

PROPOSED MODIFICATIONS TO NEW MEXICO
GROSS RECEIPTS & COMPENSATING TAX ACT

<u>Proposed Modification</u>	<u>Effect on GRCTA Tax Base</u>	<u>Committee Action</u>	<u>Tax Policy</u>
(1) Repeal moratorium on collection of compensating tax on personal purchases of tangible personal property purchased from out of state vendor. Collect under combined Personal Income/Compensating Tax Form filed annually. Provide for strict no fault penalties for failure to report or pay proper amount of tax. Institute information return reporting requirement for out of state vendors.	Expands Tax Base	Approved/No action on reporting and penalty	Moratorium violates equity principle of tax policy. Repeal places imports on equal footing with instate sales of tangible personal property
(2) Enact compensating tax on in state use by persons in New Mexico of services performed outside New Mexico. Exempt certain inter-company cost sales for affiliated companies (in a manner similar to that of current Section 7-9-69). Impose requirement that out-of-state vendors who pass on (or pay) gross receipts tax or collect compensating tax separately state the tax on its invoice for goods.	Expands Tax Base	Approved(with modifications)/ No Action on separate statement proposal	Exemption violates equity principle of tax policy
(3) Eliminate taxable subsequent sale requirement for sales of services for resale.*	Shrinks Tax Base	Approved	Repeal eliminates tax pyramiding on selected resales of services
(4) Repeal gross receipts tax exemptions (deductions) for the following selected industries and special interests:	Expands Tax Base		

* Assumes concomitant repeal of gross receipts tax exemption for 501(c)(3)'s.

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(a) Section 7-9-16 (receipts of non-profit retirement facilities);		Approved	Exemption violates equity principle of tax policy
(b) Section 7-9-18 (receipts from sale of agriculture products);		Approved as to retail sales; Sales for resale converted to deduction	Exemption for retail sales violates equity principle of tax policy
(c) Section 7-9-19B; 7-9-19C. (receipts from penning, handling or training livestock);		Approved	Exemption violates equity principle of tax policy
(d) Section 7-9-23.1 (receipts from sale of boars)		Pending	NA
(e) Section 7-9-26 (receipts from selling/use of gasoline or special fuel);		No Change	NA
(f) Section 7-9-33B. (receipts from storing crude oil, natural gas, and liquid hydrocarbons)		Pending	NA
(g) Section 7-9-36 (receipts from sale of fuel for pipeline transport);		Pending	NA
(h) Section 7-9-40A (race purses and commissions);		Approved	Exemption violates equity principle of tax policy
(i) Section 7-9-41 (receipts of ministers of tax exempt religious organizations);		Approved	Exemption violates equity principle of tax policy
(j) Section 7-9-51.1 (receipts from sale of railway roadbed materials);		Sunsets-1996	NA
(k) Section 7-9-58B. (receipts of auctioneers from sales of livestock and agricultural products)		Approved	Deduction violates equity principle of tax policy

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(l) Section 7-9-59A. (receipts from warehousing agricultural products)		Approved	Deduction violates equity principle of tax policy
(m) Section 7-9-62 (fifty percent of receipts from sale of agricultural equipment)		Approved	Deduction violates equity principle of tax policy
(n) Section 7-9-63 (receipts from publishing newspapers or magazines);		Approved	Publishers qualify for another deduction
(o) Section 7-9-64 (receipts from selling newspapers);		Approved	Deduction violates equity principle of tax policy
(p) Section 7-9-65 (receipts from selling chemicals and reagents)		Retained (with Modifications)	Deduction eliminates tax pyramiding on raw materials used in oil and gas industry
(q) Section 7-9-66.1 (commissions on sale of new construction)		Approved	Deduction violates equity principle of tax policy
(r) Section 7-9-76 (travel agents' commissions from sale of certain maritime and interstate transportation services)		Approved	Deduction violates equity principle of tax policy
(s) Section 7-9-83 (receipts from selling aviation fuel)		Approved	Deduction violates equity principle of tax policy
(5) Repeal compensating tax exemptions for the following selected industries and special interests:	Expands Tax Base		
(a) Section 7-9-30 (use of railroad equipment and commercial aircraft)		Pending	NA
(b) Section 7-9-37 (use of fuel for pipeline transportation)		Pending	NA

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(c) Section 7-9-38 (use of electricity for production and transmission of electricity)		Pending	NA
(d) Section 7-9-84 (use of aviation fuel)		Approved	Deduction violates equity principle of tax policy
(6) Repeal Section 7-9-29 gross receipts tax exemption for receipts derived from 501(c)(3) non profits engaged in business in New Mexico. Retain exemption for contributions/donations qualifying under IRC Section 170. <u>Possible Alternative:</u> Replace the exemption with a deduction for value of no cost or below cost indigent health care/subsistence provided by non profits to qualifying individuals (similar to ITC).	Expands Tax Base.	Approved/No action on Credit Alternative	Exemption violates equity principle of tax policy
(7) Repeal Section 7-9-66 deduction for commissions on wholesale sales of tangible personal property.	Expands Tax Base.	No Change	Deduction eliminates tax pyramiding on wholesale sales of tangible personal property
(8) Repeal Section 7-9-60 deduction for sales of tangible personal property to 501(c)(3)'s.	Expands Tax Base.	Approved	Deduction violates equity principle of tax policy
(9) Enact gross receipts tax deduction for the sale of fuel to produce power or fuel, such as the sale of coal or natural gas to an electric utility (or co-generation facility) to fire a coal or gas fired plant.	Shrinks Tax Base.	Pending	NA

