
FYI-200

New Mexico
Taxation and Revenue Department

FOR YOUR INFORMATION

Tax Information/Policy Office ♦ P.O. Box 630 ♦ Santa Fe, New Mexico 87504-0630

YOUR BUSINESS LOCATION AND THE APPROPRIATE TAX RATE

This FYI discusses how to determine your place of business for reporting at the correct location and rate, as well as, the importance of reporting at the correct location. Unlike most states, New Mexico does not impose a sales tax based on the point of delivery of the goods sold. Instead, New Mexico imposes a tax on the gross receipts of the seller or lessor, the person engaging in business. The business location of the seller or lessor determines the rate of the Gross Receipts Tax (GRT).

NOTE: During the 2019 legislative session, House Bill 6 was passed by the New Mexico Legislature and signed into law by Governor Michelle Lujan Grisham. Starting July 1, 2019, if a business has had \$100,000 in taxable gross receipts from sales, leases and licenses of tangible personal property, sales of licenses and sales of services and licenses for use of real property sourced to New Mexico in the prior year they are considered to be engaging in business and gross receipts tax is due. If that business has no physical locations in New Mexico they will report gross receipts tax at the out-of-state rate of 5.125%.

Starting July 1, 2021, New Mexico will be imposing the gross receipts tax based on the location that the tangible personal property is delivered to except as otherwise stated in statute or regulation.

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This information is as accurate as possible at the time of publication. Subsequent legislation, new state rulings and court decisions may affect its accuracy. For the latest information, please check the Taxation and Revenue Department's web site at www.tax.newmexico.gov.

HOW THE GROSS RECEIPTS TAX SYSTEM WORKS

New Mexico's gross receipts tax system is a joint effort of the state and its individual counties and municipalities. The state sets a gross receipts tax rate (currently 5.125%). To the state rate, counties and municipalities may add various local option gross receipts taxes. The total rate in an unincorporated area may include levies by the state and the county. In cities, the rate may include levies by the state, county and municipal governments.

The Taxation and Revenue Department (Department) collects state gross receipts tax, local option gross receipts taxes and related taxes from businesses. It then distributes proportionate shares to municipalities and counties based on state law. This money is used to fund essential services in the local jurisdiction such as police, fire protection, hospitals, health care facilities, and waste management. This is why it is important that every business enter their location code and rate correctly in relation to their place of business when completing the Form CRS-1 and paying the gross receipts tax. Gross receipts tax is a major source of revenue for most counties and municipalities. Correct reporting of your place of business is vital for local governments to have dependable sources of revenue.

REPORTING REQUIREMENTS

The gross receipts tax and local option gross receipts taxes are reported and paid on Form CRS-1 included in the CRS-1 Filer's Kit or online at <http://www.tax.newmexico.gov/Online-Services/default.aspx>. On the Form CRS-1, report your business location(s) in Column A, special codes in Column B, your business location code(s) in Column C, total gross receipts in Column D, deductible receipts in Column E, taxable gross receipts in Column F and the gross receipts tax rate in effect at your business location(s) in Column G.

The Department updates and distributes the CRS-1 Filer's Kit twice yearly to registered combined reporting system (CRS) taxpayers who file a paper return. The latest gross receipts tax location codes and rates appear in the gross receipts tax rate schedule in your CRS-1 filers kit or online on the Department's web page at: <http://www.tax.newmexico.gov/gross-receipts-tax-historic-rates.aspx>. The combined gross receipts tax rate can change on January 1 and July 1 of each year, so it is important to check the gross receipts tax rate schedule for new rates.

Following is a guideline for determining your place of business. Your reporting location may differ based on your business location and the type of business you conduct. It would be beneficial to use these guidelines and the *Gross Receipts Tax Rate Schedule* simultaneously.

DETERMINING YOUR BUSINESS REPORTING LOCATION

BASED ON THE GEOGRAPHICAL LOCATION OF YOUR BUSINESS

You have multiple physical locations in New Mexico

Your business reporting location is at each physical location you have a business. Use the corresponding gross receipts tax rates and location codes to report the receipts of each physical location.

For places of business outside a municipality, but not on municipally owned land, use the "Remainder of County" rate and location code. Contact your local municipal or county zoning office if you are not sure whether you are within the municipal or county limits.

Note: In all cases, if you have more than one store, office, warehouse, or showroom within the same location code boundaries, consolidate the activities from all these places under that location code on the same line for the Form CRS-1. For example, if you have two stores and one warehouse in the Albuquerque location code boundaries, report the gross receipts from all three physical locations in Albuquerque on a single line of the Form CRS-1 using the location code and tax rate for Albuquerque.

You are located on municipally owned land outside city boundaries

Your business reporting location is that of the municipally owned land as identified on the *Gross Receipts Tax Rate Schedule*. Use the corresponding gross receipts tax rate and location.

Your client provides space for your business or your employees

You establish a business location at the client's facility when your business occupies the space for six consecutive months or more, your client expects you or your employees to be available at that location at prescribed times, and you perform, manage or coordinate critical elements of your service from the client's location per Regulation 3.1.4.13(G)(1) NMAC. In this instance you will use the location code and rate of your client's business for the receipts collected at that location.

