

Cooperative Agreements Indian Affairs Committee

Presented by
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Overview

- ▶ **State–Tribal Collaboration**
- ▶ **Cooperative Agreements: GRT & Cannabis**
- ▶ **Cigarette Tax**
- ▶ **Resources Available**

Before Collaboration

- ▶ Historical US Level Perspective on State–Tribal Relationship: United State V. Kagama
- ▶ Justice Miller 1886 Quote: “They owe no allegiance to the States, and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies.”
- ▶ Mescalero Apache Tribe v. Jones (1973)
- ▶ Merrion v. Jicarilla Apache Tribe (1982)
- ▶ Ramah Navajo Board, Inc. v. Bureau of Revenue of New Mexico (1982)
- ▶ New Mexico v. Mescalero Tribe (1983)
- ▶ Cotton Petroleum v. New Mexico (1989)

Collaboration Built Over Years

- ▶ New Mexico State–Tribal Tax Model
- ▶ The 1988 Indian Gaming Regulatory Act: Tribal–State Compacts
- ▶ New Mexico and Tribal Collaboration and Cooperation going back to the 1990s

Historical Collaboration: “Tax Peace”

- ▶ Gasoline Tax: 100% Tribal Deduction
 - Special Fuels: New Mexico 100% of Tax
 - Wholesalers (Nambe & Santo Domingo: Split (60% State/40% Tribe)
- ▶ Cigarette Tax: Exemption
- ▶ Severance Tax: Deductions & Credits
- ▶ Gross Receipts Tax: Cooperative Agreement
 - Change in Facts and Law in Internet Sales: Amendments to Cooperative Agreements
- ▶ Cannabis Excise Tax: Cooperative Agreement

State–Tribal Collaboration

- ▶ Collaboration is a priority with Governor Michelle Lujan Grisham and Secretary Schardin Clarke
- ▶ Developed the TRD/Tribal Tax Work Group to work out the details of destination sourcing
- ▶ Finalized and signed 14 Cooperative Agreement Amendments
- ▶ Developed an administrative solution to compensate tribes and pueblos for revenue lost before cooperative agreement addendum

Cooperative Agreements: GRT

- ▶ Only applies to tribal lands
- ▶ Broken down into Class 1 (sale to a tribal entity) and Class 2 Receipts (sale to a non-tribal entity)
- ▶ There are differences in agreements (different than the gaming compact model)
- ▶ Traditional view builds on traditional distinction between members and non-members
- ▶ Vast Majority of Tribes and Pueblos have signed a Cooperative Agreement

Wayfair and the Internet Twist

- ▶ Historical Back Drop: “Origin–Based” Sourcing
 - State Rate: Not Good from a Local Perspective
- ▶ Destination–Based Sourcing
 - Impact: New Mexico can now tax, and collect on, more transactions
 - Destination sourcing evens the playing field between in–state and out–of–state sellers
 - Shifts more activity to be subject to gross receipts tax rather than compensating tax
 - Destination sourcing may prove to be more of a benefit to the tribal tax base than internet sales alone

Gross Receipts Sourcing

- ▶ Sourcing is affected by the type of economic activity giving rise to the receipts. Different rules for:
 - Transactions involving real property (§ 7-1-14(B))
 - Transactions involving sales of tangible personal property (“TPP”) (§ 7-1-14(C))
 - Transactions involving the lease of TPP (§ 7-1-14(D))
 - Transactions relating to franchises (§ 7-1-14(E))
 - Transactions relating to services (§ 7-1-14(F))

GRT Cooperative Agreement Amendments

- ▶ All receipts of a non-tribal entity that sells, leases or licenses goods and services over the internet that are reportable to a tribal location are considered “Class 1 Receipts”
- ▶ Guidance to utilize Class 1 Receipts
- ▶ Waiver of Administration Fees for a period of five years

Pueblos with Signed Amendments

- ▶ Acoma
- ▶ Cochiti
- ▶ Jemez
- ▶ Laguna
- ▶ Ohkay Owingeh
- ▶ Picuris
- ▶ Pojoaque
- ▶ Sandia
- ▶ San Ildefonso
- ▶ Santa Ana
- ▶ Santa Clara
- ▶ Santo Domingo
- ▶ Taos
- ▶ 19 Pueblos District

Action Follows Agreement

- ▶ System Upgrades
 - GenTax is a complete, integrated tax processing software package designed to support TRD in multiple tax programs
 - Changes made in one service update in August 2021 with rules to be made to date back to July 1, 2021
 - Changes apply to all tribes and pueblos with addendums
- ▶ Local Government Liaison
- ▶ Begin the Customization of Reports to meet PTAC Needs
- ▶ Initializing Tribal Specific FYI
- ▶ Agreement to Conduct Trainings





