

FOR YOUR INFORMATION

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

GROSS RECEIPTS REPORTING LOCATION AND THE APPROPRIATE TAX RATE

This FYI discusses how to determine the reporting location of a transaction subject to gross receipts tax and therefore the correct tax rate, as well as the importance of reporting the correct location. For filing periods starting on and after July 1, 2021, New Mexico follows a destination sourcing approach in determining where a transaction has taken place. This means that, with some important exceptions, the reporting location will generally not be the location of the seller but the location of where property is delivered, the services are performed, or where the product of a service is delivered.

Who the seller is and the nature of the transaction will determine the reporting location and the rate of the tax. Sales of tangible personal property delivered to customers at the seller's location are still be sourced to that location; but sourcing for sales of tangible personal property that are delivered to the purchaser at a different location will be sourced to that delivery location. With respect to services, some transactions are reported at the location of the seller's business, such as when the seller performs services that meet the definition of "professional services" found in statute, whereas other services will now be sourced to the location where the product of the service is delivered. Other factors that affect the reporting location include whether the service is a transportation service or a construction service. Find an explanation of these rules later in this publication under **Determining the reporting location.**

Starting July 1, 2019, if a business has had \$100,000 in taxable gross receipts from sales, leases and licenses of tangible personal property, sales of licenses, and sales of services and licenses for use of real property sourced to New Mexico in the prior year, the business is considered to be engaging in business in the state and the transaction is subject to gross receipts tax. A business that meets this threshold will report gross receipts tax following the same rules for determining the location that anyone with a physical presence in the state would follow, as described in this publication.

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New Mexico Taxation and Revenue Department

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This information is as accurate as possible at the time of publication. Subsequent legislation, new state rulings and court decisions may affect its accuracy. For the latest information, please check the Taxation and Revenue Department's web site at <https://www.tax.newmexico.gov/>.

HOW THE GROSS RECEIPTS TAX SYSTEM WORKS

New Mexico's gross receipts tax system is a joint effort of the state and its individual counties and municipalities. The state sets a state-wide gross receipts tax rate. To the state rate, counties and municipalities may add various increments of local option gross receipts taxes. The total rate in an unincorporated area may include levies by the state and the county. In cities, the rate may include levies by the state, county, and municipal governments.

The Taxation and Revenue Department (Department) collects state gross receipts tax, local option gross receipts taxes, and related taxes from businesses. It then distributes proportionate shares to municipalities and counties based on state law. This money is used to fund essential services in the local jurisdiction such as police, fire protection, hospitals, health care facilities, and waste management. This is why it is important that every business enters its location code and rate correctly for its receipts when completing the Form TRD-41413, *Gross Receipts Tax Return* and paying the gross receipts tax. Gross receipts tax is a major source of revenue for most counties and municipalities. Correct reporting of your location code for your receipts is vital for local governments to have dependable sources of revenue.

REPORTING REQUIREMENTS

The gross receipts tax and local option gross receipts taxes are reported and paid on Form TRD-41413, *Gross Receipts Tax Return* included in the Gross Receipts Tax Filer's Kit or filed online at <https://tap.state.nm.us/TAP/>. On the Gross Receipts Tax Return, report the reporting location(s) of your receipts in Column A, the location code(s) in Column B, special rate code(s) in Column C, gross receipts for each location in Column D, deduction code(s) in Column E, deductible receipts in Column F, taxable gross receipts in Column G and the gross receipts tax rate in effect at the reporting location(s) in Column H. Column I is the gross receipts tax due for that location. Any deductions you report will use the same rules for determining reporting location explained later in this publication.

The reporting location determines the location code and tax rate and can be looked up using the gross receipt tax rate schedule. You can also look up the current tax rate and location code by entering an address in the Department's gross receipts location and rate map found here:

<https://www.tax.newmexico.gov/governments/gross-receipts-location-code-and-tax-rate-map/>.

2025 House Bill 218 (HB-218) updated the Gross Receipts Code to allow changes to GRT rates only once each year, on July 1st. The legislation permits January 1st local option rate changes if the Governor declares a state of emergency, or if there is an unforeseen occurrence that would cause a municipality's reserves to drop below the amount required by the Local Government Division of the Department of Finance and Administration, but the Taxation and Revenue Department (Department) will issue only one version of the GRT Filer's Kit per year.

