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# FYI-202

## New Mexico Taxation and Revenue Department

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### FOR YOUR INFORMATION

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

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## Gross Receipts Tax and Health Care Services

This publication provides general information on the application of gross receipts tax to health care services performed in New Mexico.

### Recent legislative changes to note:

In the 2023 legislative session, House Bill 547 was passed and signed into law. Effective July 1, 2023, this bill amended Section 7-9-93 NMSA 1978 to provide that the receipts from a copayment or deductible paid by an insured or enrollee to a health care practitioner or an association of health care practitioners for commercial contract services pursuant to the terms of the insured's health insurance plan or enrollee's managed care health plan may be deducted from gross receipts. Senate Bill 147, also passed and signed into law and effective July 1, 2023, amended Section 7-9-41.6 NMSA 1978 to allow for certain payments from the U. S. Department of Health and Human Services to eligible providers under the federal Coronavirus Aid, Relief and Economic Security Act, and for certain payments from the New Mexico Human Services Department from funds appropriated to New Mexico under the federal American Rescue Plan Act of 2021 to be exempt.

In the 2022 regular legislative session, House Bill 82 and Senate Bill 138 were passed and signed into law that made changes effective July 1, 2022, to the medical services deduction provided under Section 7-9-77.1 NMSA 1978. Changes include that a health care practitioner or an association of health care practitioners may now deduct receipts from payments of a Medicare administrative contractor, that a hospice or nursing home may now deduct payments of United States government and its agencies or from a Medicare administrative contractor, and facilities that may take the deduction for a dialysis facility have been expanded. For further information on these changes see **B.200.36**, *Changes to the Deductions for Certain Medical and Health Care Services*.

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## The Health Care Services Deduction

Under Section 7-9-93 NMSA 1978, a **health care practitioner** or an **association of health care practitioners** may deduct receipts from payments by a **managed care organization** or **health care insurer** for **commercial contract services** or **Medicare Part C services** provided that the services are within **the scope of practice** of the health care practitioner providing the service. Receipts from **fee-for-service payments** by a health care insurer do not qualify. Additionally, effective July 1, 2023 and prior to July 1, 2028, Section 7-9-93 NMSA 1978 provides that receipts from a **copayment or deductible** paid by an insured or enrollee to a **health care practitioner** or an **association of health care practitioners** for **commercial contract services** pursuant to the terms of the insured's health insurance plan or enrollee's **managed care health plan** may be deducted from gross receipts. The terms in bold print above are defined below. *Note: All other allowable deductions available under the Gross Receipts and Compensating Tax Act must be claimed before the taxpayer claims the deduction available under Section 7-9-93 NMSA 1978. This particular deduction must be reported using the special code "M" in column C or selecting "M – Certain Health Care Practitioners" as the rate type in the Taxpayer Access Point (TAP) see "Reporting Deductible Receipts from Sales of Health Care Services" on page 10 for more information.*

### Definitions

**Health care practitioners** are limited to:

1. *Chiropractic physicians* licensed under the Chiropractic Physician Practice Act;
2. *Dentists or dental hygienists* licensed under the Dental Health Care Act;
3. *Doctors of oriental medicine* licensed under the Acupuncture and Oriental Medicine Practice Act;
4. *Optometrists* licensed under the Optometry Act;
5. *Osteopathic physicians* licensed pursuant to the provisions of the Medical Practice Act;
6. *Physical therapists* licensed under the Physical Therapy Act;
7. *Physicians or physician's assistants* licensed under the Medical Practice Act;
8. *Podiatrists* licensed under the Podiatry Act;
9. *Psychologists* licensed under the Professional Psychologist Act;
10. *Registered lay midwives* registered by the Department of Health;
11. *Registered nurses or licensed practical nurse* licensed under the Nursing Practice Act;
12. *Registered occupational therapists* licensed under the Occupational Therapy Act;
13. *Respiratory care practitioners* licensed under the Respiratory Care Act;
14. *Speech-language pathologists or audiologists* licensed under the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;
15. *Mental health counselors, marriage and family therapists and art therapists* who have obtained a master's or doctorate degree and are licensed pursuant to the Counseling and Therapy Practice Act; and
16. *Independent social workers* licensed pursuant to the Social Work Practice Act.
17. *Clinical laboratories* accredited pursuant to 42 U.S.C. Section 263a, but that are not laboratories in a physician's office or in a hospital defined pursuant to 42 U.S.C. Section 1395x.

