



***New Mexico Tax System Overview
and
General Fund Revenue Sources***

***Presented to the Revenue Stabilization and Tax
Policy Committee***

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NMTRI Principles of Good Tax Policy

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N.M. Tax Research Institute is a non-profit, non-partisan member-supported organization dedicated to advancing the following principles of good tax policy in New Mexico:

- ***Adequacy***
 - Revenues should be sufficient to fund needed services
- ***Efficiency***
 - Interference with the private economy should be minimized
- ***Equity***
 - Taxpayers should be treated fairly
- ***Simplicity***
 - Laws, regulations, forms and procedures should be as simple as possible
- ***Comprehensiveness***
 - All taxes should be considered when evaluating the system
- ***Accountability***
 - Exceptions should be rare and should be carefully evaluated and justified

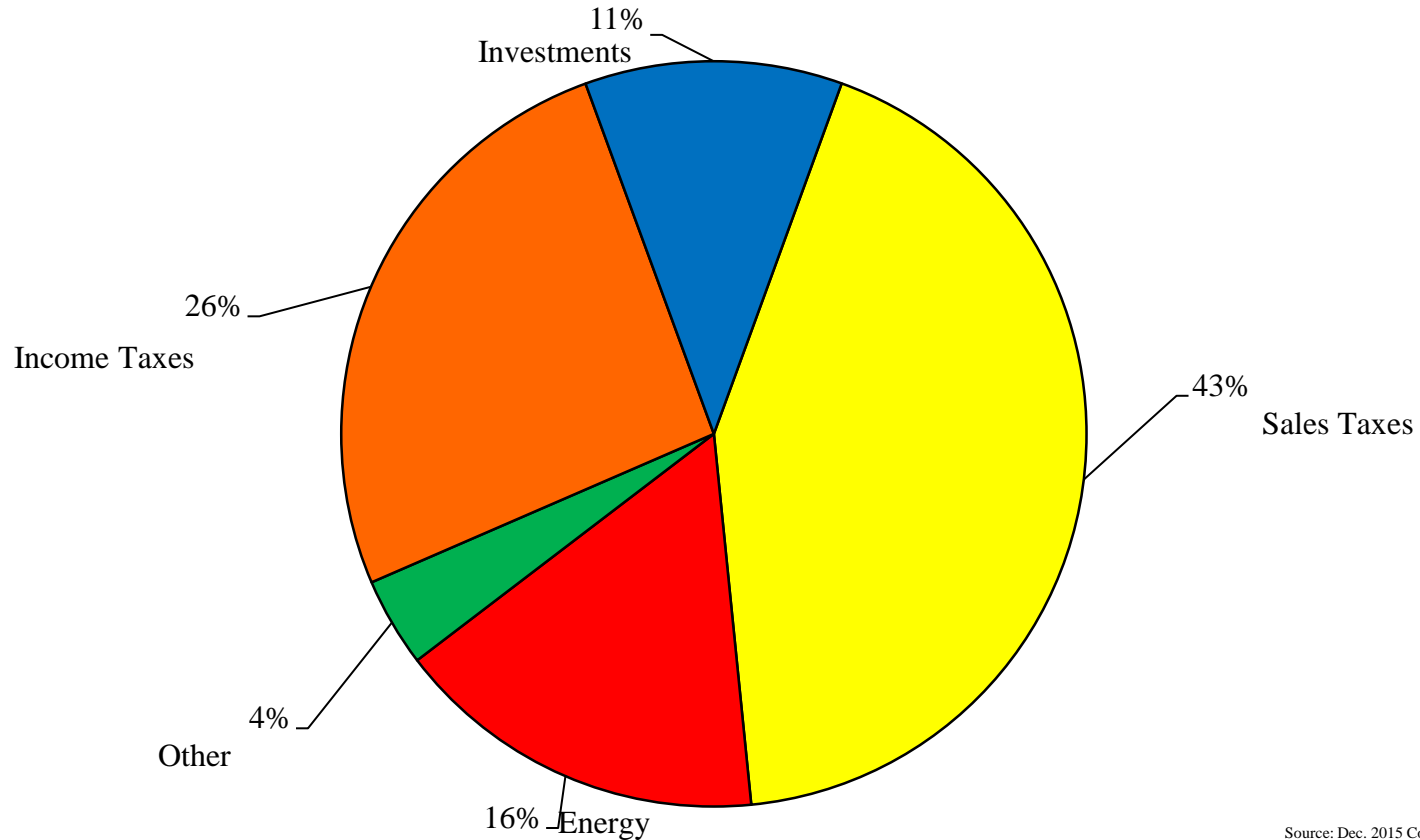
LFC Principles of Good Tax Policy

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1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

FY 2017 General Fund Revenue Est: \$6.26 Billion

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Source: Dec. 2015 Consensus Revenue Estimate

- High reliance on general sales taxes
- Low reliance on property taxes
- High reliance on severance taxes

How Do New Mexico's Business Taxes Compare?

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Tax	New Mexico	U.S. Average	NM – U.S. Aver.
	(% of GSP)	(% of GSP)	Annual Revenue
Property Tax	0.8%	1.7%	(\$600 million)
Sales Tax on Inputs	1.9%	1.1%	\$520 million
Excise	0.5%	0.6%	(\$60 million)
Corp. Income Tax	0.5%	0.5%	--
UI Tax	0.2%	0.3%	(\$70 million)
Ind. Income Tax on Bus. Income	0.1%	0.2%	(\$45 million)
Other	2.1%	0.5%	\$955 million
Total	6.0%	4.9%	\$700 million

Source: "Total state and local business taxes," Ernst & Young, Council on State Taxation, January 2009.

