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Delivered groceries may not be taxable

The New Mexico Taxation and Revenue Department has issued new guidance on when grocery deliveries may be subject to gross receipts taxes.

Receipts from food sold at a retail food store can be deducted by grocers when filing their gross receipts taxes, but some grocery stores have been paying gross receipts taxes on food deliveries and passing that cost along to customers. Whether or not those sales are taxable under the law depends on specific circumstances of the transaction.

“Many New Mexicans have been trying to do the right thing during the health emergency by limiting their outings, and one way to do that is to order groceries online and have them delivered,” said Taxation and Revenue Department Secretary Stephanie Schardin Clarke. “We certainly don’t want to discourage that, and we hope that this new guidance will alleviate confusion grocers and customers may have.”

Under state law, food for home consumption is deductible from gross receipts if it is sold **at** a retail food store. That language is critical to understanding whether a food sale may or may not be deductible.

For example, in different scenarios, the grocery store may deliver food itself or use a third-party delivery service, and a customer’s payment may be taken at the time the groceries are at the retail food store or at the time groceries arrive at the customer’s delivery location. Factors like these affect taxability. Any delivery service charge, however, typically would be subject to gross receipts tax.

The bulletin attached to this news release provides examples of when a sale might or might not qualify for the deduction.

The bulletin (B-200.34) also can be found on the Forms and Publications page at tax.newmexico.gov by opening the “Publications” folder, and then the “Bulletins” folder.