For licensing information, please refer to the agency contact information provided under "For Further Assistance" on page 16 in this publication.

**An association of health care practitioners** means a corporation, unincorporated business entity or other legal entity organized by, owned by or employing one or more health care practitioners; provided that the entity is not:

(a) an organization granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered; or

(b) a health maintenance organization, hospital, hospice, nursing home or an entity that is solely an outpatient facility or intermediate care facility licensed pursuant to the Public Health Act;

**A managed care organization** is an entity that delivers comprehensive basic health care services and medically necessary services to individuals enrolled in a recognized plan. The services may be provided through the entity's employed health care providers or through selected or participating providers under contract to the managed health care provider. Qualifying managed care organizations must supply comprehensive basic health care services and medically necessary services to enrollees on a contract basis<sup>1</sup>. If receipts are not from Medicare for Medicare Part B services, from Medicaid or Medigap, from a health insurer or directly from a patient, they may be receipts from managed care organizations. Managed care organizations include, but are not limited to:

1. Health maintenance organizations (HMOs): These are organizations that provide a wide range of comprehensive health care services for a specified group of enrollees for a fixed, pre-paid premium. There are several models of HMOs: Group Model, Individual Practice Association (IPA), Staff Model and Network Model.
2. Preferred provider organizations (PPOs): This is a managed care arrangement consisting of a group of hospitals, physicians and other providers who have contracts with an insurer, employer, third-party administrator, or other sponsoring group to provide health care services to covered persons in exchange for prompt payment and increased patient volume.
3. Individual practice associations (IPAs): These associations of individual physicians provide services on a negotiated *per capita* rate, flat retainer fee or negotiated fee-for-service basis. This type of association is one model of HMO managed care. IPAs may also serve non-HMO patients.
4. Competitive medical plans: These plans are health care organizations that meet specific government criteria for Medicare-risks contracting but are not necessarily HMOs.
5. Exclusive provider organizations (EPOs): These organizations consist of a group of providers who have a contract with an insurer, employer, third-party administrator, or other sponsoring group. Criteria for provider participation may be the same as those in PPOs, but there are more restrictive provider selection and credentialing processes. Otherwise, the provider forfeits reimbursement altogether.
6. Integrated delivery systems: These are systems that bring together the components of a health care delivery system so that health care is received through one system by doctors, hospitals and other providers working together to deliver a comprehensive range of health care services<sup>2</sup>.
7. Independent physician-provider organizations: These organizations are associations of individual physicians that provide services at a negotiated *per capita* rate, flat retainer fee or negotiated fee-for-service basis. Such an organization is one model of HMO managed

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<sup>1</sup> In other words, if the organization or plan is listed, it qualifies. If it is not listed, it can still qualify if it meets the descriptive definition in the statute: "provide comprehensive basic health care services and medically necessary services to enrollees on a contract basis." Section 7-9-93(F)(8) NMSA 1978.

<sup>2</sup> While it is unlikely that an integrated delivery system that is not a single entity would qualify as a managed health care provider, within that system could be payers who would qualify.

care.

8. **Physician hospital-provider organizations:** Such organizations are group practice arrangements that occur when hospitals and physicians organize to contract with managed care organizations. These relationships are formally organized, contractual, or corporate in character and include physicians outside the boundaries of a hospital's medical staff.
9. **Managed care services organizations:** "Managed care" is the coordination of financing and provision of health care to produce high-quality health care for the lowest possible cost and to impose control on the use of medical services and on the providers who render the care. Managed care is provided through managed indemnity plans, Preferred Provider Organizations (PPOs), Exclusive Provider Organizations (EPOs), Health Maintenance Organizations (HMOs), or any other cost management environment.

