
FYI-403

New Mexico
Taxation and Revenue Department

FOR YOUR INFORMATION

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

INTERSTATE TELECOMMUNICATIONS

This FYI summarizes the provisions of the Interstate Telecommunications Gross Receipts Tax Act, with special attention paid to report requirements.

This publication is accurate as of its date of publication. Taxpayers should be aware that subsequent legislation, regulations, court decisions, revenue rulings, notices and announcements could affect the accuracy of its contents. Please contact your district office if in doubt.

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INTRODUCTION

The Interstate Telecommunications Gross Receipts Tax (ITGRT) is imposed upon interstate telecommunications gross receipts of any person engaging in interstate telecommunications business in New Mexico. Interstate telecommunications gross receipts are defined as the total amount of money or the value of other consideration received from providing:

- 1) interstate telecommunication services (other than mobile telecommunications services) that originate or terminate in New Mexico and are charged to a telephone number or account in New Mexico, and
- 2) mobile telecommunication services that originate in one state and terminate in any location outside that state, to a customer with a place of primary use in New Mexico (Section 7-9C-2(E) NMSA 1978).

Interstate telecommunications service is defined as voice, message, or data transmission by wire, cable, fiber optic, laser, microwave, radio, satellite, or other similar transmission mode.

The tax applies to total consideration received -- excluding cash discounts allowed and taken and any interstate telecommunications gross receipts taxes payable for the report period.

You may also exclude gross receipts or sales taxes imposed by Indian tribes or pueblos, provided:

- 1) the Secretary of the Interior has approved the tax if so required, and 2) the gross receipts or sales tax imposed by the Indian tribes or pueblos reciprocally excludes state or local sales or gross receipts taxes from its base. The tax rate is 4.25%. This rate applies to the taxable receipts described above. No local option gross receipts taxes may be imposed on interstate telecommunications services.

EXEMPTIONS

Two types of interstate telecommunications gross receipts are exempt from the Interstate Telecommunications Gross Receipts Tax Act:

- 1) Receipts reported as interstate telecommunications gross receipts are exempt from "regular" gross receipts** (Section 7-9-38.1 NMSA 1978).

This exemption avoids double taxation of the same receipts.

- 2) Receipts from selling interstate telecommunications services to an Indian tribe or member are exempt** (Regulation 3.21.5.8 NMAC).

Federal law prohibits New Mexico from taxing interstate telecommunications services when provided for an Indian nation, tribe or pueblo or its members on the tribe's own territory. This occurs when:

- a) calls begin or end at an instrument on the tribe's territory, and
- b) the service is billed to the Indian tribe or a member thereof.

DEDUCTIONS

- 1) Receipts from providing wide-area telephone service (WATS) in New Mexico**

are deductible (Section 7-9C-6 NMSA 1978).

Wide-area telephone service is a telephone service that entitles a subscriber, upon payment of a flat rate dependent on the duration of all such calls and the geographic area selected by the subscriber, to either make or receive a large volume of telephonic communications to or from persons in specified geographical areas. "Communications" include facsimile transmissions, telephone calls, video transmissions, etc.

Note: Receipts from providing WATS services to hotels and motels are not receipts from providing interstate telecommunication services. Hotels' and motels' receipts from selling WATS services to guests are taxable as regular gross receipts.

2) "Private communications services" are deductible (Section 7-9C-6 NMSA 1978).

Private communications services are dedicated services for a single customer that entitle the customer to exclusive or priority use of a communications channel or group of channels between a location within New Mexico and one or more specified locations outside New Mexico. This deduction is intended as an incentive for telemarketing operations to locate and expand in New Mexico.

3) Receipts from providing interstate telecommunications services in this state for resale are deductible (Section 7-9C-7 NMSA 1978).

Receipts from providing interstate telecommunications service in New Mexico to be used by other persons in supplying telephone or telegraph services to a final user are deductible from interstate telecommunications gross receipts if sold to a person who is subject to the interstate telecommunications gross receipts tax, "regular" gross receipts tax, or the compensating tax.

This deduction applies only to interstate telecommunications companies subject to regulation by the federal Interstate Commerce Commission (or similar body) or the New Mexico Public Regulation Commission.

4) Receipts of a corporation from providing interstate telecommunications services to itself or to an affiliated corporation are deductible (Section 7-9C-8 NMSA 1978).

Corporations are affiliated when one corporation directly or indirectly owns stock representing at least 80% of the total voting power and value of the other corporation.

5) Refunds and allowances or uncollectible debts are deductible from interstate telecommunications gross receipts tax (Section 7-9C-9 NMSA 1978).

Refunds and allowances made to buyers of interstate telecommunications services and amounts written off the books as uncollectible debts by a person reporting interstate telecommunications gross receipts tax on an accrual basis are deductible from ITGRT.

NOTE: If accounts receivable previously reported as uncollectible are subsequently collected, the recovered receipts shall be included in interstate telecommunications gross receipts in the month of collection.