General Fund Revenue Sources – Gross Receipts and Compensating Tax

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- Imposed in 1935 – “Emergency School Tax”
- NM’s largest source of revenue
- Broad-based (but less broad over time)
 - Seller imposed “sales” tax
 - Includes services and intangibles
 - Allows indirect tax on federal government (see *U.S. v. NM*)
- Rate includes “local option” taxes imposed by counties, municipalities, and others (i.e. train and spaceport districts)

General Fund Revenue Sources – Gross Receipts and Compensating Tax – Cont'd

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- State's share = 3.9% (incorporated); 5.125%
- GRT rate range: 5% (services only), 5.125% (lowest other GRT rate;); 5.5* to 8.9375%* with in-state location

Seller's location determines rate

- Except: construction, real estate commissions, utilities
- **Pyramiding problem: Business-to-Business transactions; “every other sale” taxation of services**
- **“Hold-harmless” features for local government (being phased out)**

* Remainder of County – Lea; Espanola through 12/16, respectively. Source: NMTRD

General Fund Revenue Sources – Gross Receipts and Compensating Tax – Cont'd

- **Compensating Tax**
 - ✦ Companion tax (“use” tax) – imposed on purchaser
 - In New Mexico – GRT rate differs from comp tax rate
- **Municipal and county gross receipts taxes**
 - ✦ Local revenues tightly controlled by Legislature
 - ✦ Local option taxes
 - ✦ GRT provides 75% of municipal general revenue
 - ✦ Bases are identical – so locals piggyback on state base
- **Tribal taxes**
 - ✦ Tribal governments are sovereign with respect to the state. They have taxing power of their own.
 - ✦ They do not have to align their general excise tax with New Mexico’s. It is a matter of mutual convenience that they do.
 - ✦ Currently 15 tribal entities impose a gross receipts tax administered by the state under cooperative agreements.