For more information about managed care, contact the Public Regulation Commission or the National Association of Health Underwriters listed in the "For Further Assistance" on page 16 of this publication.

**Health care insurer** is a person who has a valid certificate of authority in good standing according to the New Mexico Insurance Code to act as an insurer, health maintenance organization or nonprofit health care plan or prepaid dental plan and who contracts to reimburse licensed health care practitioners for providing basic health services to the insured parties at negotiated fee rates. Receipts of health care practitioners from persons without such a valid certificate of authority in good standing are not deductible under Section 7-9-93 NMSA 1978.

**Commercial contract services** are health care services performed by a health care practitioner under a contract with a managed health care provider or health care insurer. Excluded are health care services provided for Medicare patients according to Title 18 of the federal Social Security Act or for Medicaid patients according to Title 19 or Title 21 of the federal Social Security Act. <sup>3</sup>

**Medicare Part C services** are services performed according to a contract with a managed health care provider for Medicare patients pursuant to Title 18 of the federal Social Security Act.<sup>4</sup>

**Fee-for-service payment:** A traditional method of payment for health care services under which health care insurers pay providers under an indemnity insurance plan for each service rendered after the services have been received by the patient. Under a fee-for-service arrangement, a plan or insurer does not establish contracted or per capita rates of payments with providers before the insured submits a claim.

**Copayment or deductible** means the amount of covered charges an insured or enrollee is required to pay in a plan year for commercial contract services before the insured's health insurance plan or enrollee's managed care health plan begins to pay for applicable covered charges.

**Managed Care Health Plan** means a health care plan offered by a managed care organization that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in the plan other than those services provided to Medicare patients pursuant to Title 18 of the federal Social Security Act or to Medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act.

**Scope of practice:** As used in Section 7-9-93 NMSA 1978, the term "scope of practice", defined in Regulation 3.2.241.7 NMAC, means the health care activities authorized to be conducted by, or at

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<sup>3</sup> See the special Medicare note on page 11.

<sup>4</sup> See the special Medicare note on page 11.

the direction of, the health care practitioner under a license granted to the health care practitioner by the appropriate body under any of the acts specified under Paragraph (3) of Subsection B of Section 7-9-93 NMSA 1978. (For those acts, please refer to the health care practitioner list beginning on page 3 of this publication.)

## Deductible Health Care Service Receipts

To qualify for the health care services deduction under Section 7-9-93(A) NMSA 1978, receipts must meet all four of these conditions:

1. The health care services must be provided by a **health care practitioner** or an **association of health care practitioners** as defined on page 2 of this publication.
2. The health care services must be within the practitioner's recognized **scope of practice** defined on page 4.
3. The health care services must be either **commercial contract services** or **Medicare Part C services**, as defined on page 4. Please see the note regarding Medicare receipts on page 10.
4. The receipts must be from a payment by a **managed care organization**, as defined on page 3, or **health care insurer**, as defined on page 4.

To qualify for the deduction for receipts from a copayment or deductible under Section 7-9-93(B) NMSA 1978, the receipts must be from a copayment or deductible paid by an insured or enrollee to a health care practitioner or an association of health care practitioners for commercial contract services pursuant to the terms of the insured's health insurance plan or enrollee's managed care health plan.

A **copayment or deductible** is the amount of covered charges an insured or enrollee is required to pay in a plan year for commercial contract services before the insured's health insurance plan or enrollee's managed care health plan begins to pay for applicable covered charges. This means that not every out-of-pocket payment from a patient is deductible from gross receipts under Section 7-9-93(B) NMSA 1978. The amounts the patient pays must be for a copayment or a deductible under the terms of the insured's health insurance plan or enrollee's managed care health plan to qualify for this deduction.

A corporation, unincorporated business association, or other legal entity is an association of health care practitioners if it is organized by, owned by or employing one or more health care practitioners and may take the deductions under Section 7-9-93 NMSA 1978 if it meets the requires of the deductions explained above provided the entity is not:

1. a federally recognized 501(c)(3) nonprofit organization;
2. a health maintenance organization (HMO), hospital, nursing home or hospice; or
3. solely an outpatient facility or intermediate care facility licensed under the Public Health Act.