▶ GOVERNMENTS

- [Overview](#)
- [Local Government Liaison](#)
- [Monthly Local Government Distribution Reports \(RP-500\)](#)
- [Motor Vehicle Taxes & Fees](#)
- [Request for Tax Reports](#)
- [Gross Receipts Location Code and Tax Rate Map](#)
- [Property Tax Districts Map](#)
- [In-State / Veteran Preference Certification](#)
- [Presentations & Reports](#)



▶ TYPES OF TAXES

- [Gross Receipts Tax](#)
- [Compensating Tax](#)
- [Governmental Gross Receipts Tax](#)
- [Wage Withholding Taxes](#)
- [Non-Taxable Transaction Certificates](#)

▶ TRIBAL GOVERNMENTS

- [Overview](#)
- [Cigarette Tax Credit Stamp Listing](#)
- [Tribal Cooperative Agreements](#)
- [Information Sharing Agreements](#)
- [Tax Sharing Agreements](#)
- [Reports](#)

▶ MUNICIPAL & COUNTY GOVERNMENTS

- [Overview](#)
- [Tax Analysis, Research & Statistics](#)
- [Forming Tax Incremental Districts](#)
- [Municipal Annexations](#)
- [Enactment Date Tables](#)
- [Municipal Incorporations](#)
- [Property Tax Rebate for Personal Income Tax](#)
- [Local Option Taxes](#)
- [Confidentiality of Tax Return Information](#)

Popular Pages

- [Welcome to New Mexico Taxation & Revenue Department](#)
- [Search Unclaimed Property](#)
- [Online Services](#)
- [Forms & Publications](#)

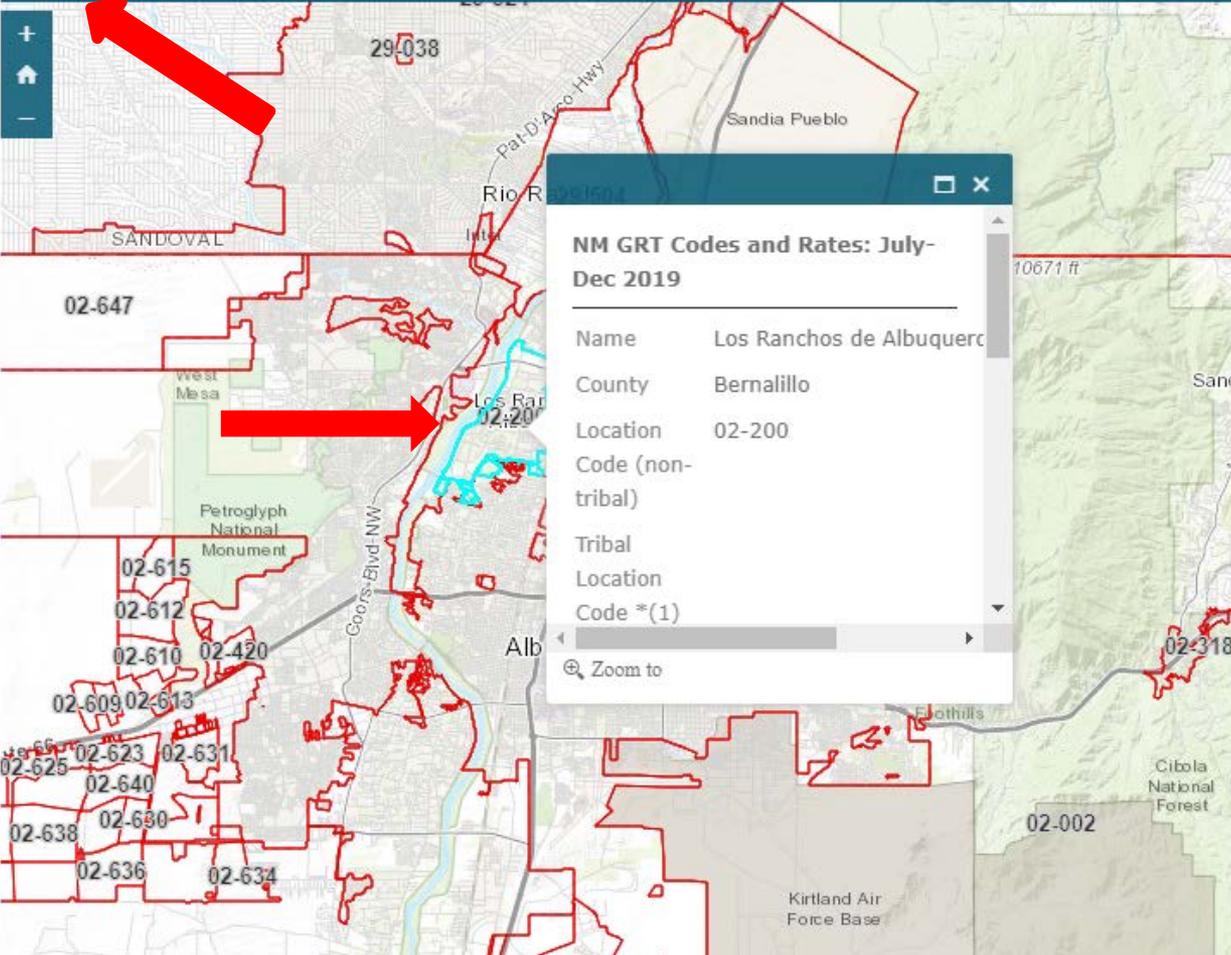
- [Online Services](#)
- [Contact Us](#)
- [Gross Receipts Tax Rates](#)
- [Gross Receipts Overview](#)

