

Overview of Gross Receipts Taxes

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What are the Gross Receipts Tax and Compensating Tax?

- The Gross Receipts Tax (GRT) is a tax on the receipts of persons engaging in business in New Mexico.
 - “Persons” can be individuals or companies of any type.
 - “Engaging in business” has a special meaning: Section 7-9-3.3 NMSA.
 - “Gross receipts” are defined by Section 7-9-3.5 NMSA.
 - Gross receipts tax is similar to a sales tax.
- The Compensating Tax complements the GRT, and is imposed on the purchaser of the goods or services in most situations where the GRT does not apply.
 - Compensating tax is similar to a use tax.
 - Affects far fewer transactions.
 - Compensating tax is hard to enforce.

State and Local GRT and Compensating Tax

- The state imposes GRT. The current rate is 4.875%.
- Local governments, including Counties, can impose their own GRTs. These are referred to as “County Local Option Gross Receipts Taxes”.
 - The available County Local Option GRTs are set out in Sections 7-20E-1 through 7-20E-29 NMSA.
 - Most County Local Option GRTs can be imposed by vote of the County Commission; but some require voter approval.
 - Revenues from some County Local Option GRTs must be dedicated to specific uses or projects.
- Significant changes to County Local Option GRTs were made in 2019.
 - Some special GRTs were consolidated with the general County Local Option GRT.
 - General County Local Option GRT rates were capped.
 - Counties were permitted to impose County Local Option Compensating Taxes for the first time: Section 7-20E-9.1 NMSA.
- New County Local Option GRTs and Compensating Taxes can take effect twice a year, on January 1 and July 1.

Administration of County Local Option taxes

- The Taxation and Revenue Department collects all GRTs and Compensating Taxes, including County Local Option GRTs and Compensating Taxes: Section 7-20E-8 NMSA.
- GRT is due from taxpayers on or before the 25th day of the month following the month in which the taxes were collected.
 - Taxes are the responsibility of the sellers but are usually separately stated and collected from the purchaser. But they always remain the responsibility of the seller.
 - The seller does not “own” the taxes collected; they must be paid to the Taxation and Revenue Department.
- The Taxation and Revenue Department then transfers the revenues it collects to the Counties: Section 7-1-6.13 NMSA.
 - The distribution to the Counties takes place by end of the month following collection: Section 7-1-6.1 NMSA. But the Department starts the process on the 11th day and strives to complete the distributions as quickly as possible.
 - So, for example, a business will pay the GRT it collects on its receipts for January by February 25, and the Department will distribute the revenues to the Counties on or before March 31.

Sourcing

- “Sourcing” is a tax concept that determines which local government is assigned the benefit of revenues.
- Sourcing rules are contained in Section 7-1-14 NMSA.
- New Mexico, like most states, uses “destination sourcing”. That means that most receipts are sourced to the location where a product is delivered.
 - This applies to tangible personal property, and to many products of a service.
 - However, for some services the receipts will be sourced the place of business of the taxpayer – this is called “origin-based sourcing”.
 - The taxpayer designates the source of the receipts on its tax return, using location codes provided by the Taxation and Revenue Department.

Adjustments

- Distributions to local governments are subject to adjustment: Section 7-1-6.15 NMSA.
 - For example, if a taxpayer files an amended return either changing its receipts, or changes the destination code for sourcing purposes, then an adjustment to distributions may need to be made.
- The rules regarding adjustments are complicated, but may result in reduced or increased distributions, depending on the type of adjustment.
 - Counties will be notified of adjustments. Such notification may occur concurrently with the distribution of the adjusted receipts. Section 7-1-6.15(D) NMSA.

Thank you!

Questions?

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