

Explanation of “HB-479 Fixes”

This draft deals with issues left over from the consolidation of several municipal and county local option gross receipts taxes accomplished by 2019’s HB-479.

Items concerning both municipal and county taxes—

(1) Although clearly it was the Legislature’s intent that any consolidated local option tax rate on the books at July 1, 2019 would continue in effect, HB-479 neglected to actually say so. This draft makes the intent explicit.

(2) In HB-479, it is unclear what authority municipal or county governing bodies have to change any revenue dedications of taxes consolidated into the municipal or county gross receipts taxes. Some of those dedications were voted upon by the electorate. The draft proposes that the local governing bodies are free to change or repeal revenue dedications by their own action unless the dedication had been ratified by the electorate, in which case any change must also be submitted to the voters.

(3) HB-479 removed the limits on the size of rate increments. While eliminating the seemingly arbitrary incremental sizes was a step forward toward endowing municipalities and counties with control over their own tax bases, a minimum size could also be useful in managing the overall gross receipts tax rate structure. A minimum of one-hundredth percent (0.01%) is suggested as granting adequate flexibility to local governments (the minimum increment in effect today is 0.0625%). It also will eventually lead to somewhat easier programming and related compliance for taxpayers.

Item concerning only county taxes—

(4) Prior to July 1, 2019, county gross receipts tax increments were imposable only on a county-wide basis. So any limit on the increments imposable necessarily applied to those imposed on a county-wide basis. Some of the rate authorizations consolidated by HB-479 into the county gross receipts tax, however, were (and are) imposable only on a county area basis. Since the structure of 7-20E-9 NMSA 1978 created by HB-479 clearly delineates between the two types of county gross receipts taxes, the limit on county-wide taxes should not be held to apply in any way to county area taxes. Yet since the term “county gross receipts tax” applies to both types, some additional wording is required to make the distinction obvious.