TAXATION & REVENUE
NEW MEXICO

DIVISIONS

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Michelle Lujan Grisham
Governor

Stephanie Schardin Clarke
Cabinet Secretary

Office of the Secretary

July 28, 2026

NOTICE OF PROPOSED RULEMAKING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to repeal and replace the following rules pertaining to the Taxation and Revenue Department Act, as authorized by Section 6-5-19 NMSA 1978. The State Records Center and Archives Administrative Law Division is requiring a repeal and replace of the entire regulation part Title 3: Taxation, Chapter 1: Tax Administration, Part 2: Promulgation of Regulations in order to make this amendment, citing Regulation Subsection C of 1.24.11.9 NMAC.

Summary of Proposed Changes:
The New Mexico Taxation and Revenue Department proposes to repeal and replace the following rules:

Taxation and Revenue Department Act:

Title 3: Taxation, Chapter 1: Tax Administration, Part 2: Promulgation of Regulations
3.1.2.1 – Issuing Agency
3.1.2.2 – Scope
3.1.2.3 – Statutory Authority
3.1.2.4 – Duration
3.1.2.5 – Effective Date
3.1.2.6 – Objective
3.1.2.7 – Definitions: [Reserved]
Section 9-11-6.2 NMSA 1978
3.1.2.8 – Rulings General
3.1.2.9 – Hearing For Proposed Regulations
Section 9-11-12.1 NMSA 1978
3.1.2.10 – Cooperative Agreement; Rate Changes; Effective Date
3.1.2.11 – Secretary May Designate Reporting Requirements Of Some Receipts

Technical Information:
No technical or scientific information was consulted in drafting these proposed rule changes.

Purpose of Proposed Rule:
The proposed rules are being amended and enacted to align the regulations with the passage of House Bill 291 in the 2026 legislative session that amended Section 9-11-12.1 NMSA 1978. This legislative and regulation change aligns the submittal of any ordinance of a tribe imposing, amending or repealing a tax administered by the Taxation and Revenue Department to the same due dates and requirements for local governments. Ordinances are required to have an effective date of July 1, or January 1 if the governor declares a state of emergency or if there is an unforeseen occurrence that would cause hardship for the tribe.

The regulations pertaining to Department rulings are updated to reflect current statute and Department processes.

Notice of Public Hearing:
A public hearing will be held on the proposed rule changes on Thursday, August 27, 2026, from 1PM to 2PM at the 3rd floor in the Montoya Building, 1100 South St. Francis Drive, Santa Fe, New Mexico 87504. The hearing will be recorded, and oral comments can be made during the public hearing. Written comments can be submitted as outlined at the end of this notice.

Virtual meeting access is available using Microsoft Teams:

https://teams.microsoft.com/meet/231637413498714?p=t9nSpGsSs4G4gt3Zyr
Meeting ID: 231 637 413 498 714
Passcode: sC9a2Fc7
Dial in by phone 1-505-312-4308
Conference ID: 972 727 80#

The rule proposals were placed on file in the Office of the Secretary on July 13, 2026. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about September 22, 2026.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact the Tax Information and Policy Office at policy.office@tax.nm.gov. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Copies of the proposed rules:
Are located at: https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/ or are available upon request by contacting the Tax Policy Office at policy.office@tax.nm.gov.

Notice of Acceptance of Written Public Comment:
Written comments on the proposals can be submitted by email to policy.office@tax.nm.gov or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or by 5PM on Thursday, August 27, 2026.

All written comments received by the agency will be posted on https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/ no more than three business days following receipt to allow for public review.

Reviewed for legal sufficiency:

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7/16/2026

Donnita "Dee" Wald, Chief Legal Counsel
Interim Tax Policy Director
NM Taxation and Revenue Department

Signed by:
Stephanie Schardin 7/16/2026
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Stephanie Schardin Clarke
Cabinet Secretary
NM Taxation and Revenue Department

The regulations below are required to be repealed and replaced by SRCA. However, for ease of review, they have been drafted as an amendment to the rule.

TITLE 3: TAXATION

CHAPTER 1: TAX ADMINISTRATION
PART 2: PROMULGATION OF REGULATIONS

3.1.2.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[4/15/1997; 3.1.2.1 NMAC - Rn, 3 NMAC 1.2.1, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.2 SCOPE: This part applies to the taxation and revenue department and to every person subject to any statute the administration or enforcement of which is charged to the taxation and revenue department.
[4/15/1997; 3.1.2.2 NMAC - Rn, 3 NMAC 1.2.2, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[4/15/1997; 3.1.2.3 NMAC - Rn, 3 NMAC 1.2.3, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.4 DURATION: Permanent.
[4/15/1997; 3.1.2.4 NMAC - Rn, 3 NMAC 1.2.4, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.5 EFFECTIVE DATE: April 15, 1997, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[4/15/1997; 3.1.2.5 NMAC - Rn & A, 3 NMAC 1.2.5, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Taxation and Revenue Department Act.
[4/15/1997; 3.1.2.6 NMAC - Rn, 3 NMAC 1.2.6, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.7 DEFINITIONS: [**RESERVED**]
[4/15/1997; 3.1.2.7 NMAC - Rn, 3 NMAC 1.2.7, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.8 RULINGS - GENERAL:

A. Persons may request a ruling from the secretary for clarification of the consequences of a specified set of circumstances or interpretation of any statute the administration or enforcement of which is charged to the taxation and revenue department. The request must be in writing. The department may require the requester to state whether the requester is under audit by the department, has an outstanding assessment related to the subject matter of the request or is involved in a protest or litigation with the department over the subject matter of the request. The secretary's ruling will be in writing addressed to the requesting party with an assigned ruling number, signed by the secretary and by [~~counsel to show that it has been reviewed by the attorney general or other~~] legal counsel of the department.