Payments by a third-party claims administrator to a health care practitioner for health care services rendered by the practitioner within the scope of his or her practice and pursuant to a contract with a managed care company or a health insurer that are otherwise deductible under Section 7-9-93 NMSA 1978 may be deducted from gross receipts. A third-party claims administrator is an entity that processes health care claims and performs related business functions for a health plan. Receipts of a third-party for administering a health insurance or medical plan are not deductible under Section 7-9-93 NMSA 1978.

## General Examples

**Example 1:** Physician P, a general practitioner, receives payments for health care services from health care insurers and an HMO. Under Section 7-9-93 NMSA 1978, P can deduct the payments from the health care insurers and the HMO.

**Example 2:** Mental health therapist M, who has a bachelor's degree in counseling, receives payments for counseling services from a health care insurer. M cannot deduct those receipts under Section 7-9-93 NMSA 1978 because M does not have a master's or doctorate degree, as required by statute. Please see the list of qualified health care practitioners beginning on page 3.

**Example 3:** Optometrist O owns a separate X-ray facility as well as O's own practice. O receives payments for X-ray services from a health care insurer and would like to deduct them from his gross receipts under Section 7-9-93 NMSA 1978. O cannot deduct the receipts for X-ray services because those services are not within the scope of his practice. (Please see the description of "scope of practice" in the "Definitions" section of this publication on page 4).

**Example 4:** P is a general practitioner who treats a patient covered by an indemnity plan. P has no contract to perform services with the indemnity plan. P bills the patient for treatment services and receives payment. P may not deduct those receipts under Section 7-9-93 NMSA 1978, because they are not receipts from a health insurer with which P has contracted to perform services at negotiated rates.

**Example 5:** P and D are general practitioners who own PC, a professional corporation organized under the New Mexico Professional Corporation Act to provide health care services in New Mexico. P and D also are employees of PC. T breaks her arm and visits P for treatment. T is covered by a health care plan with an insurance company that has been issued a certificate of authority to act as an insurer. PC has a contract with the insurance company to treat insured patients at negotiated contract rates. The plan pays PC \$100 for P's services. PC may deduct the receipts under Section 7-9-93 NMSA 1978 because PC is owned by qualified health care practitioners and the services were performed by practitioners employed by PC.

**Example 6:** In the same scenario described in Example 5 above, T makes a \$25 co-payment. T may also deduct the copayment under 7-9-93(B) NMSA 1978, because the payment was made from an insured patient pursuant to the terms of the insured's health insurance plan.

## Receipts Excluded from the Health Care Services Deduction

### 1) Receipts that Qualify for Another Deduction

Receipts from providing health care services that are deductible under another provision of the Gross Receipts and Compensating Tax Act do not qualify for the medical services deduction provided by Section 7-9-93 NMSA 1978. **All other available deductions must be taken before the deduction provided by Section 7-9-93 NMSA 1978 can be claimed.** Some of the other deductions available for medical-related service include:

- a. Receipts of certain health care practitioners, or a Medicare administrative contractor, from performing health care services for Medicare patients (other than Medicare Part C) are deductible under Section 7-9-77.1(A) NMSA 1978. For reporting purposes use the special deduction code **D0-010** for these receipts. See the GRT Filer's Kit for more information. Section 7-9-77.1(A) NMSA 1978 provides a deduction for Medicare payments for health care services performed by a health care practitioner as defined in

Section 7-9-77.1(J)(4) NMSA 1978. The health care practitioner list includes: athletic trainer, audiologist, chiropractic physician, a counselor or therapist practitioner, dentist, doctor of oriental medicine, independent social worker, massage therapist, naprapathy, nutritionist or dietitian, occupational therapist, optometrist licensed, osteopathic physician, pharmacist, physical therapist, physician, podiatrist, psychologist, radiologic technologist, registered nurse, respiratory care practitioner, and speech-language pathologist.

