

New Mexico Gross Receipts Tax

What is gross receipts tax?

New Mexico's sales tax called Gross Receipts Tax

- GRT is confusing

New Mexico's Gross Receipts Tax System is unfair

- Some taxpayers unaware of GRT
- Low-income workers saddled with cost of GRT without understand they are businesses

New Mexico Gross Receipts Tax can be confusing

- Most states' sales tax applies only to sales of tangibles
- New Mexico taxes sales of services and tangibles
- Some states use gross receipts tax for taxes that do not apply to individual sales transactions

Common reasons for non-filing or underreporting

- Non-taxable sales not reported
- Not familiar with taxability of services
- Out-of-state business selling to customers in New Mexico
- Business new to New Mexico
- Confusion over terminology
- Didn't do due diligence

Audits

Two types of audits

- Desk audits
 - Managed audits
- Field audits

Statute of limitations

- December 31 of third year after tax is due
- 7 years if no return is filed
- 10 years for fraud

Desk audits

- Desk audits usually initiated because underreporting easily detected by automated process comparing gross receipts reported to state to information reported to IRS (Schedule C, 1099s, to U.S. government contractors)
- Result: Automated notices proposing liability

Managed Audits

- Managed Audits are voluntary desk audits
- Must be requested by taxpayer who gets proposed assessment notice or hasn't filed for many years and wants to catch up
- Taxpayer submits to auditor correct reporting data
- Auditor prepares a new proposed assessment

Note: Documentation required only to prove non-taxable gross receipts

Notes about Managed Audits

- No penalty or interest if tax paid within 180 days of the assessment
- If not paid within 180 days, taxpayer may be eligible for payment plan with interest but no penalty
- Managed Audit covers all unfiled returns up to the statute of limitations
- When deciding whether to request a Managed Audit taxpayer should consider they will be responsible for larger amount than initial notice proposed

Audit Redress Options

Informal

- Before assessment taxpayer can request review by either manager, supervisor, bureau chief or Audit Review Unit (TBOR)

Audit Redress Options

Statutory

- After assessment has been made and before a court has jurisdiction (whether or not liability paid) taxpayer can request abatement based on information not considered by auditor (TBOR)
- File a formal protest within 90 days of assessment
- Protest is denied can appeal to New Mexico Court of Appeals within 30 days

Taxpayer Bill of Rights - Audits

- “The right to obtain nontechnical information that explains the procedures, remedies, and rights available during audit, protest, appeals and collection proceedings pursuant to the Tax Administration Act.”
- “The right to be provided with an explanation of the results of and the basis for audits, assessments or denials of refunds that identify any amount of tax, interest or penalty due.”
- “The right to seek review, through formal or informal proceedings, of any findings or adverse decisions relating to determinations during audit or protest procedures in accordance with the provisions of Section 7-1-24 NMSA 1978 and the Administrative Hearings Office Act.”

Collections – GRT

- LLC members and corporation shareholders not personally liable for gross receipts tax
- No Offer in Compromise
- Innocent spouse relief
- Penalties abated for “non-negligence”
- Cabinet secretary can compromise liability with closing agreement

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Questions? Please reach out to me!

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