The following guidance explains how to determine the reporting location of gross receipts transactions.

DETERMINING REPORTING LOCATION

Reporting Location for Gross Receipts Transactions Involving Real Property

If the gross receipts are from the sale, lease or granting of a license to use real property located in New Mexico, then the reporting location for those gross receipts and any related deductions is **the location of the real property**.

Reporting Location for the Sale or License of Tangible Property

- If the gross receipts are from property that is delivered by the seller and received by the purchaser at the seller's location, then the reporting location is **the seller's location**.
- If the gross receipts are from property that is not delivered by the seller and received by the purchaser at the seller's location, the reporting location is **the location indicated by the delivery instructions for the purchaser** when it is known to the seller.
 - If neither of the situations above applies, the reporting location is based on an address for the purchaser available from the seller's business records, provided that use of the address does not constitute bad faith.
 - If neither of the situations above applies, and the seller does not have business records for the purchaser, the reporting location is the location for the purchaser obtained during consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, provided that use of the address does not constitute bad faith.
 - If none of the options for determining the location above are available, including a circumstance in which the seller is without *sufficient information* to apply these provisions, then the reporting location is **the location from which the property was shipped or transmitted to the purchaser**. (This may be the location of the seller's business or the location of the seller's warehouse or other location where its inventory is stored).
 - **Important:** The seller is not considered to be without sufficient information to apply the above provisions if:
 1. it obtains or has access to sufficient information at the time of the sale, or subsequently, but simply fails to maintain that information in its records; or
 2. it has access to sufficient information from other reliable sources to make a *reasonable estimate* of the reporting location. (See the explanation of what constitutes a reasonable estimate later in this publication).
 - If gross receipts are derived from a single sale or transaction where the property provided is determined to be delivered simultaneously at multiple locations throughout the state, the seller is deemed not to have sufficient information to determine the reporting location, then the reporting location is **the location from which the property was shipped or transmitted to the purchaser**. (This may be seller's physical location or the location of the seller's warehouse or other location where its inventory is stored).
- If the gross receipts are from the sale of a license of digital goods, or any other sale of a license not otherwise specifically addressed in Regulation 3.1.4.13 NMAC, the reporting location of the gross receipts and related deductions is determined by the provisions above. A digital good is a digital product delivered electronically, including software,

music, photography, video, reading material, an application and a ringtone. A digital good generally takes the form of a license to use and which property is stored, conveyed, and used in a digital or electronic format.

Reporting Location for the Sale of a License to Use Digital Goods

A “digital good” is a product that is delivered electronically and includes computer software, videos, music, and electronic books. The sale of digital goods over the internet to an individual that uses that product in New Mexico is the sale of a license to use property and is a taxable sale if the seller meets the definition of engaging in business in the state. The sale of an instructional video or a pre-recorded class is still the sale of a digital good and therefore the sale of a license to use property and not the sale of a service.

Reporting Location for the Lease of Tangible Personal Property

If the gross receipts are from the lease of tangible personal property, including vehicles, other transportation equipment, and other mobile tangible personal property, then the reporting location for the gross receipts any related deductions is **the location of primary use of the property**, as indicated by the address for the property provided by the lessee that is available to the lessor from the lessor's records maintained in the ordinary course of business, provided that use of this address does not constitute bad faith. **The primary reporting location shall not be altered by intermittent use at different locations**, such as use of business property that accompanies employees on business trips and service calls.

Reporting Location for the Sale, Lease or License of Franchises

If the gross receipts are from the sale, lease or license of franchises, then the reporting location for the gross receipts and any related deductions is **where the franchise is used**. The location where the franchise is used may be determined from the franchise agreement or from other facts and circumstances related to the exercise of the franchise.

Reporting Location for the Sale of Services

What makes a transaction a service?

Generally speaking, the sale of a service is the sale of activity performed for a buyer for money or other consideration. The determination of what transactions are considered services is established by the Gross Receipt and Compensating Tax Act. Section 7-9-3 NMSA 1978 provides the definition of a service:

7-9-3(Q). "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property;

What is the product of a service?

Every service that is performed has a “product of the service.” This product may be the physical result of the service, such as reports or plans, or it may be something less concrete, such as a benefit to the purchaser of the service. Either way, there is always a product of the service for every service performed, and for many services the location where the product of the service is delivered will determine the reporting location.

