

OTHER SUBSTANTIVE ISSUES

Section by Section Description.

Section 1 -- 7-9-3	This clarifies that fence-building is a type of construction, overruling a contrary decision by the New Mexico Court of Appeals in 1972. <i>Cardinal Fencing v. Bureau of Revenue</i> , 84 N.M. 314, 502 P.2d 1004. Also changes definition of gross receipts to state directly that gross receipts includes income from granting a license to use property in New Mexico. This change puts the taxation of intangible property (which is generally licensed) and tangible personal property (which is generally leased) on the same basis—both are taxed based on where they are used, not on where the transaction takes place. The Court of Appeals recently held that the state intended to tax receipts from the licensing of intangible property in the state because to read the statute otherwise would allow taxpayers to escape taxation merely by driving across state lines to execute a contract. This change makes explicit the statutory basis for the court's reading of prior legislative intent. <i>Sonic Industries, Inc. v. Taxation and Revenue Department</i> , No. 20,676 (July 2000), <i>Cet. Granted</i> , September, 2000.
Section 2 – 7-9-10	Changes statute on collection duties for use tax. The new standard is that collection duties fall only on taxpayers engaging in business in the state. This removes enumerated standards for what constituted “activities” sufficient to require collection duties in favor of general standard of “engaging in business”, mainly because of the force of U.S. Supreme Court decisions.
Section 3 -- 7-9-14	Cleans up language on exemption for compensating tax to make clear that Indian government exemption is limited to instances where property is used only on that same tribal government's land and not on other reservations, pueblos or nations.
Section 4 – 7-9-44	Adds “series of events” to the social organization gross receipts deductions and adds “civic” to list of organizations eligible for the limited deduction for social organizations.
Section 5 – 7-9-44	Provides a little more leverage for the Department when an organization erroneously issues a nontaxable transaction certificate to a seller or lessor. Under most circumstances, this conveys a promise to pay gross receipts or compensating tax when the goods are resold or used. Under the particularly situation where compensating tax is not due on the use, but the buyer erroneously issues an NTTC, the Secretary may suspend the taxpayer's right to issue any NTTCs for a period of one year.
Section 6 – 7-9-45	Another slight restatement of the general principle that a taxpayer may only deduct the same receipts once. In a slight change, it is no longer unlawful to report and deduct receipts that are exempt.
Section 7 – 7-9-47	Slightly expands type 2 NTTCs to include sub-leasing of tangible property. All is benign if the state gets one bite of the apple.
Section 8 – 7-9-54.1	Technical cleanup to remove phase-in language. The deduction is fully applicable.
Section 9 – 7-9-58	Stylistic change for clarity.
Section 10 – 7-9-65	Stylistic change for clarity.
Section 11	Effective Date: July 1, 2001