Regulation 3.1.4.13(G)(2) NMAC sets out explicit indicia for client-provided space, only three of which need to be present in order to require reporting at the client-provided space. Those indicia include: 1) the provider of the service has assigned employees to the client's location as a condition of employment; 2) telephone is assigned for exclusive use by the service provider; 3) the space has been designated for the use of the service provider; 4) the service provider is identified by business name on a sign located in or adjacent to the provided space; 5) the client or other persons can expect to communicate, either in person or by telephone, with the service provider or employees or representatives of the service provider at the space provided by the client; and 6) the contract between the client and the service provider requires the client to provide space to the service provider.

You are out-of-state, but you have one or more New Mexico location(s)

Your business reporting locations are at each New Mexico location where you have a business -- that is, a store, office, warehouse or showroom, or the New Mexico location of your resident sales personnel. Use the corresponding gross receipts tax rates and location codes for receipts from sales in New Mexico.

If you also do business in New Mexico from your out-of-state location, report those gross receipts using the special location code 88-888 for out-of-state business location or 77-777 for research and development services with a rate of 5.125%.

You are out-of-state with no New Mexico locations

Your business location is out-of-state and you had \$100,000 in taxable gross receipts from sales in New Mexico in the last calendar year, use the special location code 88-888 with a rate of 5.125%. If your business is research and development services and you have nexus (sufficient connection) to New Mexico, use the special location code 77-777 with a rate of 5.125%.

Note: In all cases, if you have more than one store, office, warehouse, or showroom in one location code boundary, consolidate the activities from all these places under one location code; for example, if you have two stores and one warehouse in Albuquerque, report the gross receipts from all three locations on a single line of the Form CRS-1 using the location code and tax rate for Albuquerque.

Note: Starting July 1, 2021, the location code that the tangible personal property is delivered to is where the gross receipts tax will be reported. For example, a business with no New Mexico locations but with a reporting requirement ships a computer to a customer located in Albuquerque, New Mexico. The business will have to report those gross receipts with the location code and rate for Albuquerque, New Mexico.

You are located out-of-state with no New Mexico locations, but you have service technicians* or nonresident sales personnel in New Mexico, or you use your own vehicles for deliveries into New Mexico

Your business location is out-of-state. Use the out-of-state location code of 88-888.

*A "service technician" is an employee whose primary work responsibility is the repair, servicing and maintenance of the products sold or serviced by the employer and whose sales activities are at most incidental.

You are located out-of-state with no New Mexico locations, but you have New Mexico resident sales personnel

Your business location is the residence(s) of your sales personnel. Use the corresponding gross receipts tax rate(s) and location code(s).

BASED ON YOUR TYPE OF BUSINESS

You are an itinerant peddler

An "itinerant peddler" is a person who sells from a non-reserved location chosen for temporary periods on a first-come, first-served basis. An itinerant peddler does no advertising or soliciting, has no one employed to sell, and is not employed as a salesperson. If you are an itinerant peddler, your business reporting location is your residence. Use the corresponding gross receipts tax rate and location code.

Note: If you pay a fee to occupy a particular location or space for a determined period of time, or if you advertise in advance that you will be at a particular location for a specified period of time, you are not an itinerant peddler. You have a temporary business location instead. Please see the category immediately below.

You have a temporary business location

You have a temporary business location if you pay a fee to occupy a particular location or space for a determined period of time, **OR** if you advertise in advance that you will be at a particular location for a specified period of time and you sell property or perform a service at that location. Use that temporary business location as your business reporting location for the receipts made at that location. Use the corresponding gross receipts tax rate and location code.

Note: This applies for most special events, festivals or fairs. For more information see Regulation 3.1.4.13(E)(6) NMAC.

You sell telephone services

Your business location is the location of the telephone. For cellular telephone service ("commercial mobile radio service"), your business location is the customer's billing address or, if the billing address is a post office box or mail drop, the location is the residence/business facility address. Use the corresponding gross receipts tax rates and location codes. If you are subject to the interstate telecommunications gross receipts tax, please see publication **FYI-403**, *Interstate Telecommunications*.

You sell utilities (other than telephone services)

Each municipality, and the portion of each county outside a municipality, in which customers of a utility are located constitute separate places of business. The physical location of the customer's premises or other place to which the utility's product or service is delivered to the customer is a business location of the utility. Generally, the location of the meter used to record the amount of service consumed is the location where the product or service is delivered and would be a business location for the utility.

You provide general services

Your business location is your physical business location regardless of where you perform the services. Use the corresponding gross receipts tax rate and location code.

Note: Starting July 1, 2021, professional services will be reported to the seller's physical business location. All other services, that are not construction services, providing services with respect to the selling of real estate, or professional services will need to be reported at the location where the service is performed.