B. In a proceeding pursuant to the Tax Administration Act, the department shall be estopped pursuant to Section 7-1-60 NMSA 1978 from obtaining or withholding the relief requested if it is shown by the party adverse to the department that the party's action or inaction subject to dispute was in accordance with any ruling addressed to the party by the secretary, unless the ruling had been rendered invalid or had been superseded by <u>statute,</u> regulation or by another ruling addressed to the party at the time the asserted liability for tax arose.

C. [~~A person or p~~] <u>P</u>ersons requesting a ruling from the secretary must be subject to the statute for which an interpretation is requested or to which the set of circumstances relate. In particular the requester must be a taxpayer as defined in Section 7-1-3 NMSA 1978 for taxes and tax acts covered by the Tax Administration Act. A representative, such as an accountant or attorney, of the requester may request the ruling on behalf of the requester but must disclose the name of the requester. The secretary will not issue a ruling addressed to the requester's representative, whether or not the name of the requester is disclosed. A copy of a ruling addressed to the requester will be sent to a requester's representative when requested.

D. The secretary may modify or withdraw any previously issued ruling and shall withdraw or modify any ruling when subsequent legislation, regulations, final court decision or other rulings have invalidated a ruling or portions of a ruling.

E. Although the secretary is not required by statute to issue a ruling even if the request is in proper form, every ruling request shall be given careful and diligent consideration.

[11/17/1995, 4/15/1997, 3/31/1999; 3.1.2.8 NMAC - Rn & A, 3 NMAC 1.2.8, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.9 HEARING FOR PROPOSED REGULATIONS:

A. For the purpose of obtaining comments of interested persons regarding issuance of regulations, the secretary shall schedule a public hearing on a date approximately [~~45~~] 30 days from the day of issuing and filing a proposed regulation in the office of the secretary for public inspection. The hearing date shall be publicized in a manner so that individuals, professionals and industry groups who have an interest in the promulgation of proposed regulations will have an opportunity to attend the meeting and express their comments. The secretary or a designated hearing officer shall hear and weigh all comments and suggestions on the proposed regulation. The secretary may incorporate revisions into the proposed regulations including those derived from written or verbal comments of interested persons. The decision of the secretary on the substance and form of the regulation is final.

B. Revisions to a proposed regulation may be incorporated by the secretary at any time during the 60-day waiting period, and the modified regulation need not be reissued as proposed before becoming final.

[11/17/1995, 4/15/1997; 3.1.2.9 NMAC - Rn, 3 NMAC 1.2.9, 12/29/2000; Rp, xx/xx/xxxx]

3.1.2.10 COOPERATIVE AGREEMENT; RATE CHANGES; EFFECTIVE DATE:

A. A cooperative agreement or an amended cooperative agreement entered into pursuant to Section 9-11-12.1 NMSA 1978 or Section 9-11-12.2 NMSA 1978, shall become effective on July 1[~~ or January 1, whichever date occurs first after the expiration of at least three months from the date~~] provided that the cooperative agreement or amended cooperative agreement is signed by both the pueblo or tribe and the secretary by March 31 of the same year.

B. [~~To be effective as of January 1, cooperative agreements or amendments to cooperative agreements must be executed by both the pueblo or tribe and the secretary on or before September 30 of the previous year. To be effective as of July 1, cooperative agreements or amendments to cooperative agreements must be executed by both the pueblo or tribe and the secretary on or before March 30 of the same year.~~]A tribal or pueblo government shall provide a resolution, ordinance, or other documentation authorized by tribal law to impose, amend, or repeal the gross receipts tax rate with an effective date of July 1 unless the emergency provisions of Section 9-11-12.1 NMSA 1978 or Section 9-11-12.2 NMSA 1978 are established and then the imposition of the tax shall become effective on January 1.

C. To be effective as of July 1, gross receipts tax rate changes must be submitted to the department by March 31 of the same year.

D. If emergency provisions are established, to be effective as of January 1, gross receipts tax rate changes must be submitted to the department by September 30 of the previous year.

[3.1.2.10 NMAC - N, 6/15/2004; A, 1/17/2006; Rp, xx/xx/xxxx]

3.1.2.11 SECRETARY MAY DESIGNATE REPORTING REQUIREMENTS OF SOME RECEIPTS: The secretary may require receipts from sales that occur on the tribal land of a pueblo or tribe that has entered into a gross receipts tax cooperative agreement with the state of New Mexico pursuant to Section 9-11-12.1 NMSA 1978 to be reported as located on tribal land regardless of where the taxpayer's place of business is maintained.

[3.1.2.11 NMAC - N, 1/17/2006; Rp, xx/xx/xxxx]