

REVENUE STABILIZATION AND  
TAX POLICY COMMITTEE

EXEMPTIONS, DEDUCTIONS  
AND CREDITS  
Claimed against Gross Receipts and  
other Amounts

July 2012

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REVENUE STABILIZATION AND  
TAX POLICY COMMITTEE

Gross Receipts and Compensating Tax  
Act

Various Provisions

Section 7-9-4

Section 7-9-4.3

Section 7-9-7

July 2012

## GROSS RECEIPTS AND COMPENSATING TAX ACT

### Gross Receipts Tax, Compensating Tax and Governmental Gross Receipts Tax

#### IMPOSITION AND DENOMINATION

##### **7-9-4. Imposition and rate of tax; denomination as "gross receipts tax".**

A. For the privilege of engaging in business, an excise tax equal to five and one-eighth percent of gross receipts is imposed on any person engaging in business in New Mexico.

B. The tax imposed by this section shall be referred to as the "gross receipts tax".

##### **7-9-4.3. Imposition and rate of tax; denomination as "governmental gross receipts tax".**

For the privilege of engaging in certain activities by governments, there is imposed on every agency, institution, instrumentality or political subdivision of the state, except any school district and any entity licensed by the department of health that is principally engaged in providing health care services, an excise tax of five percent of governmental gross receipts. The tax imposed by this section shall be referred to as the "governmental gross receipts tax".

##### **7-9-7. Imposition and rate of tax; denomination as "compensating tax".**

A. For the privilege of using tangible property in New Mexico, there is imposed on the person using the property an excise tax equal to five and one-eighth percent of the value of tangible property that was:

(1) manufactured by the person using the property in the state;

(2) acquired as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the tangible personal property been acquired from a person with nexus with New Mexico; or

(3) acquired as the result of a transaction that was not initially subject to the compensating tax ... or the gross receipts tax but which transaction, because of the buyer's subsequent use of the property, should have been subject to the compensating tax ... or the gross receipts tax....

REVENUE STABILIZATION AND  
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Gross Receipts and Compensating Tax  
Act

EXEMPTIONS

July 2012

## EXEMPTIONS

### Gross Receipts Tax (GRT), Compensating Tax (Comp) and Governmental Gross Receipts Tax (GGRT)

Purpose		Section	Tax	Content	Comments
Preemption or in lieu of other taxes					
	1.	7-9-13	GRT	General federal preemption: receipts of U.S. or U.S. agency; of state of NM or subdivision; of tribe or on tribal land; and of a foreign nation. Not exempt are receipts from local govt. utility or municipal cable tv system	
	2.	7-9-13.2	GGRT	Taxes imposed in lieu of GRT	
	3.	7-9-13.5	GRT GGRT	Municipal event center if surcharge imposed	
	4.	7-9-17	GRT	Personal services: wages, salaries, employee compensation	
	5.	7-9-22	GRT	Motor vehicle excise tax in lieu of GRT	
	6.	7-9-22.1	GRT	Boat tax in lieu of GRT	
	7.	7-9-23	Comp	Motor vehicle excise tax in lieu of Comp tax	
	8.	7-9-23.1	Comp	Boat tax in lieu of Comp tax	
	9.	7-9-24	GRT	Premium tax in lieu of GRT on premiums of insurance companies	
	10.	7-9-25	GRT	Income tax in lieu of GRT on receipts from dividends, interest or capital gains	
	11.	7-9-26	GRT	Gasoline, special fuels and alternative fuels taxes in lieu of GRT	

	12.	7-9-33 Sub A	GRT	Oil and gas sales or processing if subject to oil and gas emergency school tax, unless not for resale, then subject to both GRT and oil and gas emergency school tax	
	13.	7-9-34 Sub A	GRT	Receipts from natural gas sales or processing if natural gas processors tax imposed; storage of natural gas, except if natural gas is not for resale then may be subject to both GRT and natural gas processors tax	
	14.	7-9-35		Receipts from sales or processing of natural resources if resources excise tax imposed	
	15.	7-9-38.1	GRT	Receipts from sale of interstate telecom services subject to the Interstate Telecommunications Gross Receipts Tax Act	
	16.	7-9-41.1	GRT GGRT	Receipts of a university from an athletic facility surcharge pursuant to the University Athletic Facility Funding Act	
Base component of GRT					
	17.	7-9-3.3	GRT	"Engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit	Does not include: third-party content provider to a web site if site of administrator is in NM or third-party provider of call center services is located in NM

