

Sales/Use/Indirect:

New Mexico: New and Amended Rules Provide that Digital Advertising is Subject to Gross Receipts Taxation

New Rule 3.2.213.13 – Receipts of a Digital Platform that Displays Digital Advertising; Amended Rule 3.1.4.13 – Reporting According to Business Location; Amended Rule 3.2.1.12 – Engaging in Business, N.M. Tax. & Rev. Dept. (12/19/23); *Press Release: Department finalizes new Gross Receipts Tax regulations*, N.M. Tax. & Rev. Dept. (12/20/23). The New Mexico Taxation and Revenue Department (Department) issued new and amended rules reflecting that receipts from certain digital advertising services are subject to New Mexico’s gross receipts tax (GRT). Specifically, according to the Department, the GRT rules are amended to clarify the taxation of digital advertising, the correct reporting location to use when reporting these gross receipts and any deductions that may be available. The rules detail which receipts from the sale of digital advertising services are subject to the GRT and which are deductible, and then explain the sourcing rules for such receipts.

URL: https://www.tax.newmexico.gov/all-nm-taxes/wp-content/uploads/sites/9/2023/10/Mailing-Notice_RegulationHearing_11.09.2023.pdf

URL: <https://www.tax.newmexico.gov/wp-content/uploads/2023/12/Regulations-finalized-release.pdf>

Regarding sourcing methodology, the new rule states that “receipts of a provider of a digital platform that displays digital advertising services, whose digital platform may be accessed or viewed within New Mexico, from the sale of advertising services to advertisers within and without New Mexico are subject to the gross receipts tax.” Accordingly, in an accompanying press release, the Department explains that “a company selling digital advertising services intended to be viewed only in New Mexico should use the company’s location for purposes of reporting its gross receipts and related tax.” The rules also clarify “engaging in business” for those taxpayers that only have economic presence in New Mexico. Please contact us with any questions.

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