Professional Services

In order to determine the correct reporting location for a service, it is first necessary to determine the type of service being provided, and specifically, whether or not the service is a “professional service.” If the gross receipts from services meet the definition of “professional services” under Section 7-1-14(K)(4) NMSA 1978, whether performed in New Mexico or performed outside the state where the product of the service is initially used in New Mexico, the reporting location of the gross receipts and the related deductions is **the location where the service is performed**.

The definition “professional service” in the statute means a service, other than an *in-person service* or *construction-related service* (see the definitions below), that **requires** either an advanced degree from an accredited post-secondary educational institution or a license from the state to perform. An “advanced degree” means a master's degree or better. If a person has a master's degree but the degree was not required to perform the services, the services are not professional services. Whereas, a person who performs services that require a license from the state to perform is performing professional services whether they have a degree or not.

Gross receipts from a professional service performed outside the state, and that are taxable in New Mexico because the buyer makes initial use of the product of the service in this state, are reported using the out-of-state rate.

There are two types of services, however, that are exceptions to the rule of where professional services are usually to be reported: in-person services and construction services. The reporting locations for both are explained below.

In-Person Services

The term “in-person service” means a service physically provided in person by the service provider, where the customer, or the customer's real or tangible personal property upon which the service is performed, is in the same location as the service provider at the time the service is performed. However, if the service is not generally provided, or does not generally need to be provided, physically in the presence of or upon the customer or upon the customer's property, it is not an “in-person service” simply because it may be or sometimes is performed in the presence of the customer or at the location of the customer's property.

Regulation 3.1.4.13(A)(2) NMAC provides the following examples as guidance on what the Department sees as an in-person service versus those it does not.

(a) Examples of services that will generally be treated as in-person services include, but are not limited to:

(i) Services provided by healthcare workers that are generally performed or required to be performed on or in the presence of the patient.

(ii) Mental health services, unless the provider generally provides the particular service either only in-person, or with limited exceptions.

(iii) Services provided by athletic trainers or physical therapists for clients.

(iv) Services provided by barbers and cosmetologists.

(v) Home healthcare services.

(b) Examples of services that will generally not be treated as in-person services include, but are not limited to:

(i) Architectural and engineering services. Note, however, that when performed as part of or billed to a construction project, these services are considered “construction-related services” rather than professional services pursuant to Subsection C of Section 7-9-3.4 NMSA 1978, and the reporting location for gross receipts from these services is the construction site per Paragraph (2) of Subsection F of Section 7-1-14 NMSA 1978.

(ii) Legal services.

(iii) Accounting, auditing, and tax preparation services.

(iv) Real estate appraisal services.

The reporting location for an in-person service is **the location where the product of the service is delivered**. That location may often be the location where the service is performed. For example, a hairdresser or a dentist cannot perform their services unless they are in the presence of the person that they are providing their service for. In cases like this, the location where the product of the service is delivered is the same as where the service is being performed.

Digital Services or Services Performed Online

Services performed over the internet follow the same rules for determining reporting location as when the services are not performed over the internet. The type of service, determined by the guidance in this publication, will still determine the reporting location, even if it is performed over the internet.

For example, if a college level instructor teaches a class over internet, and the instruction services being performed are professional services because the course requires a master’s degree to teach the class, the reporting location is the location where the instructor physically performs the teaching. If a doctor meets with a patient remotely via video conference, the reporting location is the location of the patient because the services being performed are still in-person services, as these medical services are usually performed in-person, and therefore are reported where the product of the service is delivered, the location of the patient.

Construction Services and Construction-Related Services

If the gross receipts are from construction services and construction-related services, as those terms are defined under the Gross Receipts and Compensating Tax Act, performed for a construction project in New Mexico, the reporting location of the gross receipts and related deductions is **the location of the construction site**.

Services Selling Real Estate

If the gross receipts are from the service of selling of real estate located in New Mexico, the reporting location of the gross receipts and related deductions is **the location of the real estate**.

Transportation Services

If the gross receipts are from transportation of persons or property in, into or from New Mexico, the reporting location of the gross receipts and related deductions is **the location of where the person or property enters the vehicle**.