	18.	7-9-7.1	Comp	Department barred from collecting Comp tax on first use of tangibles purchased out of state by NM individual that is not a business	
	19.	7-9-13.1	GRT	Services performed out of state and used in state	
	20.	7-9-14	Comp	Comp tax exemptions for U.S., state and political subdivisions	
	21.	7-9-27		Personal effects moved to NM	
Anti-pyramiding					
	22.	7-9-18	GRT GGRT	Receipts from sale of ag products: livestock, produce or other crops, poultry, hides, pelts; not dairy products	
	23.	7-9-19	GRT	Receipts from service of pasturing, feeding, training or penning livestock	
	24.	7-9-30	Comp	Use of railroad equipment, aircraft and spacecraft	
	25.	7-9-33 Sub B	GRT	Receipts from storing oil, natural gas or liquid hydrocarbons for use in operation of production unit	
	26.	7-9-34 Sub B	GRT Comp	Receipts from storing or using crude oil, natural gas or liquid hydrocarbons by refiners or processors	
	27.	7-9-36	GRT	Receipts from sale of oil, natural gas or liquified hydrocarbons used in transport of oil or gas in pipeline	

	28.	7-9-37	Comp	Use of oil, natural gas or liquified hydrocarbons in transport of oil or gas in a pipeline	
	29.	7-9-38	Comp	Use of electricity in production of electricity	
	30.	7-9-41.2	GRT	<i>Locomotive fuel</i>	Should be repealed - never implemented - superseded by §§ 7-9-110.1 through 7-9-110.3
Public good					
	31.	7-9-15	Comp	501(c)(3) organizations	
	32.	7-9-16	GRT	Nonprofit housing for elderly	
	33.	7-9-18.1	GRT	Food stamp purchases	
	34.	7-9-39	GRT	Receipts from dues and registration fees of nonprofit social, fraternal, political, trade, labor or professional organizations or business leagues	
	35.	7-9-41	GRT	Receipts of a minister from a religious organization with 501(c)(3) designation for religious services performed	
	36.	7-9-41.3	GRT	Receipts from sales by disabled street vendors	
Policy					
	37.	7-9-13.3	GRT GGRT	Isotopes: concessions, sales and other activities	Should be a vendor deduction
	38.	7-9-13.4	GGRT	Student books from state univ. book store	Deduction more appropriate?



	39.	7-9-20	GRT	Homeowners association dues	Doing business?
	40.	7-9-26.1	GRT Comp	Spaceport fuel, GRT and Comp exemptions	
	41.	7-9-28	GRT	Yard sale proceeds and lawn mowing	
	42.	7-9-29	GRT	501(c)(3) & 501(c)(6) organization income not unrelated business income	
	43.	7-9-31	GRT Comp	Armed forces - sales of tangibles or use of tangibles	
	44.	7-9-32	GRT	Oil and gas sale or leasing or property interest transfer	
	45.	7-9-40	GRT	Receipts of jockeys, horsemen, trainers from purses from NM horse racetracks; amounts retained by a horse racetrack pursuant to §60-1-10	§60-1-10 no longer exists, provisions in §60-1A-10
	46.	7-9-41.4	GRT	Receipts of referee, umpire, scorekeeper or other officiating officer at New Mexico Activities Association school events	

REVENUE STABILIZATION AND  
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Gross Receipts and Compensating Tax  
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DEDUCTIONS