General Fund Revenue Sources – Gross Receipts and Compensating Tax – Cont'd

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- **Compensating tax**
 - Imposed on the value of property
 - ✦ manufactured in the state by the person using it
 - ✦ acquired outside NM that would have been subject to the GRT had it been acquired in NM
 - ✦ that becomes taxable because of subsequent use of the property or service (i.e. using something acquired for resale)
 - Rate = 5.125% (5% for services)
 - Credit for tax (sales) paid to other state up to 5.125%
 - Exemptions & Deduction mirror GRT where applicable
 - Doesn't apply to individuals
 - ✦ Interstate commerce issue – some sales not taxed
 - Also funds small cities and counties assistance funds

General Fund Revenue Sources – Gross Receipts and Compensating Tax Exemptions and Deductions

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- Things that are taxed elsewhere in tax law
 - i.e. motor vehicles, insurance, gasoline
 - But not all things (i.e. cigarettes, alcohol, rental cars)
- Certain sales by and to governments and charitable organizations
- Certain sales in the chain of commerce – to reduce pyramiding
 - (direct sales for resale, some services for resale)

General Fund Revenue Sources – Gross Receipts and Compensating Tax Exemptions and Deductions

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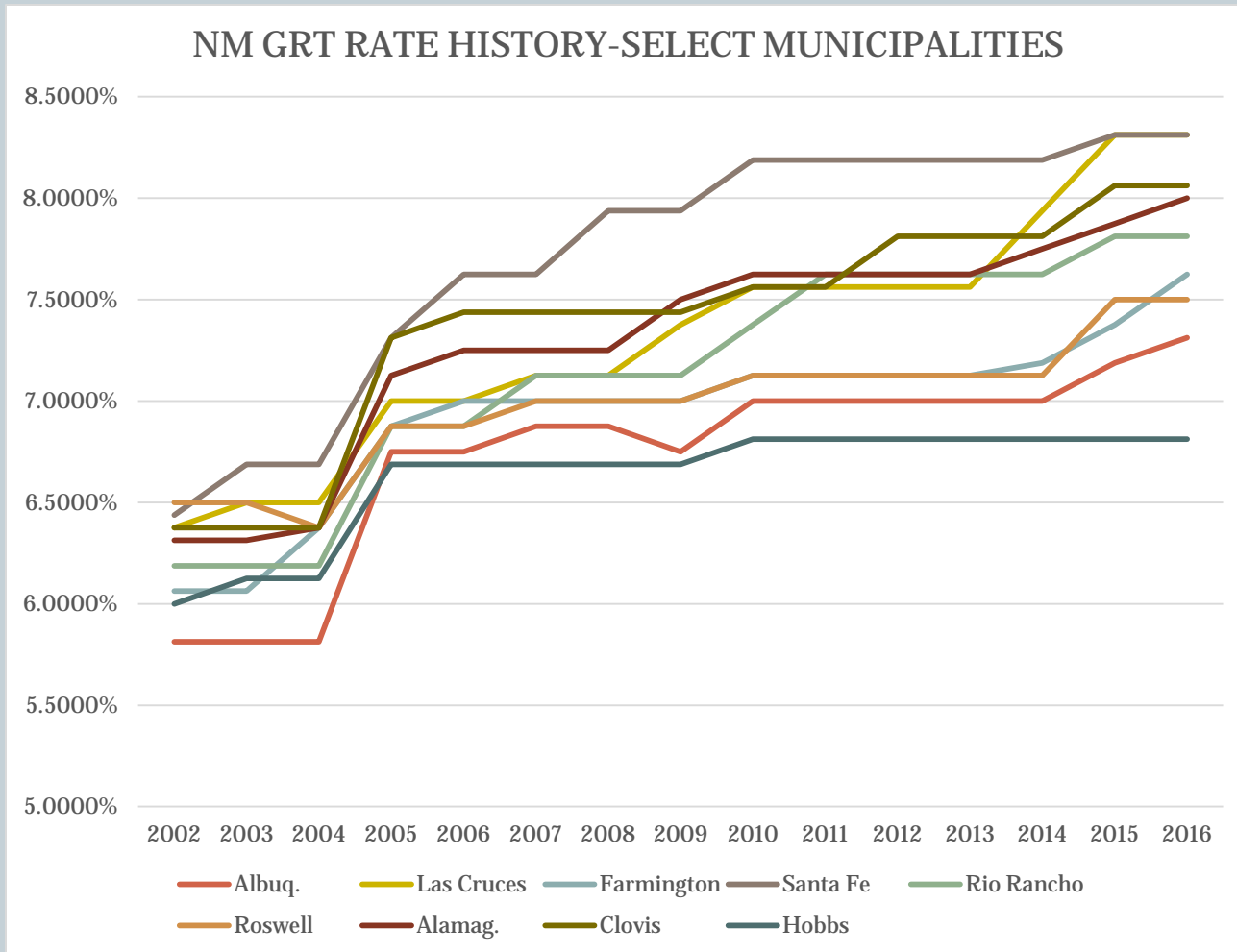
- **Other things that the legislature thinks shouldn't be taxed**
 - Traditionally - wages, dividends and interest, certain intangibles, sale/lease of real property - things that were not intended to be taxed but would otherwise fall within the broad definition of “gross receipts”
 - Recent Trend – more and more deductions for social, economic development, or other reasons such as food, medical (physicians, for-profit hospitals, medical labs, certain aircraft services, financial management fees, veterinary services or supplies for cattle, boxing/wrestling/kickboxing, certain referees, some construction ; hearing and vision aids, renewable energy, etc.

