to a retail customer for \$40.00 and separately states \$1.00 for federal manufacturer’s excise tax on the sales ticket. The seller’s gross receipts for this transaction are \$41.00.

R. Transactions among related persons are gross receipts

(1) Each person engaging in business in New Mexico is subject to the provisions of the Gross Receipts and Compensating Tax Act. Each person who is a member of any group of related or affiliated persons and who engages in business in New Mexico is a taxpayer. The provisions of the Gross Receipts and Compensating Tax Act apply to the transactions between that taxpayer and all other persons, including the other related or affiliated persons, even though consideration is not received in the form of cash or other monetary remuneration.

(2) Example 1: A cooperative association and X both engage in business in New Mexico. The cooperative sells services to X, one of its members. The cooperative is a taxpayer and the receipts from this transaction are subject to the provisions of the Gross Receipts and Compensating Tax Act.

(3) Example 2: Both X and a cooperative association engage in business in New Mexico. X is a member of the cooperative and sells services to it. X is a taxpayer and the receipts from this transaction are subject to the provisions of the Gross Receipts and Compensating Tax Act.

(4) Example 3: X engages in business in New Mexico, specifically by selling office supplies. X is also a partner in a partnership. Sales by X to the partnership are subject to the provisions of the Gross Receipts and Compensating Tax Act.

(5) Example 4: C is a corporation engaging in business in New Mexico. S, an individual who is the majority stockholder in C, buys in New Mexico services and goods from C. C’s receipts from these transactions with S are subject to the provisions of the Gross Receipts and Compensating Tax Act.

(6) Example 5: C and S are corporations engaging in business in New Mexico. S is a wholly-owned subsidiary of C. C sells tangible personal property in New Mexico to S. C’s receipts from the transaction are subject to the provisions of the Gross Receipts and Compensating Tax Act.

(7) Example 6: X and Y are both divisions of corporation Z. X and Y are both parts of the same person, Z, and are not “related persons”. Receipts from transactions between these two divisions are activities within Z and do not constitute gross receipts.

(8) Example 7: P, an individual, operates two businesses as sole proprietorships. One of P’s businesses transfers tangible personal property to the other. Since both businesses and P are the same person, they are not “related persons” and the transaction does not constitute gross receipts.

S. Owner’s receipts from transactions with owned entity are gross receipts

(1) Except as provided in Paragraph (2) of this Subsection, [When] when a person who owns all or part of an entity has receipts from the sale of property in New Mexico to, the lease of property employed in New Mexico to or the performance of services in New Mexico for the entity, the person’s receipts are gross receipts except when the transaction may be characterized for federal income tax purposes as a contribution of capital. The

person's receipts include the actual amount of money received by the person plus the value of any additional consideration. Additional consideration includes forbearance of charges against the person's ownership interest. These gross receipts are subject to the gross receipts tax unless an exemption or deduction applies.

(2) When a partner or interest holder in an entity is allocated profits or receives a guaranteed payment or other distributions for activities undertaken as a partner on behalf of the partnership such as administrative services done solely for the benefit of the partnership or for activities for third-parties transacting business with the partnership, these receipts of the partner are not gross receipts and are not subject to the gross receipts tax. When a partner engages in business separately from the partnership any transactions of that partner with the partnership, where the partner is not acting as a partner on behalf of the partnership, are gross receipts. Indicia that a partner is not acting as a partner on behalf of the partnership may include:

(a) that the partner engages in similar transactions with third parties other than the partnership,

(b) that the allocation, payment, or distribution made by the partnership is not made under the partnership agreement,

(c) that the partner's transaction(s) with the partnership involve the sale or lease of goods or the sale of services not provided by the partnership to third parties.

~~[(2)]~~ (3) For the purposes of Subsection S of Section 3.2.1.14 NMAC, an "entity" means any business organization or association other than a sole proprietorship.

~~[(3)]~~ (3) Example: Q is a partner in a partnership. Q is entitled to 25% of the partnership's profits and losses and to bear 25% of its expenses. Q also operates a stationery store in New Mexico as a sole proprietor. Q's store sells some merchandise to the partnership for the partnership's use. The partnership pays Q the amount charged and apportions 25% of the cost to Q's ownership interest. Q's receipts from the sale are gross receipts and are subject to gross receipts tax unless an exemption or deduction applies. Same facts as above except that Q is not paid by the partnership but instead receives amounts characterized as reimbursements directly from the other partners totaling 75% of the amount charged for the merchandise. Q's ownership account is not charged any expense with respect to this transaction. Q's sole proprietorship has gross receipts from the transaction. The gross receipts equal the sum of the money received from the other partners plus the value of the amount not charged to Q's ownership account by the partnership (in this case one third of the amount received from the other partners). The deduction provided by Section 7-9-67 NMSA 1978 for refunds and allowances does not apply to this transaction.

~~[(4)]~~ (4) Example: L is a partner in a partnership. L performs services for third parties as part of L's duties as a partner and is compensated for doing so by the partnership. To the extent that such compensation may be treated as wages for federal income tax purposes, L's receipts from the partnership in the form of compensation are exempt.]

~~[(5)]~~ (4) Example: C is a corporation and S is C's wholly owned subsidiary corporation. C and S create L, a limited liability company; C and S each own ~~[50%]~~ fifty percent of L. L purchases a ~~[20%]~~ twenty percent interest in P, a limited partnership. C sells goods to P. P pays the amount charged. C has gross receipts from this transaction equal to the amount received for the goods.

[9/29/1967, 12/5/1969, 3/9/1972, 11/20/1972, 3/20/1974, 7/26/1976, 6/18/1979, 4/7/1982, 5/4/1982, 5/4/1984, 4/2/1986, 4/20/1990, 11/26/1990, 9/20/1993, 2/22/1995, 11/15/1996, 5/31/1997, 6/15/1999; 3.2.1.14 NMAC - Rn & A, 3 NMAC 2.1.14, 4/30/2001; A, 12/30/2003; A, xx/xx/2018]