July 2012

## DEDUCTIONS

### Gross Receipts Tax, Compensating Tax and Governmental Gross Receipts Tax

Purpose		Section	Amount to Which Deduction Applied	Content	Comments
Preemption or in lieu of other taxes					
	1	7-9-55	GR GGR	Receipts from transactions in interstate commerce may be deducted to the extent preempted by U.S. Constitution; receipts from transmitting messages or conversations by radio to out-of-state locations; receipts for radio or tv broadcast time when used to deliver national or regional advertisement	In-state advertising commissions not deductible; interstate commerce issues
	2	7-9-56	GR	Receipts from transporting persons or property in interstate or foreign commerce; receipts from handling, storage, drayage, packing or moving in interstate commerce, including accessorial services on same contract; receipts from providing telephone and telegraph services used by others to provide those services	Interstate commerce issues
	3	7-9-70	GR	Receipts from vehicles rented or leased for use in interstate commerce	Interstate commerce issues
	4	7-9-77.1	GR	Receipts from payments by United States for medical services	Tax cannot be passed on to end user; end user is the fed gov.;

					similar to §7-9-93
	5	7-9-89	GR	Sales to diplomats and foreign missions when treaty requires forbearance	
Base component of GRT					
	6	7-9-54	GR GGR	Receipts from sales of tangibles to U.S., NM or agencies of those govts. or to tribal governments for use on the tribe's land	Receipts that cannot be deducted: from sale of metalliferous mineral ores; construction material; inputs for metro redevelopment project; receipts from tangibles that are included in or produced by the service provided
	7	7-9-57	GR	Sale of services to an out-of-state buyer who delivers an NTTC or other evidence of place of initial use	
	8	7-9-57.1	GR	Receipts of sales of services or tangibles through a web site to a person with an out-of-state billing address	
	9	7-9-67	GR GGR	Receipts from refunds and allowances made to buyers; amounts written off the books as uncollectible	Subsequent payment of debts written off books are subject to GRT and GGRT
	10	7-9-68	GR	Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty	
	11	7-9-76.1	GR	Receipts from the resale of a mfd home that was subject to	

				the GR, Comp or MVex upon its initial sale or use in New Mexico	
	12	7-9-101	GR	Receipts from selling equipment to RETA for an electric transmission or storage facility	
	13	7-9-102	Comp	Value of equipment for an electric transmission or storage facility acquired by RETA	
	14	7-9-103	GR	Receipts from selling services to RETA for the planning, installation, repair, maintenance or operation of an electric transmission or storage facility	
Anti-pyramiding					
	15	7-9-46	GR GGR	Receipts from sale of consumables in mfg process	
	16	7-9-47	GR GGR	Receipts from selling tangible personal property or licenses if made to a person who delivers an NTTC who is reselling the tangible personal property or license in the ordinary course of business	
	17	7-9-48	GR GGR	Receipts from the resale of services	
	18	7-9-49	GR	Receipts from selling tangible personal property or licenses for leasing	Does not apply to receipts from sales of furniture or appliances for leasing, coin-operated machines or mfd homes

	19	7-9-50	GR	Receipts from leasing tangible personal property or licenses to a lessee who delivers an NTTC	Not applicable to furniture, appliances, coin-op machines or mfd homes
	20	7-9-51	GR	Receipts from selling or leasing construction material to a person engaged in construction business if the person delivers an NTTC	Must incorporate into a construction project to which GRT will apply upon completion or sale or a construction project on tribal land
	21	7-9-52	GR	Receipts from selling or leasing a construction service to a person involved in construction business who delivers an NTTC	As above, service must be performed for a construction project that becomes taxable upon completion or sale or is located on tribal land
	22	7-9-56.1	GR	Receipts from providing leased telephone lines, telecom services, internet or computer services and other services that will be used to provide internet access to a final user if the final user is subject to GRT	
	23	7-9-58	GR	Receipts from sales of feed and accessories or inputs to a person engaged regularly in farming, ranching or raising animals for hides or pelts; receipts of auctioneers of livestock or ag products	
	24	7-9-65	GR	Receipts from selling chemical agents to a mine, mill or oil company for processing ore or oil and gas in a mill, smelter or refinery	Receipts from selling explosives, blasting powder or dynamite are not deductible
	25	7-9-66.1	GR	Real estate commissions that are proportionate to the real	