General Fund Revenue Sources – Gross Receipts and Compensating Tax – Rate Trends

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- Tax credits
 - ✦ Investment
 - ✦ Lab partnership
 - ✦ Technology jobs
 - ✦ High-wage
 - ✦ Advanced energy
 - ✦ R&D small business
 - ✦ Affordable housing
 - ✦ Alternative energy manufacturing

General Fund Revenue Sources – Gross Receipts and Compensating Tax – Rate Trends



General Fund Revenue Sources – Gross Receipts and Compensating Tax – Rate Trends

- **GRT system includes “Special” state taxes**
 - ✦ **Governmental GRT**
 - Justified by competition between governments and businesses
 - Bucks used for capital outlay projects of select local govts & state agencies
 - Could be folded into regular GRT
 - ✦ **Interstate telecommunications GRT**
 - Long-distance service was taxed under the gross receipts tax until 1992
 - This separate tax was created, mainly as a convenience to the long-distance companies
 - The FCC would not permit passing on the tax unless local rates were part of a special tax.
 - ITGRT’s rate of 4.25% determined as an average of the actual effective gross receipts tax rate.
 - ✦ **Lease vehicle GRT & surtax**
 - At the behest of auto rental companies, this 5% tax on top of regular GRT replaced the motor vehicle excise tax on the same vehicles.
 - Effectively reduced interest paid on financed vehicle purchases.
 - Tax is targeted at tourists.
 - ✦ **Telecommunications relay service surcharge**
 - Rate = 0.33% - charged on receipts from intrastate telephone services.
 - It funds TTY/TDD services.
 - It is a special excise tax that happens to be collected through the gross receipts tax system.

General Fund Revenue Sources – Personal Income Tax

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- NM imposes a personal income tax on residents, and non-residents deriving income from New Mexico sources
 - The starting point is federal adjusted gross income (AGI) followed by additions and subtractions:
 - + NM additions (e.g., interest on federally tax-exempt bonds; itemized state income tax)
 - Federal standard or itemized deductions
 - Federal personal exemption amount
 - NM low- and middle-income exemption
 - NM subtractions (e.g., interest on NM state and local bonds, capital gains)
 - NM uncompensated medical care deduction
- = NM taxable income

General Fund Revenue Sources – Personal Income Tax – Cont'd

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- Graduated rates that range from 1.7% to 4.9%.
- Tax credits and rebates may reduce tax due.
- Most credits are nonrefundable (but may be carried forward)
- Refundable rebates and credits (except the Working Families Tax Credit) are based on “Modified Gross Income” (MGI).
- Withholding and estimated payments are applied.
- Taxpayers compute their tax due or refund.