- b. Receipts of hospices or nursing homes to Medicare patients for medical, other health and palliative services are deductible under Section 7-9-77.1(B) NMSA 1978. For reporting purposes use the special deduction code **D0-026** for these receipts. See the GRT Filer's Kit for more information.
- c. Receipts of a health care practitioner from payments by a third-party administrator of the federal TRICARE program for providing medical and other health services by medical doctors and osteopathic physicians are deductible under Section 7-9-77.1(C) NMSA 1978. For reporting purposes use the special deduction code **D0-011** for these receipts. See the GRT Filer's Kit for more information.
- d. Receipts of a health care practitioner from payments by or on behalf of the Indian Health Service (IHS) for medical and other health services by medical doctors and osteopathic physicians to beneficiaries covered by the IHS are deductible under Section 7-9-77.1(D) NMSA 1978. For reporting purposes use the special deduction code **D0-012** for these receipts. See the GRT Filer's Kit for more information.
- e. Receipts of a clinical laboratory from performing medical services for Medicare patients are not deductible under Section 7-9-93 NMSA 1978 because they are not receipts of a health care practitioner as defined on page 2. Instead, such receipts are deductible under Section 7-9-77.1(E) NMSA 1978. For reporting purposes use the special deduction code **D0-013** for these receipts. See the GRT Filer's Kit for more information.
- f. Receipts of a home health agency for medical, other health and palliative services to Medicare patients are also not deductible under Section 7-9-93 NMSA 1978 because they are not receipts of a health care practitioner as defined on page 2. These receipts are deductible under Section 7-9-77.1(F) NMSA 1978. For reporting purposes use the special deduction code **D0-014** for these receipts. See the GRT Filer's Kit for more information.
- g. Prior to July 1, 2032, receipts of a dialysis facility for medical and other health services to Medicare patients are not deductible under Section 7-9-93 NMSA 1978. Qualified receipts of a dialysis facility are deductible under Section 7-9-77.1(G) NMSA 1978. This deduction was phased-in over two years; qualified receipts were not 100% deductible until after June 30, 2016. For reporting purposes use the special deduction code **D0-015** for these receipts. See the GRT Filer's Kit for more information.
- h. Receipts for providing health care services sold to a hospital or other person for resale with respect to which the practitioner has accepted a Type 5 nontaxable transaction certificate executed by the buyer. Alternative evidence can also be used as proof that the transaction is eligible for this deduction. These receipts are deductible under Section 7-9-48 NMSA 1978.

The following deductions are for medical-related transactions involving the sale of tangible personal property (and some related services). These transactions **do not** qualify for the deduction under Section 7-9-93 NMSA 1978 but may qualify for one of the deductions below:

- a. Receipts from sales of prosthetic devices to health care practitioners for resale to patients may be deductible under Section 7-9-73 NMSA 1978. To qualify for this deduction the sale of the prosthetic device must be to certain licensed practitioners. A Type 2 nontaxable

transaction certificate or alternative evidence may be accepted for this type of transaction by the seller, but the deduction is not required to be separately reported but can optionally be reported to the Department on the TRD-41413. *Gross Receipts Tax Return*.

- b. Receipts from sales of vision aids or hearing aids and services required to fit or dispense those aids are deductible under Section 7-9-111 NMSA 1978.
- c. Receipts from sales of prescription drugs are deductible under Section 7-9-73.2 NMSA 1978. This deduction also applies to receipts from sales of oxygen and oxygen services provided by licensed Medicare durable medical equipment providers.
- d. Receipts from the sale or rental of durable medical equipment and medical supplies are deductible pursuant to Section 7-9-73.3 NMSA 1978. To qualify for this deduction the taxpayer must participate in the New Mexico Medicaid program whose gross receipts are no less than 90% derived from the sale or rental of durable medical equipment, medical supplies, or infusion therapy services, including the medications used in infusion therapy services. For reporting purposes use the special deduction code **D0-016** for these receipts. See the GRT Filer's Kit for more information.