You provide construction services

Your business reporting location is the location of each construction site. Use the corresponding gross receipts tax rates and location codes. All phases of a construction project are considered a service, including materials that become components of the completed project. If you are not sure of the construction site's location -- especially with state or federal installations -- contact the project owner or the local municipal or county zoning office.

You sell real estate

Your business reporting location is the location of the property sold, not the location of the real estate company's office. Use the corresponding gross receipts tax rate and location code. If you arrange for the lease of real property, use the gross receipts tax rate and location code for your business site, not the rate and code for the location of the leased property.

You lease tangible personal property for use in New Mexico

Your business location is your businesses physical location regardless of where in New Mexico the items are actually used. Use the corresponding gross receipts tax rate and location code.

Note: Starting July 1, 2021, the location code that the tangible personal property is delivered to is where the gross receipts tax will be reported. For example, a business in Santa Fe leases a piece of equipment and delivers it to Albuquerque. The corresponding receipts will be reported using the Albuquerque gross receipts tax rate and location.

You provide transportation services

Your reporting location is your business site, but adjustments to the local option tax rates may apply. See publication **FYI-290**, *Information for the Transportation Industry*.

Note: Starting July 1, 2021, services provided by a transportation network company are to be reported at the location that the customer enters the vehicle for the prearranged ride.

You transact business with tribal non-members on tribal territory

Use the tribal location of the sale or delivery rather than your business location if that tribe, nation or pueblo has entered into a cooperative agreement with New Mexico. Evidence that a tribe, nation or pueblo had entered into a cooperative agreement is a separate location listing on the *Gross Receipts Tax Rate Schedule*. If you are transacting business with a tribe, nation or pueblo that has not entered into a cooperative agreement with New Mexico, use the gross receipts tax rate and location code for your normal business location.

TAXPAYER INFORMATION

The Department offers a variety of taxpayer information. Some information is free and other information must be purchased.

General Information. FYIs and Bulletins present general information with a minimum of technical language. All FYIs and Bulletins are free and available through all local tax offices, the Tax Information and Policy Office, and on the Internet. The Taxation and Revenue Department's Internet address is:

<http://www.tax.newmexico.gov>

Regulations. The Department establishes regulations to interpret and exemplify the various tax acts it administers. The Taxation and Revenue Department regulation book is available from the New Mexico Compilation Commission on a prepaid basis. The Compilation Commission also has a compact disk of all statutes and regulations. Specific regulations are also available at the State Records Center or on its web page at www.nmcpr.state.nm.us/nmac.

Order regulation books directly from:

New Mexico Compilation Commission

<http://www.nmcompcomm.us/index.html>

Rulings. Rulings signed by the Secretary and approved by the Attorney General are written statements that apply to one or a small number of taxpayers. A taxpayer may request a ruling (at no charge) to clarify its tax liability or responsibility under specific circumstances. The request for a ruling must be in writing, include accurate taxpayer identification and the details about the taxpayer's situation, and be addressed to the Secretary of the Taxation and Revenue Department at P.O. Box 630, Santa Fe, NM 87504-0630. The taxpayer's representative, such as an accountant or attorney, may request a ruling on behalf of the taxpayer but must disclose the name of the taxpayer. While the department is not required to issue a ruling when requested to do so, every request is carefully considered.

The department will not issue a ruling to a taxpayer who is undergoing an audit, who has an outstanding assessment, or who is involved in a protest or litigation with the department over the subject matter of the request. The Secretary may modify or withdraw any previously issued ruling and is required to withdraw or modify any ruling when subsequent legislation, regulations, final court decisions or other rulings invalidate a ruling or portions of a ruling. Taxation and Revenue Department rulings are compiled and available on the department's web page free of charge at <http://www.tax.newmexico.gov/rulings.aspx>.

Public Decisions & Orders. All public decisions and orders issued by the hearing officers since July 1994 are compiled and available on the department's web page free of charge at

<http://www.tax.newmexico.gov/tax-decisions-orders.aspx>.

FOR FURTHER ASSISTANCE

Local tax offices can provide full service and information about the Department's taxes, programs, and forms as well as specific information about your filing situation.

ALBUQUERQUE

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P.O. Box 8485
Albuquerque, NM 87198-8485

LAS CRUCES

Taxation and Revenue Department
2540 S. El Paseo Bldg. #2
P.O. Box 607
Las Cruces, NM 88004-0607

SANTA FE

Taxation and Revenue Department
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ROSWELL

Taxation and Revenue Department
400 Pennsylvania Ave., Suite 200
P.O. Box 1557
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FARMINGTON

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3501 E. Main St., Suite N
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This publication provides general information. It does not constitute a regulation, ruling, or decision issued by the Secretary of the New Mexico Taxation and Revenue Department. The Department is legally bound only by a regulation or a ruling [7-1-60, New Mexico Statutes Annotated, 1978]. In the event of a conflict between FYI and statute, regulation, case law or policy, the information in FYIs is overridden by statutes, regulations and case law. Taxpayers and preparers are responsible for being aware of New Mexico tax laws and rules. Consult the Department directly if you have questions or concerns about information provided in this FYI.