General Fund Revenue Sources – Corporate Income Tax

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- **Entities Subject to Tax**
 - Corporations
 - Other entities taxed as corporations under federal income tax
 - ✦ Certain partnerships, LLCs, Non-profits (i.e. UBI), trusts
- **Nexus**
 - To be subject to tax by New Mexico, entity must:
 - ✦ Be employed or engaged in the transaction of business in, into or from New Mexico, or
 - ✦ Derive any income from any property or employment within New Mexico
 - Must have more than “the slightest physical presence” for constitutional nexus
 - ✦ Can be established by agents

General Fund Revenue Sources – Corporate Income Tax – Cont'd

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● Taxable Income

- Taxable income as defined for federal income tax purposes, with certain additions and subtractions
- Additions:
 - ✦ Interest on non-New Mexico state and local bonds
 - ✦ Federal NOLs (3 year carryback, 20 year carryforward)
- Subtractions:
 - ✦ Interest on federal bonds and New Mexico state and local bonds subject to federal income tax
 - ✦ State NOLs (no carryback, now 20 year carryforward (was 5)
 - ✦ Dividends from foreign corporations (not combined filers, and including “gross-up”; percentage based on ownership)

General Fund Revenue Sources – Corporate Income Tax – Cont'd

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- **Reporting Methods**

- **Separate Corporate Entity (SCE)**

- ✦ Default reporting method, unless taxpayer elects combined or consolidated

- **Combined**

- ✦ Can be elected by “unitary” corporations (determined by inter-relations)
- ✦ Once elected, cannot go back to SCE without permission of TRD Secretary

- **Consolidated**

- ✦ Follows federal rules (requires 80% ownership by common parent)
- ✦ Once elected, cannot go back to combined or SCE without permission of TRD Secretary

General Fund Revenue Sources – Corporate Income Tax – Cont'd

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● Allocation and Apportionment

- Corporations with income from outside New Mexico must allocate and apportion their income to New Mexico
- NM follows Uniform Division of Income for Tax Purposes Act (UDITPA)
- “Non-business” income is “allocated” to one state (source state)
- “Business income” is “apportioned” between states by formula
- Apportionment formula uses 3- “factors” - property, payroll, and sales
- Each factor is the percentage of the New Mexico amount to the “everywhere” amount, and the three percentages are then added and divided by 3 to get the average apportionment percentage
- Manufacturers and corporate HQs (or some ops) can elect to use a single sales factor formula that is currently being phased in (which may benefit those who have property and payroll here but sell mostly outside the state).

General Fund Revenue Sources – Corporate Income Tax – Cont'd

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Tax Liability

- **Corporate income tax is imposed at three rates:**
 - 4.8% for net income of \$500,000 or less;
 - 6.4% of net income between \$500,000 and \$1,000,000; and
 - 6.6% of net income over \$1,000,000
 - ✦ Rates phasing down to 5.9% max in the second bracket in 2018
 - New Mexico corporate income tax rate will be slightly above the average of surrounding states (except CA), and close to national average
- **In NM, rates are applied to the taxpayer's unapportioned income, and that tax is then prorated based on the taxpayer's apportion/allocation percentage**
- **Credits reduce tax liability**
- **Corporate franchise tax also applies - \$50 per year per corporation**

Oil and Gas Taxes

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- Tax rates – Oil

Taxes on Oil	Net Price of Oil (\$/bbl)		
	Under \$15	\$15 to \$18	Over \$18
Oil and Gas Emergency School Tax ¹	1.58%	2.36%	3.15%
Oil and Gas Severance Tax ²	1.88%	2.81%	3.75%
Subtotal	3.46%	5.17%	6.90%
Oil and Gas Conservation Tax	0.19%	0.19%	0.19%
Production Ad Valorem Tax	1.04%	1.04%	1.04%
Production Equipment Ad Valorem Tax	0.14%	0.14%	0.14%
Total	4.83%	6.54%	8.27%

(1) 2.36% for stripper wells if taxable value of oil is between \$15 and \$18/barrel; 1.58% if less than \$15/barrel.