Other Services

If the gross receipts are not from professional services, construction-related services, selling real estate, or transportation services, the reporting location of those gross receipts and related deductions is **the location where the product of the service is delivered**. This also includes in-person services described above. The location of delivery of the product of the service is determined under rules consistent with the rules for sale and license of property. That is:

- If the gross receipts are from the product of a service that is delivered by the seller and received by the purchaser at the seller's location, then the reporting location is **the seller's location**.
- If the gross receipts are from the product of a service that is not delivered by the seller and received by the purchaser at the seller's location, the reporting location is **the location indicated by the delivery instructions for the purchaser** when it is known to the seller.
 - If neither of the situations above applies, the reporting location is based on an address for the purchaser available from the seller's business records, provided that use of the address does not constitute bad faith.
 - If neither of the situations above applies, and the seller does not have business records for the purchaser, the reporting location is the location for the purchaser obtained during consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, provided that use of the address does not constitute bad faith.
 - If the none of the options for determining the location above are available, including a circumstance in which the seller is without *sufficient information* to apply these provisions, then the reporting location is **the location from which the product of the service was shipped or transmitted to the purchaser**. (This may be the location of the seller's business or may be the location where the product of the service was shipped or transmitted from).
 - **Important:** The seller is not considered to be without sufficient information to apply the above provisions if:
 1. it obtains or has access to sufficient information at the time of the sale, or subsequently, but simply fails to maintain that information in its records; or
 2. it has access to sufficient information from other reliable sources to make a reasonable estimate of the reporting location. (See the explanation of what constitutes a reasonable estimate later in this publication).

- If gross receipts are derived from a single sale or transaction where the property provided is determined to be delivered simultaneously at multiple locations throughout the state, the seller is deemed not to have sufficient information to determine the reporting location, then the reporting location is **the location from which the product of the service was shipped or transmitted to the purchaser.**

Advertising Services

An advertising service involves an agreement with a client to communicate or to place advertisements before an intended audience, on behalf of the client. The product of an advertising service is the ad which is capable of being heard or viewed by the intended audience. The reporting location for gross receipts from an advertising service is determined by the rules explained above for “other services” and is based on delivery of the product of the service, which is the location where the ad may be heard or seen by the intended audience. If an ad is being viewed by many individuals in multiple locations, and the seller of the advertising service is unable to determine exactly where the ad is being viewed, this is a circumstance in which the seller is without sufficient information to apply those provisions for other services, as explained above. In this case, the reporting location is the location from which the advertising service was primarily provided or transmitted.

Services ancillary to advertising include the design of the advertisement, creation of data processing or information technology to capture of customer related information, etc., which the seller may treat as a separate service. The reporting location of gross receipts from a service ancillary to advertising depends on the product of the service and where it is delivered but will generally be the location of delivery of that product of the service to the client.

Mixed Transactions

A “mixed transaction” for purposes of the sourcing rules means a single transaction that gives rise to gross receipts that would have different reporting locations under the rules for determining location code explained above if they were provided to the customer in the form of separate transactions. The reporting location for those gross receipts shall be determined as follows:

- If the billing to the customer does not break out the charges for the separate items, then the reporting location will be determined based on how the gross receipts for the transaction would be treated under the Gross Receipts and Compensating Tax Act and applicable regulations, that is, the determination of what type of transaction the gross receipts are predominantly. After the determination is made, apply the rules above.
- If the billing to the customer breaks out the separate charges for the items and one or more items would be treated as incidental charge or an element of the sales price of other items under the Gross Receipts and Compensating Tax Act and the applicable regulations, then the reporting location of those incidental receipts will be the reporting location as determined for the gross receipts from the remaining related item or items.
- If the billing to the customer breaks out the separate charges for the items and one or more items would not be treated as an incidental charge or an element of the sales price of other items under the Gross Receipts and Compensating Tax Act, and if the reporting

location for the gross receipts from two or more such items would be different under the rules explained above, then the gross receipts and related deductions reported to each reporting location will be determined as follows:

- the separate gross receipts for each item will be reported to the separate reporting locations, based on the separate charges in the bill to the customer; or
- all of the gross receipts may be reported to the single reporting location properly determined for the item or items from which the majority of the gross receipts result as properly determined under the rules explained above.