				estate sold on which GRT is not due under §7-9-53	
	26	7-9-69	GR	Receipts for administrative, managerial, accounting and customer service for an affiliate at cost of the service	
	27	7-9-74	GR	Receipts from sale of inputs to manufacture jewelry	
	28	7-9-75	GR	Receipts from sale of service of combining or processing components or materials to a mfr with NTTC delivery	Mfr must have the service performed directly on the product being mfd
	29	7-9-76.2	GR	Receipts of leasing or licensing a theatrical or tv film or tape to a person engaged in the business of providing entertainment	
	30	7-9-77	Comp	50% of the value of ag implements, farm tractors, aircraft not exempted under §7-9-30 or vehicles not required to be registered may be deducted from the value on which the Comp Tax is computed; portion of the value of tangible personal property on which an allowance was granted to the buyer for a trade-in deducted from value on which Comp Tax is computed	Trade-in must be same type of tangible personal property
	31	7-9-78	Comp	Value of tangible personal property held for lease or sale in ordinary course of business	
	32	7-9-53	GR	Receipts from the sale or lease of real property and of	Does not include sale or lease of oil, natural

				mfd homes; receipts from the rental of a mfd home for at least one month; receipts attributable to lease or rental of furniture or appliances furnished with a house, leased mfd home or apartment	gas or mineral interests
	33	7-9-60	GR GGR	Receipts of selling tangibles to 501(c)(3) organizations, except for construction materials or metal ores, unless to be used to provide homeownership opportunities to low-income NM residents	
	34	7-9-61.1	GR	Receipts from the origination, making or assumption of a loan or for handling loan payments	
	35	7-9-61.2	GR	Receipts from sales to state-chartered credit unions to the extent allowed for federal credit unions	Level playing field with federal credit unions
	36	7-9-87	GR	Sales of lottery tickets	
	37	7-9-91	Comp	Value of tangible personal property removed from inventory and contributed to 501(c)(3) and governmental units	Normally receive a tax deduction for contributions
<b>Policy</b>					
	38	7-9-54.1	GR	Sale of aerospace services for resale with NTTC	Reporting not required; should be delivery
	39	7-9-54.2	GR	Receipts from launching, operating or recovering space vehicles or payloads in NM; receipts from operating	Reporting not required; should be. The deduction cannot be taken for



				a payload; receipts from operating a spacecraft; receipts from services for r&d, testing and evaluation	construction materials or construction services consumed in launching, operating or recovering operations or for r&d, testing and evaluation
	40	7-9-54.3	GR	Receipts from sales of wind generation or solar generation equipment to a government for installation of a wind or solar generation facility	Cannot be claimed in conjunction with credits from §§ 7-2-18.25, 7-2A-25 or 7-9G-2; reporting needed
	41	7-9-54.4	Comp	Value of space-related articles used in NM may be deducted in calculating Comp Tax due; value of equipment and materials used in NM for research or testing or for supporting research and testing of space-related test articles may be deducted in calculating Comp Tax due	Reporting needed
	42	7-9-56.2	GR	Receipts from hosting web sites	
	43	7-9-56.3	GR	Receipts from border trade support companies	Within 20 miles of border before July 1, 2013
	44	7-9-57.2	GR	Receipts from software development company located in NM after June 2002 outside of a metro area with greater than 50,000 population	
	45	7-9-59	GR	Receipts from warehousing, threshing, harvesting, growing, cultivating, transporting and processing	

				ag products	
	46	7-9-62	GR	50% of receipts from sale of ag implements, aircraft, farm tractors, vehicles not required to be registered if sale is to a person in the business of farming or ranching; receipts of aircraft mfr from selling aircraft, aircraft parts or aircraft services	
	47	7-9-62.1	GR	Receipts from maintaining, refurbishing, remodeling or otherwise modifying a commercial or military carrier over 10,000 pounds	
	48	7-9-63	GR	Receipts from publishing a newspaper or magazine, but not from selling advertisements; receipts from selling magazines at retail are not deductible	
	49	7-9-64	GR	Receipts from selling newspapers	Not for sales of advertising space
	50	7-9-71	GR	Portion of receipts of a seller represented by a trade-in of tangible personal property of the same type or of trade-in of a mfd home	Must be of like property, not just nonmonetary trade
	51	7-9-73	GR GGR	Receipts from sale of prosthetic devices with delivery of NTTC by medical practitioner purchaser	Could be to prevent pyramiding where GRT could be paid, but also payor doesn't include tax in negotiated payment; value of prosthetic device must be included in NTTC
	52	7-9-73.1	GR	50% of receipts of hospitals licensed by the DOH only	Is this still needed?