(2) 2.81% from stripper wells if taxable value of oil is between \$15 and \$18/barrel; 2.45% removed from well workover projects if average annual price of WTI is less than \$24/barrel; 1.88% if WTI less than \$15/barrel.

Note: Deductions allowed for state, federal and Indian royalties and trucking expenses - In FY 2008, for oil averaged 10.21%.

Oil and Gas Taxes

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- Tax rates – Natural Gas

Taxes on Natural Gas	Net Price of Natural Gas (\$/mcf)		
	Under \$1.15	\$1.15 to \$1.35	Over \$1.35
Oil and Gas Emergency School Tax ¹	2.00%	3.00%	4.00%
Oil and Gas Severance Tax ²	1.88%	2.81%	3.75%
Subtotal	3.88%	5.81%	7.75%
Oil and Gas Conservation Tax	0.19%	0.19%	0.19%
Production Ad Valorem Tax	0.88%	0.88%	0.88%
Production Equipment Ad Valorem Tax	0.15%	0.15%	0.15%
Total	5.10%	7.03%	8.97%

(1) 3% for stripper wells if taxable value is between \$1.15 and \$1.35/mcf; 2% if average annual price of WTI is less than \$24/barrel.

(2) 2.81% for stripper wells if taxable value is between \$1.15 and \$1.35/mcf; 2.45% if average annual price of WTI is less than \$24/barrel; 1.88% if taxable value is less than \$1.15.

Note: Deductions allowed for state, federal and Indian royalties and trucking expenses - In FY 2008, for natural gas averaged 19.18%.

Selective Sales Taxes – Tobacco

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- **Tobacco Taxes**

- **Cigarette**

- ✦ \$1.66 per pack of 20 cigarettes
- ✦ Tax raised from \$.21 to \$.91/pack of 20 on July 1, 2003 and again to the present rate on July 1, 2010
- ✦ Requires stamps
- ✦ Exemptions
 - U.S. or any agency thereof
 - governing body or enrolled member of any tribe for sale or use on that tribe or pueblo
 - sales prohibited by N.M. or U.S. constitution

- **Tobacco Products Tax (snuff, cigars, etc.)**

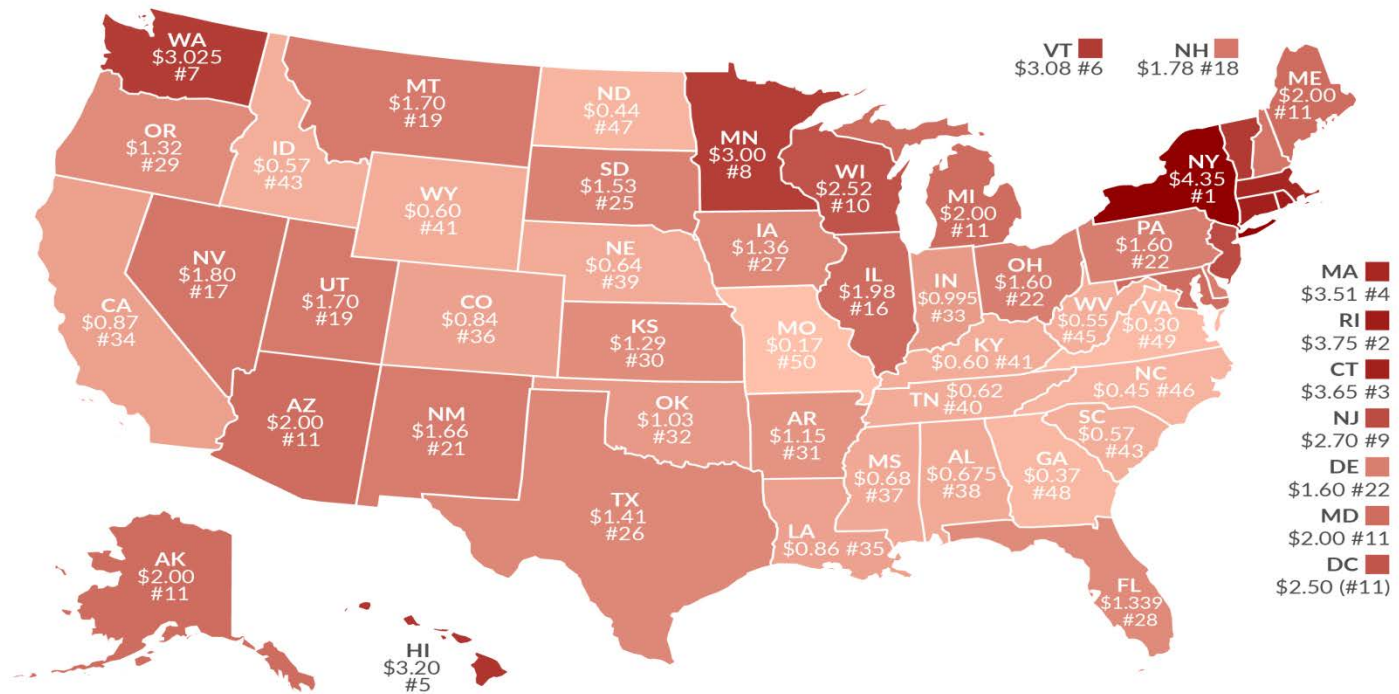
- ✦ 25% of product value
- ✦ Exemptions
 - Products sold to or by the U.S. or N.M., or any of their agents or instrumentalities
- ✦ Deductions
 - Interstate sales