Use of Reasonable Estimates

Where a person subject to the gross receipts tax maintains records or has access to other reliable information that would allow that person to determine or estimate the reporting location for those gross receipts under the rules explained above, those records or other information may be used to establish reasonable estimates of the amounts to be reported by reporting location. Provided that the taxpayer's reporting of gross receipts tax otherwise complies with provisions of the Gross Receipts and Compensating Tax Act, the department will not assess the taxpayer for additional tax if the taxpayer uses reasonable estimates, applied consistently and in good faith, to determine the reporting location, so long as there is no obvious distortion.

Obvious distortion shall be presumed whenever the method used to estimate the reporting location treats similar transactions inconsistently. Any method which intentionally credits sales to a location with a lower combined tax rate primarily for the purpose of reducing the taxpayer's total tax liability shall be presumed to contain obvious distortion.

Where a person has gross receipts that would generally be sourced under the rules for the sale and license of tangible property and other services described above, and the person has records or information that would allow a reasonable estimate of the reporting location of those receipts applying the rules explained above to determine the address of the purchaser, the taxpayer is required to use a reasonable estimate before applying the rules where the seller is deemed not to have sufficient information to determine the reporting location.

Transactions on Tribal Territory

A person selling or delivering goods or performing services on the tribal land of a tribe or pueblo that has entered into a gross receipts tax cooperative agreement with the state of New Mexico is required to report those receipts based on the tribal location of the sale or delivery of the goods or performance of the service.

Determining Reporting Location: Examples

- A retail store in Carlsbad sells a couch to a customer inside the store. The customer then takes the couch back to their home in Alamogordo. The location of the sale is Carlsbad because the buyer receives the tangible property in the store in Carlsbad.
- An art gallery sells a painting to a buyer inside a gallery in Santa Fe and then offers to have the painting shipped to the buyer's home in Albuquerque. The location is the rate for Albuquerque because the buyer receives delivery of the tangible property in Albuquerque.
- A car dealership in Las Cruces leases a car to an individual who lives in Deming. Though the individual drives the car to many locations, the primary use of the car is at the individual's home in Deming. The reporting location is Deming, the home of the individual leasing the car.
- A shuttle service located in Albuquerque picks up a customer in Rio Rancho and drives the customer to the airport in Albuquerque. The location of the receipts is Rio Rancho because the person entered the shuttle in Rio Rancho.
- A hair salon in Roswell sells hair styling services to a buyer inside the salon. The rate is the location of the salon because that is where the product of the service was delivered.
- A photographer has a contract with a travel magazine located in Santa Fe to take pictures in many locations around New Mexico. The product of the service in this case is the photographs, which are delivered to the magazine's location. The reporting location of the receipts for the sale of the photographs is Santa Fe.
- A certified public accountant in Las Cruces performs accounting services for a client located in Ruidoso. Because the CPA has been licensed by the state the services being performed meet the definition of "professional services" and the reporting location is the location where the services are performed, the CPA's office in Las Cruces. This is the case even if the CPA occasionally travels to the client's location in Ruidoso in order to perform some of the services.
- A life coach in Albuquerque provides life coaching services over the internet to a client who lives in Santa Fe. Though the life coach has a master's degree, this degree is not required to perform these services, nor is a license required to perform the service, and therefore the service is not a professional service. The location and tax rate will be the client's location in Santa Fe because that is where the product of the service is delivered.
- An advertising agency provides advertising services for a client that consists of a commercial that will be shown on television stations in Albuquerque and viewed by individuals throughout the state. The product of the advertising service is the commercial that is viewed by people at various locations. Since the advertiser is without sufficient information to determine the location where the product of the service was delivered, the reporting location for the gross receipts is Albuquerque because this is the location where the commercial was transmitted.

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 <https://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 on 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 Ave. NE, Suite C
Albuquerque, NM 87123

SANTA FE

Manuel Lujan Senior Building
1200 S. Saint. Francis Dr.
Santa Fe, NM 87505

FARMINGTON

3501 E. Main St., Ste N
Farmington, NM 87402

LAS CRUCES

2540 El Paseo Bldg. 2
Las Cruces, NM 88001

ROSWELL

400 N. Pennsylvania Ave., Ste 200
Roswell, NM 88201

For forms and instructions visit the Department's web site at <https://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 50130
Albuquerque, NM 87181-0130

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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