				after all other deductions are taken and only to taxable receipts	
	53	7-9-73.2	GR GGR	Receipts from the sale of Rx drugs, O <sub>2</sub> and O <sub>2</sub> services provided by a licensed Medicare durable medical equipment provider	
	54	7-9-76	GR	Receipts of travel agents' commissions paid by maritime transport companies, interstate airlines, railroads and passenger buses for booking, referral, reservation or ticket services	Could be an interstate commerce issue
	55	7-9-78.1	Comp	Value of equipment and parts used to enrich uranium in a uranium enrichment plant	
	56	7-9-83	GR	55% of receipts from sale of jet fuel	After June 30, 2017: 40%
	57	7-9-84	Comp	55% of value of jet fuel	After June 30, 2017: 40%
	58	7-9-85	GR	Receipts from two fundraising events a year by a 501(c)(3) org.	
	59	7-9-86	GR GGR	Receipts from selling or leasing property and performing services to and for a film production company for production costs	Film production tax credit (§7-2F-1)
	60	7-9-90	GR	Receipts from selling uranium hexafluoride and from providing the service of enriching uranium	TRD required to report annually; stated separately
	61	7-9-92	GR	Receipts from the sale of food at a retail food store not	Required to be stated separately

				otherwise exempt or deductible	
	62	7-9-93	GR	Receipts from payments by managed health care provider for Medicare part C services to a health care practitioner not otherwise deductible	GRT passed on to end user; payments are set regardless of GRT
	63	7-9-94	GR	Receipts from military transformational acquisition programs for r&d at bases	
	64	7-9-95	GR	Receipts from certain sales on tax holiday	
	65	7-9-97	GR	Receipts from sales to the state paid from funds obtained pursuant to New Mexico Mining Act or Water Quality Act	
	66	7-9-98	Comp	Value of biomass equipment and materials	
	67	7-9-99	GR	Receipts from selling engineering, architectural or construction services to a foundation or nonprofit org. in constructing a sole community provider hospital in a shortage area	
	68	7-9-100	GR	Receipts from selling construction equipment or material to a foundation or nonprofit org. for use in construction of a sole community provider hospital in a shortage area	
	69	7-9-104	GR	Receipts from nonathletic special events at NMSU	
	70	7-9-106	GR	Receipts from military construction services at Cannon and Holloman Air	

				Force bases	
	71	7-9-107	GR	Receipts from producing or staging a professional boxing, wrestling or martial arts contest	
	72	7-9-108	GR	Receipts from fees received for managing or advising a mutual fund, hedge fund or real estate investment trust	
	73	7-9-109	GR	Receipts from sale of veterinary services or supplies used in treating cattle to rancher or veterinarian	
	74	7-9-110.1	GR	Receipts from sale of locomotive fuel to a common carrier	Reporting required by §7-9-110.3
	75	7-9-110.2	Comp	Value of locomotive fuel used by a common carrier	Reporting required by §7-9-110.3
	76	7-9-111	GR	Receipts from sale of vision and hearing aids not otherwise exempt or deductible	
	77	7-9-112	GR	Receipts from the sale and installation of solar energy systems	
	78	7-9-113	GR	Receipts from selling special fuel made from vegetable oil or animal fat	
	79	7-9-114	GR Comp	Receipts from selling or leasing tangible property and services for the development and construction of an electric generating facility or recycled energy project	
	80	7-9-103.1	GR Comp	Electric conversion technology and ancillary services	

	81	7-9-103.2	GR Comp	Market exchange for electricity and ancillary services	
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Key: ag = agricultural