CREDIT

To prevent multi-jurisdictional taxation of interstate telecommunications services, any taxpayer, upon proof that the taxpayer has paid a sales, use, gross receipts or similar tax on the same interstate telecommunications gross receipts subject to the ITGRT, shall be allowed a credit against the ITGRT to the extent of the amount of sales, use, gross receipts or similar tax properly due and paid to another state (Section 7-9C-10 NMSA 1978).

Do not claim a credit for taxes paid to another jurisdiction by adding the taxes paid to the deductions column. Report deductions without regard to credit for taxes paid to another state. Attach a separate sheet to calculate and claim the credit or taxes paid to another state.

GENERAL REPORTING REQUIREMENTS

The overview immediately below describes how to report interstate telecommunications gross receipts, and in some cases, "regular" gross receipts. Following it are detailed instructions on filling out the CRS-1 report forms.

LOCATION

The Secretary has determined that although, interstate telecommunications services are not subject to municipal or county local option taxes, companies must report their gross receipts from interstate telecommunications calls based on the billing (service) location. This location code information is used to distribute 1.35% of the reported interstate telecommunications gross receipts to municipalities.

For mobile telecommunications services (cell/wireless phones), the business location is the place of primary use, usually the customer's billing address. Use the residence or business facility address if the billing address is a post office box or mail drop.

Do not use the out-of-state location code (88-888) to report interstate telecommunications gross receipts. To determine or confirm a billing location and location code, refer to the gross receipts tax rate schedule in your CRS-1 Filer's Kit or contact one of the local tax offices (see FOR FURTHER ASSISTANCE, page 9).

FORMS

Use the CRS-1 (Combined Reporting System) Form to report your ITGRT in addition to your "regular" gross receipts, withholding, and compensating taxes. CRS-1 Forms are included in the CRS-1 Filer's Kit mailed twice yearly to businesses registered to do business in New Mexico.

If you need more space than the CRS-1 Form provides, use the extended CRS-1 Long Form located in your CRS-1 Filer's Kit. You may photocopy the CRS-1 Long Form or obtain additional copies from your local tax office.

ELECTRONIC FILING AND PAYMENT ON CRS-NET

CRS taxpayers, including those paying interstate telecommunications gross receipts tax, may choose to file and pay on the Internet by going to the TRD home page at

www.tax.newmexico.gov. Click on “online services” and follow the prompts. First-time filers may have to take an extra, one-time verification step when filing online.

Your CRS-1 Form, whether over the Internet or via mail, is due to the department on or before the 25th of the month following the month in which the taxable activity took place.

SPECIAL PAYMENT METHODS

New Mexico requires taxpayers with an average CRS tax liability of \$25,000 or more per month for the prior year, to report their CRS taxes using a special payment method. CRS taxes include gross receipts, withholding, and compensating taxes. The ITGRT liability is included in the gross receipts tax portion to determine whether a special payment method is required. For information on special payment methods see publication FYI-401: SPECIAL PAYMENT METHODS.

HOW TO REPORT "REGULAR" GROSS RECEIPTS AND INTERSTATE TELECOMMUNICATIONS GROSS RECEIPTS

Some telecommunications companies have gross receipts from intrastate as well as interstate telecommunications. Gross receipts from intrastate service (i.e., all telecommunications that both originate and terminate within New Mexico), are subject to “regular” gross receipts tax, just like any other general service performed in New Mexico.

1) First report any “regular” gross receipts by location in the first rows of the CRS-1 Form or CRS-1 Long Form, following the instructions in the CRS-1 Filer’s Kit.

Do not combine “regular” intrastate gross receipts with interstate telecommunications gross receipts even if the location codes for both are identical. List each separately. Use as many lines as needed.

2) Next list all interstate telecommunications gross receipts on the CRS-1 Form or CRS-1 Long Form. Use one line for each location from which, or to which, you sold interstate telecommunications service.

New Mexico has 33 counties and more than 100 municipalities, so it’s possible you may have to use as many lines as there are local governments.

3) For every interstate telecommunications gross receipt you list, write “T” in Column B of the CRS-1 Form or CRS-1 Long Form. This “T” code alerts the department computer to the special 4.25% rate for telecommunications gross receipts. **Do not make an entry in Column B unless you are required to use the special rate code “T.”**

NOTE TO ALL CRS TAXPAYERS: All lines must contain entries in Columns A (the name of the municipality or county) and C (location code) *even if they are identical to entries on other lines*. Do not make an entry in Column B unless you are required to use a special rate code as discussed above.

4) **Column A:** Enter the name of the municipality or county from which or to which telecommunication services were provided, and in which the service address (for billing purposes) is located.

5) **Column B:** Enter the special rate code "T" for receipts from *interstate* telecommunications. Leave Column B blank for *intrastate* telecommunications ("regular") gross receipts.

6) **Column C:** Enter in Column C the location code that corresponds to each county or municipality in Column A.

7) **Column D:** Enter the total reportable receipts from interstate or intrastate telecommunications services in, or accrued to, each location.

Reportable sales include all deductions and receipts taxable under ITGRT. Reportable sales do **not** include the amount of tax on interstate telecommunications gross receipts or "regular" gross receipts, the amount of tax on sales or gross receipts imposed by other states, or the amount of tax on sales or gross receipts collected by an Indian nation, tribe or pueblo.