## 2) Exempt Receipts

The following receipts are **not** deductible under Section 7-9-93 NMSA 1978 because they are exempt under other statutes:

- a. Receipts from health care services provided by physicians employed by 501(c)(3) organizations or provided by health maintenance organizations, except for receipts of a hospital licensed by the Department of Health, are not deductible under Section 7-9-93 NMSA 1978. Receipts of 501(c)(3) organizations, other than hospitals, are already exempt from gross receipts under Section 7-9-29 NMSA 1978, while receipts of insurance companies are exempt under Section 7-9-24 NMSA 1978.
- b. Receipts of health care providers exempt under Section 7-9-41.6 NMSA 1978 are not deductible under Section 7-9-93 NMSA 1978. Section 7-9-41.6 NMSA 1978 exempts receipts of health care providers, other than hospitals licensed by the Department of Health, from payments by:
  - 1) the United States Department of Health and Human services from the federal public health and social services emergency fund to providers eligible to receive the payments pursuant to the federal Coronavirus Aid, Relief, and Economic Security Act; and
  - 2) the medical assistance division of the Human Services Department from funds appropriated to New Mexico pursuant to the federal American Rescue Plan Act of 2021 for the state Medicaid program to provide additional support for home and community-based services.
- c. Receipts of a federal or New Mexico government entity are not deductible under Section 7-9-93 NMSA 1978, as they are already exempt from gross receipts under Section 7-9-13 NMSA 1978. **Note:** This exemption is only from gross receipts tax and governmental gross receipts tax may be due.

## 3) Taxable Receipts

The following receipts **do not** qualify for the deduction under Section 7-9-93 NMSA 1978 and are taxable unless deductible under another section:



- a. Receipts for services paid directly by patients to a health care practitioner.
- b. Receipts from health care services sold to agencies of the United States and New Mexico governments. Receipts from services sold to government agencies are taxable (Section 7-9-54 NMSA 1978). These receipts include payments from Medicaid and payments made with state funds by health care organizations, such as Centennial Care.
- c. Receipts from Medigap insurance do not qualify for the deduction because the insurer contracts with the patient rather than a health care practitioner (Regulation 3.2.241.18 NMAC).
- d. Workers Compensation payments do not qualify for the deduction because they are not receipts from a managed health care provider or health care insurer (Regulation 3.2.241.16 NMAC).
- e. An organization, whether or not owned exclusively by health care practitioners, licensed as a hospital, hospice, nursing home, solely an outpatient facility or intermediate care facility under the Public Health Act is not a "health care practitioner" as defined by Section 7-9-93 NMSA 1978. Receipts of such an organization are not deductible under that section (Regulation 3.2.241.17 NMAC).
- f. Receipts from a health care insurer or managed health care provider may not be deducted by a health care practitioner if the payer does not have a valid certificate of compliance issued by the New Mexico Public Regulation Commission (Regulation 3.2.241.14 NMAC).
- g. Receipts of a third party for administering a health insurance or medical plan are not deductible under Section 7-9-93 NMSA 1978.

### **Type 5 NTTCs for Resale of Health Care Services**

Receipts for providing health care services sold to a hospital or other person for resale with respect to which the practitioner has accepted a Type 5 nontaxable transaction certificate executed by the buyer are receipts that are deductible under Section 7-9-48 NMSA 1978.

Alternative evidence can also be used in place of a nontaxable transaction certificate for most deductions. FYI-204 Nontaxable Transaction Certificates NTTCs for more information. This and many other publications are located at <http://www.tax.newmexico.gov/forms-publications/>.

However, practitioners deducting receipts under Section 7-9-93 NMSA 1978 who purchase health care services for resale **may not** execute a Type 5 nontaxable transaction certificate because the next sale is not subject to gross receipts tax as required by Section 7-9-48 NMSA 1978.