Comp = value used to calculate compensating tax

DOH = Department of Health

GR = gross receipts

GGR = governmental gross receipts

GRT = gross receipts tax

mfd = manufactured

mfg = manufacturing

mfr = manufacturer

MVex = motor vehicle excise tax

NMSU = New Mexico State University

NTTC = nontaxable transaction certificate

r&d = research and development

RETA = New Mexico Renewable Energy Transmission Authority

TRD = Taxation and Revenue Department

REVENUE STABILIZATION AND  
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Gross Receipts and Compensating Tax  
Act

CREDITS

July 2012

## CREDITS

### Gross Receipts Tax, Compensating Tax and Governmental Gross Receipts Tax

Purpose		Section	Tax	Content	Comments
Preemption or in lieu of other taxes					
		7-9-79	Comp	Similar tax levied by another state or political subdivision on goods bought outside New Mexico	
		7-9-79.1	GRT	Similar tax levied by another state or a political subdivision on services performed outside New Mexico	
		7-9-88.2	GRT	Similar tax levied by Navajo Nation on receipts from selling coal severed from Navajo Nation land; 75%-25% share	
Base component of GRT					
Anti-pyramiding					
Public Good					
Policy					
		7-79.2	GRT Comp	30% of purchase and 30% of installation costs of a rack operator to install biodiesel equipment	
		7-9-96	GRT GGRT	10% of receipts from selling a service for resale	
		7-9-96.1	GRT	Hospital credit in an amount equal to 3.775% of taxable gross receipts (§7-9-96.2)	



		7-9-96.2	GRT	Licensed doctor or osteopathic physician credit in an amount equal to the value of unpaid qualified health care services	
		7-9-105	GRT	An amount equal to penalty paid for incorrect reporting of food deduction or health care practitioner services prior to 2007	

Key: Comp = compensating tax  
GGRT = governmental gross receipts tax  
GRT = gross receipts tax

REVENUE STABILIZATION AND  
TAX POLICY COMMITTEE

Miscellaneous Tax Credits

MODIFIED COMBINED TAX  
LIABILITY CREDITS  
and  
OTHER TAX CREDITS  
CLAIMED AGAINST  
GROSS RECEIPTS TAX

July 2012

Modified Combined Tax Liability Credits  
and  
Other Credits Claimed Against Gross Receipts

Purpose		Sections	Tax Liabilities Against Which Credit May Be Claimed	Content	Comments
Economic Development					
	1	7-2E-1.1	MCTL, PIT, CIT	Rural Jobs Tax Credit; employer must be eligible for in-plant training funds, MCTL is GRT, Comp, Withholding and any other tax reported on CRS	Report required; transferable; carry forward 3 years
	2	7-9A-1 through 7-9A-11	GRT, Comp, Withholding	Investment Credit Act for purchase of equipment for manufacturing	Must meet employment requirements
	3	7-9F-1 through 7-9F-12	GRT, Comp or Withholding	Technology Jobs Tax Credit Act	Credit is doubled if technology business locates in rural area; recapture provision
	4	7-9G-1	All tax liabilities reported on CRS	High-Wage Jobs Tax Credit	
	5	7-9G-2	GRT, Comp, Withholding, CIT or PIT	Advanced Energy Combined Reporting Tax Credit	
	6	7-9H-1 through 7-9H-6		Research and Development Small Business Tax Credit Act	

	7	7-9I-1 through 7-9I-6	GRT, Comp, Withholding and other tax liabilities reported on CRS	Affordable Housing Tax Credit Act	
	8	7-9J-1 through 7-9J-8	GRT, Comp, Withholding and other taxes reported on CRS	Alternative Energy Product Manufacturers Tax Credit Act provides tax credit not to exceed 5% of expenditures for manufacturing equipment	5-year carry forward; nothing in the act seems to require the taxpayer to be a manufacturer of alternative energy products or alternative energy vehicles; recapture requirement; employment requirement
	9	7-9E-1 through 7-9E-11	GRT	Laboratory Partnership with Small Business Tax Credit Act	Not a MCTL credit, only GRT; has reporting requirements