Click or tap the address that matches or click/tap the Search "magnifying glass" button.

Gross Receipts Tax Rate and Boundary Map

Gross Receipts Rates

July - December 2019



CY 20 Gross Receipts Distributions

SF Indian School	\$13,662
Pueblo of Nambe	\$154,470
Tesuque Pueblo	\$367,809
Pojoaque Pueblo	\$1,330,412
San Ildefonso Pueblo	\$207,379
19 Pueblos District	\$1,973,996
Zuni Pueblo	\$368,026
Santa Clara Pueblo	\$1,501,204
Ohkay Owingeh Pueblo	\$426,773
Taos Pueblo	\$855,652
Picuris Pueblo	\$345,103
Sandia Pueblo	\$239,755
Jicarilla Apache Nation	\$599,228
Santa Ana Pueblo	\$566,998
Cochiti Pueblo	\$72,563
Santo Domingo Pueblo	\$268,468
Laguna Pueblo	\$452,867
Acoma Pueblo	\$226,408

CY21 (To Date) Gross Receipts

Santa Fe Indian School	\$249,244
Pueblo of Nambe	\$290,771
Tesuque Pueblo	\$210,113
Pojoaque Pueblo	\$1,223,015
San Ildefonso	\$683,267
19 Pueblos	\$1,977,294
Zuni Pueblo	\$804,156
Santa Clara Pueblo	\$1,492,603
Ohkay Owingeh	\$546,851
Taos Pueblo	\$1,361,940
Picuris Pueblo	\$211,741
Sandia Pueblo	\$192,242
Jicarilla Apache Nation	\$857,414
Santa Ana Pueblo	\$668,650
Cochiti Pueblo	\$128,782
Santo Domingo Pueblo	\$339,130
Laguna Pueblo	\$622,052
Acoma Pueblo	\$598,323

Taxation of Cannabis Sales: General Rules

- ▶ What classes of sales are subject to taxation?
 - Cannabis Excise Tax
 - Only retail sales are subject to excise tax 7-42-3(A)
 - Only non-medical sales are subject to excise tax 7-42-3(C)
 - Gross Receipts Tax
 - The general rule is that all sales are subject to tax. One exception would include a deduction should apply for wholesale sales (sale for resale) 7-9-47
 - Another exception: medical sales are deductible 7-9-73.2(A)

Cannabis Cooperative Agreements

- ▶ Which Cooperative Agreement applies?
- ▶ Cannabis Excise Tax added to 9-11-12.1 Cooperative Agreements
 - Applies only to tax administered on tribal lands
 - Moneys are collected and disbursed as a fiduciary
 - Working with RLD and IAD
 - TRD is beginning to draft the first Cannabis Cooperative Agreement

Cigarette Tax

- ▶ 7-12-4 Cigarette Tax Exemption
- ▶ Definition of Exemption
- ▶ Impact on Reporting: In general, an exemption frees a tax payer from a reporting obligation. Exemptions are not reported.

Tribal Cigarette Tax: Data

- ▶ TRD does not collect tribal cigarette tax revenue data
- ▶ TRD tracks tribal cigarette stamps
 - CY16 17,760,000
 - CY17 18,060,000
 - CY18 15,915,000
 - CY19 17,179,500
 - CY20 15,795,000

Contact List

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Thank you!

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