**Example:** Anesthesiologist A receives payments for subcontracted services from physician P. In the past, P has given such subcontractors a Type 5 nontaxable transaction certificate to document the deduction of the subcontractor's receipts from services resold by P. Now, though, P is going to deduct the payments from a health care insurer under Section 7-9-93 NMSA 1978. A's receipts from sales of services for which P claims the deduction under Section 7-9-93 NMSA 1978 are no longer deductible as sales of services for resale under Section 7-9-48 NMSA 1978 because that statute requires the receipts from the resale of the service to be subject to gross receipts tax or governmental gross receipts tax. A's receipts from sales of services to P are subject to gross receipts tax, and the law does not prohibit the seller from passing the tax amount to the buyer by adding it to the sale price at the time of the transaction.

## A Special Note about Medicare Receipts

The deduction under Section 7-9-93 NMSA 1978 excludes payments for health care services for Medicare patients according to Title 18 of the federal Social Security Act if those services do not qualify as Medicare Part C services. The deduction covers services under Medicare Part C, a category that allows Medicare patients to choose care from a health maintenance organization (HMO), a health maintenance organization with point-of-service (POS) provisions, preferred provider organizations (PPOs), provider-sponsored organizations (PSOs), private fee-for-service providers (PFFSs), and medical savings accounts (MSAs). A qualifying health care practitioner or an association of health care practitioners who receives payments for services eligible under Medicare Part C services may deduct them under Section 7-9-93 NMSA 1978 if the services are within the scope of practice of the health care practitioner providing the service.

Section 7-9-77.1 NMSA 1978 establishes a deduction for certain medical and health care services paid for by Part B of Title 18 of the federal Social Security Act. A taxpayer who has receipts that are deductible under Section 7-9-77.1 and Section 7-9-93 NMSA 1978 must claim the deductions under Section 7-9-77.1 NMSA 1978 first and then they may deduct the remaining eligible deductions under Section 7-9-93 NMSA 1978. Note: All deductions under Section 7-9-77.1 NMSA 1978 require separate reporting with a deduction code. See section 1) Receipts that Qualify for Another Deduction on page 6.

## Reporting Deductible Receipts from Sales of Health Care Services

The law providing the health care services deduction requires the state to distribute back to local governments money equal to the value of the health care services deduction claimed by health care practitioners. The law also requires health care practitioners to separately state the health care services deduction provided by Section 7-9-93 NMSA 1978. In addition, the law states that all other allowable deductions under the Gross Receipts and Compensating Tax Act need to be claimed before this deduction is claimed.

It is important for health care practitioners to report this deduction correctly so that the Department can accurately distribute to the local governments the amount of revenue they would otherwise lose. Please use the following instructions when reporting your gross receipts tax for deductions eligible per Section 7-9-93 NMSA 1978.

Using the Form TRD-41413, *Gross Receipts Tax Return*:

To file a Form TRD-41413, *Gross Receipt Tax Return* including deductions of receipts under Section 7-9-93 NMSA 1978, you must enter those receipts on a separate line from your taxable receipts and receipts deductible under other statutes. For each business location, you will need to use two lines of the Form TRD-41413, *Gross Receipts Tax Return*. To complete the Form TRD-41413, *Gross Receipts Tax Return* for each business location:

1. On the first line for the business location, enter the information for your taxable receipts and receipts deductible under statutes *other than 7-9-93 NMSA 1978 or other deductible receipts that are required to be separately reported*.
2. On a separate line, for the same business location, enter the information for *receipts eligible for deduction under Section 7-9-93 NMSA 1978* (see eligibility information on page 5). You **must** enter "M" in Column C (Special Rate Code) when reporting receipts eligible for the new medical services deduction.

See the example on the next page and the sample Form TRD-41413, *Gross Receipts Tax Return* on page 13 for an illustration of how a health care practitioner should segregate the gross receipts eligible for the medical services deduction from all other gross receipts.