8) **Column E:** Enter the dollar amount of all deductions. As detailed in an earlier section, deductions include sales of WATS and private communications services, receipts from providing interstate telecommunications services for resale, receipts from interstate telecommunication sales to an affiliated corporation, and refunds, allowances or uncollectible debts.

9) **Column F:** Subtract the Column E amount (total deductions) from the Column D amount (total gross receipts) and enter the result (taxable gross receipts) in Column F. This amount can never be less than zero.

10) **Column G:**

- Enter 4.25% for **interstate telecommunications** gross receipts. The Department's computer system will check this rate against the "T" code in Column B. If the "T" code is missing or you entered the incorrect rate, your return will be rejected and you may incur penalty and interest for incorrect filing, or
- Enter the tax rate for that particular locality for **"regular" gross receipts for intrastate telecommunications**. The rate should correspond to the location code in Column C.

11) **Column H:** Multiply Column G (4.25% for interstate telecommunications; local rate for regular intrastate telecommunications gross receipts) by the Column F amount (taxable gross receipts). Enter the result (gross receipts tax) in Column H.

12) Add everything in Columns D, E and H and enter the results at the bottom of each column. If you are using the CRS-1 Long Form with supplemental pages, be sure to add everything from the supplemental pages to the CRS-1 Long Form.

If your filing contains both "regular" and interstate telecommunications gross receipts, combine both types in your single total at the bottom of each column.

13) **Line 1:** Carry the total(s) to **Line 1** (total gross receipts tax) on the CRS-1 Form, following the instructions in the CRS-1 Filer's Kit.

14) **Line 2:** Enter the compensating tax amount, following the instructions in the CRS-1 Filer's Kit.

15) **Line 3:** Enter the withholding tax amount, following the instructions in the CRS-1 Filer's Kit.

16) **Line 4:** Add lines 1, 2, and 3 and enter the sum (total tax due) on line 4.

17) **Lines 5, 6:** There is no penalty or interest if you file the tax return and pay the tax by the due date, but if you file the tax return or pay the tax owed after the due date, you owe penalty and interest.

Compute the penalty at 2% of the amount entered in line 4 for each month or portion of a month for which the return or payment is late. The minimum penalty is \$5; the maximum penalty is 20% of the tax due or reported. Enter the result (penalty) on line 5.

Compute the interest daily at .0109%¹ of the amount entered in Line 4 for each day the payment is late. New Mexico statutes mandate no minimum or maximum amount of interest. Enter the result (interest) on Line 6.

If you file or pay after the due date and do not compute and pay penalty and/or interest, the department will compute the proper amount and send you a bill.

18) **Line 7:** Add Lines 4, 5, and 6 and enter the sum (total amount due). Pay this amount.

As previously mentioned, New Mexico requires a special payment method to be used if you owe an average of \$25,000 or more in CRS taxes per month. If you pay by ACH Deposit or Federal Wire Transfer, check the appropriate box on the bottom of the CRS-1 Form and supply the date information.

19) Enter the tax-reporting period where indicated. The tax-reporting period is the activity or sales period. For example, sales during January 2010 would be reported as tax period 1-1-10 through 1-31-10. Provide this information on CRS-1 Long Forms and any supplemental pages that you submit as well.

20) Enter your CRS ID Number on the CRS-1 Form and CRS-1 Long Form and any supplemental pages. Sign and date the return, or have your designated agent sign and date the return.

¹ This daily interest rate is based on the IRC rate for the third quarter of 2010. For current quarterly and daily rates visit our website at www.tax.newmexico.gov.

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 www.tax.newmexico.gov. Click on "tax library."

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 www.tax.newmexico.gov. Click on "tax library."

FOR FURTHER ASSISTANCE

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

ALBUQUERQUE (505) 841-6200

Taxation and Revenue Department
5301 Central NE
P.O. Box 8485
Albuquerque, NM 87198-8485

LAS CRUCES (575) 524-6225

Taxation and Revenue Department
2540 S. El Paseo Building #2
P.O. Box 607
Las Cruces, NM 88001-0607

SANTA FE (505) 827-0951

Taxation and Revenue Department
*Visitors go to 2968 Rodeo Park Drive West**
Manuel Lujan Sr. Bldg.
1200 S. St. Francis Dr.
P.O. Box 5374
Santa Fe, NM 87502-5374

ROSWELL (575) 624-6065

Taxation and Revenue Department
400 N. Pennsylvania Ave., Suite 200
P.O. Box 1557
Roswell, NM 88202-1557

FARMINGTON (505) 325-5049

Taxation and Revenue Department
3501 E. Main St., Suite N
P.O. Box 479
Farmington, NM 87499-0479

Main Switchboard (Santa Fe): (505) 827-0700

* The physical office location in Santa Fe has relocated during a renovation of the existing building. While the renovation is in progress, special delivery packages shipped through Fed Ex and UPS should continue to be sent to the 1200 South St. Francis Drive address and mailing through USPS should be sent to the P.O. Box 5374 address.

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.