Selective Sales Taxes – Tobacco

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How High Are Cigarette Taxes in Your State?

State Cigarette Excise Tax Rates as of Jan. 1, 2016 (dollars per 20-pack)



Note: Local taxes are not included and can be substantial. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included.

Source: Tax Foundation; RJ Reynolds; state revenue departments.

State Cigarette Excise Tax Rates
(dollars per 20-pack)



Selective Excise Taxes - Liquor

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- **Liquor Excise Tax**
 - Rates vary by type
 - ✦ Spirituous Liquor - \$1.60/liter
 - ✦ Beer - \$0.41/gallon
 - ✦ Wine - \$1.50/liter
 - ✦ Fortified Wine - \$1.50/liter
 - ✦ Microbrewer beer- \$0.08/liter
 - ✦ Small winer or winegrower - \$0.10/liter up to 80K liters; \$0.20/liter on amounts over 80K liters but less than 560K liters
 - ✦ Cider - \$0.41/gallon
 - Exemptions
 - ✦ Sales to or by instrumentality of the armed forces engaged in resale
 - Deductions
 - ✦ Interstate sales

Selective Sales Taxes - Insurance

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- **Insurance Taxes**
 - Administered by Insurance Division of the Public Regulation Commission (PRC)
 - Tax on Premiums
 - ✦ Tax rate – 3.003%
 - Imposed in lieu of all other state taxes except property taxes
 - Health Insurance Premiums Surtax
 - ✦ Imposed on health insurance premiums
 - ✦ Tax rate – 1.00%
 - Other issues – Retaliatory taxes
 - ✦ Many states, to include NM, have provisions impose a retaliatory tax on foreign insurers if that insurer's home state's rates are higher than their own rates.

Selective Sales Taxes - Gaming

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- **Gaming Taxes**
 - **Gaming Tax**
 - ✦ Administered by the Gaming Control Board
 - ✦ 10% of receipts from sale or lease or other transfer of game devices
 - Exception for transfer from manufacturers to distributors
 - ✦ 10% of the net take of a gaming operator that is a not-for-profit
 - ✦ 26% of the net take of other gaming operators
 - ✦ In lieu of other state and local gross receipts taxes
 - **Gaming operator that is a racetrack**
 - ✦ Administered by the Racing Commission
 - ✦ 26% of net take to purses (in addition to gaming tax)

Questions

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