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(10) Repeal premium tax on Health Maintenance Organizations ("HMO's"). Impose gross receipts tax on premiums received by HMO's (Brings HMO's into line with other health care providers).	Expands Tax Base.	Pending	NA
(11) Repeal Motor Vehicle Excise Tax. Impose gross receipts tax on receipts from sales of motor vehicles (Brings sales of motor vehicles in line with sales of other tangible personal property).	Expands Tax Base.	Approved	No tax policy reason for separate tax on motor vehicles; reduced rate violates equity principle of tax policy
(12) Expand Investment Tax Credit ("ITC") to cover equipment purchases for selected growth service businesses, such as software design and biotechnology research and development companies.	Shrinks Tax Base.	Pending	NA
(13) Eliminate ITC on equipment financed with Industrial Revenue Bonds ("IRB's").	Expands Tax Base.	Pending	NA
(14) Repeal the Section 7-9-56 deduction for gross receipts tax for <u>intrastate</u> portion of interstate transportation of persons and property.	Expands Tax Base.	Approved	Exemption violates equity principle of tax policy
(15) Repeal Section 7-9-56 deduction for <u>intrastate</u> portion of transportation of persons or property under single interstate contract.	Expands Tax Base.	Approved	Exemption violates equity principle of tax policy
(16) Modify Section 7-9-55 deduction for exports to provide deduction if product (a) physically delivered outside the state, and (b) initially used out of state.	Expands Tax Base.	No Change/Exports addressed in definition of New Mexico sale	NA

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<p>(17) Modify Section 7-9-55 deduction for exports to exclude retail sales from deduction. Provide statutory definition of retail sales. <u>(Example:</u> Sales by person who derives more than 50% of gross receipts from retail sales of tangible personal property to individuals.) Apply test on a combined entity basis.</p>	Expands Tax Base.	No Action	NA
<p>(18) Expand (or clarify availability of) Section 7-9-57 deduction for exported services for gross receipts tax derived from various types of other services which <u>do not</u> produce a "product". <u>(Example:</u> Mutual fund management companies providing management services to mutual funds, substantially all of whose shareholders are domiciled out of state.)</p>	Shrinks Tax Base.	Pending	NA
<p>(19) Enact NTTC "savings clause" pursuant to which distributors/subcontractors who have failed to obtain (or otherwise are unable to produce at audit) an appropriate NTTC to document an intermediate deduction, may still claim the deduction by establishing by a preponderance of the evidence that the transaction otherwise qualifies (without regard to the NTTC requirement). Require Taxation and Revenue Department to print requirements for deduction on each type of NTTC.</p>	Shrinks Tax Base.	Approved(with modifications)	Eliminates procedural tax trap for taxpayers

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(20) Enact compensating tax on in state use by individuals of selected entertainment services (such as satellite television or on line computer services delivered from outside the state by an out of state vendor). Collect under a combined Personal Income/Compensating Tax Form filed annually. Provide for strict no fault penalties for failure to report or pay proper amount of compensating tax. Institute information reporting requirement for out of state vendors.	Expands Tax Base.	Approved(with modifications)/ No Action on reporting or penalty proposal	Exemption violates equity principle of tax policy
(21) Repeal Section 7-9-62 50% gross receipts tax deduction for receipts from sale of certain off road vehicles.	Expands Tax Base.	Approved	Deduction violates equity principle of tax policy
(22) Repeal Section 7-9-68 deduction for receipts from furnishing goods or services to fulfill warranty obligations.	Expands Tax Base.	No Change	NA
(23) Repeal Section 7-9-77 50% compensating tax deduction for certain off road vehicles.	Expands Tax Base	Approved	Deduction violates equity principle of tax policy
(24) Impose compensating tax on use of transportation equipment in New Mexico. Enact apportionment provisions, pursuant to which use in more than one state may be apportioned among the states for compensating tax purposes. (Example: Apportion tax based on prior year's New Mexico UDITPA percentage).	Expands Tax Base.	Pending	NA

<u>Proposed Modification</u>	<u>Effect on Tax Base</u>	<u>Committee Action</u>	<u>Tax Policy</u>
(25) Repeal Section 7-9-73.1 deduction for fifty percent of receipts of "for profit" hospitals.	Expands Tax Base.	Approved	Deduction violates equity principle of tax policy

BCR/PTSC/GRCTA/P-mods