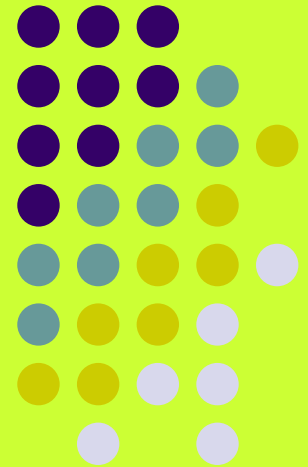


# New Mexico's Gross Receipts Tax

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A Conceptual Review

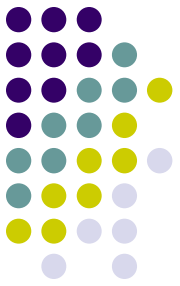


# Design Principles

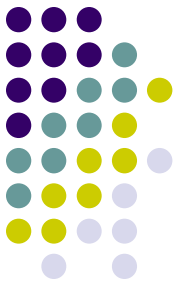


- (1) Everybody benefits, so everyone must be subject to tax
- (2) Transaction in which the good or service leaves the stream of commerce is the transaction to tax

# How Law Mirrors Principles

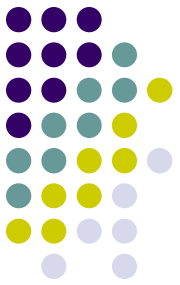


- §7-9-4:
  - “A. For the privilege of **engaging in business**, an excise tax equal to five percent of **gross receipts** is imposed on any person engaging in business in New Mexico. ...”
  - Sweeps in *all* business
  - Conveys general idea of commercial enterprise



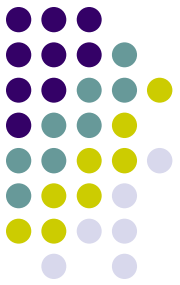
# How Law Mirrors Principles

- §7-9-3.6: “ ‘engaging in business’ means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit.”
  - Broader idea than mere commerce—too broad
  - Notion of commercial enterprise not even mentioned



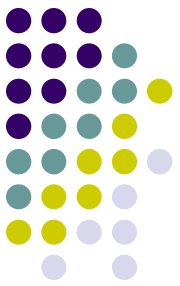
# Role of Exemptions

- Exemptions help narrow scope of “engaging in business” by excluding persons and payments not considered to be “commercial”
  - Wages
  - Governments (for the most part)
  - Non-profits, particularly 501(c)(3)s (except “unrelated business income”)



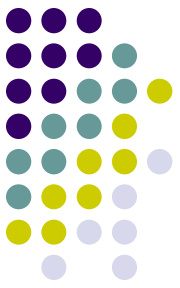
# Role of Exemptions

- Exemptions also segregate some products to be taxed under other laws
  - Vehicles
  - Boats
  - Extracted minerals
  - Motor fuels



# How Law Mirrors Principles

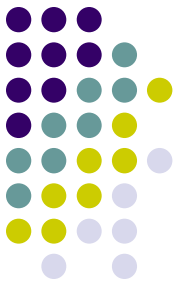
- §7-9-3.4: “ ‘gross receipts’ means the total amount of money or the value of other consideration received from *selling **property*** in New Mexico, from *leasing property employed* in New Mexico, from *selling [R&D] services performed outside New Mexico* the product of which is initially used in New Mexico or from *performing services* in New Mexico.
  - Also too broad



# How Law Mirrors Principles

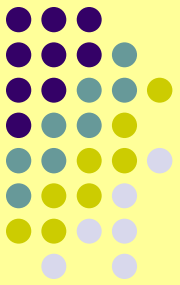
- §7-9-3J: “ ‘property’ means real property, tangible personal property, *licenses, franchises, patents, trademarks and copyrights*. Tangible personal property includes electricity and manufactured homes;”
  - Excludes insurance (taxed elsewhere)
  - Excludes deposits, loans, bonds and stocks (& derivative instruments)





# Role of Deductions

- Originally—
  - Mitigate pyramiding
  - Recognize federal restrictions
- Later—
  - Promote economic development
  - Promote social welfare



# Final points

- GRT is not & was never intended to be confined to retail transactions only
- Businesses consume lots of goods and services and so incur passed-on GRT cost
- GRT now being used to implement non-tax policies