

Sales/Use/Indirect:

New Mexico: Ruling Addresses Gross Receipts Taxability and Sourcing of Marketplace Provider's Various Fees

Ruling No. 401-24-03, N.M. Tax'n and Rev. Dept. (12/11/24). In a ruling involving a marketplace provider that offers a wide range of products and services to marketplace sellers and buyers, the New Mexico Taxation and Revenue Department (Department) addresses several New Mexico gross receipts tax (GRT) issues, including:

URL: <https://klvg4oyd4j.execute-api.us-west-2.amazonaws.com/prod/PublicFiles/34821a9573ca43e7b06dfad20f5183fd/f741e0bf-7118-4b51-b97a-2950fb9f8b0d/401-24-3.pdf>

- Whether select charges for the shipment of customer return packages constitute a deductible transportation service under state law;
- Whether various fees that were taxed as part of the associated sale of tangible personal property are subject to the GRT;
- Whether certain marketplace seller fees must be sourced to the location of the seller based on the address that the marketplace provider maintains in its books and records;
- Whether certain seller fees that are deducted from the associated sale of tangible personal property are subject to the GRT; and
- Whether certain warehouse fees constitute deductible receipts from storage and shipping.

Among other topics in its analysis, the Department explains that fees a marketplace provider receives as compensation for listing an item or service sold by a marketplace seller are considered receipts from providing a service and therefore are included in the gross receipts reported by the marketplace provider. However, “if the fee is a percentage of the receipts, or a flat fee, received from the buyer, this amount would already be included in the reported gross receipts received from the buyer and would therefore not need to be reported again by the marketplace provider.” In this respect, “only when the fee is charged as a separate transaction in addition to the sale would the marketplace provider report the receipts as a separate transaction.” With respect to sourcing certain marketplace seller fees, the ruling concludes that they must be sourced to the location of the performance of such services – in this case, to the location of the marketplace seller based on the address the marketplace provider maintains in its books and records. Please contact us with any questions.

— Scott Schiefelbein (Portland)
Managing Director
Deloitte Tax LLP
sschiefelbein@deloitte.com

Metisse Lutz (Denver)
Senior Manager
Deloitte Tax LLP
mlutz@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.