FYI-403

FOR YOUR INFORMATION

New Mexico
Taxation and Revenue Department

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.

CONTENTS

Introduction ..... page 2
Exemptions ..... page 2
Deductions ..... page 2
Credit ..... page 4
General Reporting Requirements ..... page 4
Taxpayer Information ..... page 6
For Further Assistance ..... page 7

INTRODUCTION

The Interstate Telecommunications Gross Receipts Tax (ITG) 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 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 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, 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 ITG.

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 ITG, shall be allowed a credit against the ITG 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, gross receipts.

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.

To determine or confirm a billing location and location code, refer to the Gross Receipts Tax Rate schedule in your GRT Filer's Kit or contact one of the local tax offices (see FOR FURTHER ASSISTANCE, page 7.

FORMS

Effective July 1, 2021 for filing periods July 1 through July 31, 2021 and ongoing use Form TRD-41410 to report your Interstate telecommunications gross receipts tax. In addition, use Form TRD-41413 to report your gross receipts tax, TRD-41411 to report governmental gross receipts, TRD-41408 to report leaved vehicle gross receipts, TRD-41409 to report your non-wage withholding tax, TRD-41414 to report your wage withholding tax, and TRD-41412 to report your compensating tax.

For filing periods prior to July 1, 2021, you will file original and amended returns on theCRS-1 (Combined Reporting System) Form to report your interstate telecommunication gross receipts in addition to your gross receipts, withholding, and compensating taxes. The CRS-1 Form are available on the Department’s Forms & Publications web page at: https://www.tax.newmexico.gov/forms-publications/. Effective July 1, 2021 the GRT Filer’s Kit will replace the CRS-1 Filer's Kit. The GRT Filer’s Kit will be mailed twice yearly to businesses registered to do business in New Mexico who have requested the packet by updating their

Business Registration (ACD-31015) or by notifying the Department by phone or by written request..
Note: The CRS-1 short form, the voucher sized form will no longer be accepted. Taxpayers should use the CRS-1 form with a revision date of July 1, 2021.

ELECTRONIC FILING AND PAYMENT

Business Tax taxpayers, including those paying interstate telecommunications gross receipts tax, may choose to file and pay electronically by using the Departments free online service, Taxpayer Access Point (TAP). You can locate the link by going to the Department's web site at https://www.tax.newmexico.gov/online-services/ or you can visit the web page directly at https://tax.state.nm.us. First-time filers may have to take an extra, one-time verification step when filing online.

Your TRD-41410, whether submitted online 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 business tax liability of $25,000 or more per month for the prior year, to report their business taxes using a special payment method. Business taxes include all gross receipts, all withholding, and compensating tax accounts. For information on special payment methods see publication FYI-401: Special Payment Methods.

TAXPAYER INFORMATION

General Information. FYIs and Bulletins present general information with minimum technical language. All FYIs and Bulletins are free of charge and available through all local tax offices and on the Taxation and Revenue Department's website at https://www.tax.newmexico.gov/forms-publications/.

Regulations. The Department establishes regulations to interpret and exemplify the various tax acts it administers. Current statutes with regulations can be located on the Departments website for free at https://www.tax.newmexico.gov/all-nm-taxes/statutes-with-regulations/ . Specific regulations are also available at the State Records Center and Archives or on its web page at http://www.srca.nm.gov/.

The Taxation and Revenue Department regulation book is available for purchase from the New Mexico Compilation Commission. Order regulation books directly from the New Mexico Compilation Commission at https://www.nmcompcomm.us/.

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 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 Department's rulings are compiled and available free of charge at https://www.tax.newmexico.gov/all-nm-taxes/rulings/.

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 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.

Public Decisions & Orders. All public decisions and orders issued since July 1994 are compiled and available on the Department's web page free of charge at https://www.tax.newmexico.gov/all-nm-taxes/tax-decisions-orders/.

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.

FOR FURTHER ASSISTANCE

Tax District Field Offices and the Department's call center can provide full service and general information about the Department's taxes, taxpayer access point, programs, classes, and forms. Information specific to your filing situation, payment plans and delinquent accounts.

TAX DISTRICT FIELD OFFICES

ALBUQUERQUE
10500 Copper Pointe Avenue NE
Albuquerque, NM 87123

SANTA FE
Manuel Lujan Sr. Bldg.
1200 S. St. Francis Dr.
Santa Fe, NM 87504

FARMINGTON
3501 E. Main St., Suite N
Farmington, NM 87499

LAS CRUCES
2540 S. El Paseo Bldg. #2
Las Cruces, NM 88004

ROSWELL
400 Pennsylvania Ave., Suite 200
Roswell, NM 8820

For forms and instructions visit the Department's web site at http://www.tax.newmexico.gov

Call Center Number:
1-866-285-2996

If faxing something to a tax district field office, please fax to:

Call Center Fax Number:
1-505-841-6327

If mailing information to a tax district field office, please mail to:

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

For additional contact information please visit the Department's website at https://www.tax.newmexico.gov/contact-us/.

This information is as accurate as possible as of the date specified on the publication. Subsequent legislation, new state regulations and case law may affect its accuracy. For the latest information please check the Taxation and Revenue Department's web site at www.tax.newmexico.gov.

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