**Example:** A health care practitioner (Practitioner) has \$60,000.00 in total gross receipts for a business location in Albuquerque, \$500.00 of which qualifies for deductions that are not required to be separately reported, \$30,000.00 of which qualify for the deduction under Section 7-9-93 NMSA 1978, and \$10,000 of which are deductible payments from Medicare deductible under Section 7-9-77.1(A) NMSA 1978. The Practitioner also has a Santa Fe business location with total gross receipts of \$36,321.00, \$520.00 of which qualifies for deductions that are not required to be separately reported, and \$20,591.00 that is deductible under Section 7-9-93 NMSA 1978. NOTE: The health care practitioner must separate other deductible sales from sales that require separate reporting. The Form TRD-41413, *Gross Receipts Tax Return* should be completed this way:

- **For the Albuquerque location**, the Practitioner counts \$20,000.00 in sales with \$500.00 in deductions that are not required to be separately reported. Starting July 1, 2021, certain deductions remain required to be separately reported. Others can be reported together on the same line.
  - ~ The Practitioner enters “Albuquerque/Bernalillo” in Column A (Municipality/ County Name), 02-100 in Column B (Location Code), \$20,000.00 in Column D (Gross Receipts - excluding tax), Column E is left blank (Deduction Code) and \$500.00 in Column G (Total Deductions). After subtracting Column E from Column D , the difference of \$19,500.00 is entered in Column G (Taxable Gross Receipts). In Column H (Tax Rate) 7.8750 percent<sup>5</sup> is entered. Then by multiplying Column G by Column H the gross receipts tax of \$1,536.63 is entered in Column I (Gross Receipts Tax Due).
- On a separate line, the Practitioner enters the information for the gross receipts of \$10,000.00 that are deductible under Section 7-9-77.1(C) NMSA 1978.
  - ~ The Practitioner enters “Albuquerque/Bernalillo” in Column A (Municipality/County), 02-100 in Column B (Location Code), \$10,000.00 in Column D (Gross Receipts excluding tax), D0-011 in Column E (Deduction Code) \$10,000.00 in Column F (Total Deductions). After subtracting Column F from Column D, the difference of \$0.00 is entered in Column G (Taxable Gross Receipts) and Column I (Gross Receipts Tax).
- On a separate line, the Practitioner enters the information for the gross receipts of \$30,000.00 that are deductible under Section 7-9-93 NMSA 1978.
  - ~ The Practitioner enters “Albuquerque/Bernalillo” in Column A (Municipality/County), 02-100 in Column B, “M” in Column C (Special Code), \$30,000 in Column D (Gross Receipts), and \$30,000.00 in Column F (Total Deductions). After subtracting Column F from Column D, the difference of \$0.00 is entered in Column G (Taxable Gross Receipts) and Column I (Gross Receipts Tax).
- **For the Santa Fe Location**, the Practitioner counts \$15,730.00 in sales with \$520.00 of deductions that are not required to be separately reported.
  - ~ The practitioner enters, “Santa Fe/Santa Fe” in Column A (Municipality/ County Name), 01-123 in Column B (Location Code), \$15,730.00 in Column D (Gross Receipts), \$520.00 in Column F (Total deduction). After subtracting Column F from Column D, difference of \$15,210.00 is entered in Column G (Taxable gross receipts). In Column H (Tax Rate) 8.4375 percent<sup>6</sup> is entered Then by multiplying Column G by Column F the gross receipts tax due of \$1,283.34 is entered in Column I (Gross Receipts Tax).
- On a separate line, the Practitioner enters the information for the gross receipts of \$20,591.00 that are deductible under Section 7-9-93 NMSA 1978.
  - ~ The practitioner enters “M” in Column C (Special Code), 01-123 in Column B (Location Code), \$20,591.00 in Column D (Gross Receipts) and the \$20,591.00 in Column F (Total

<sup>5</sup> This is the gross receipts tax rate effective January 1, 2019.

<sup>6</sup> This is the gross receipts tax rate effective January 1, 2019.

Deductions) for the gross receipts qualifying for the deduction under Section 7-9-93 NMSA 1978. After subtracting Column F from Column D, the difference of \$0.00 is entered in Column G (Taxable Gross Receipts) and \$0.00 is also entered in Column I (Gross Receipts Tax).

### **Penalty for Incorrect Filing**

The New Mexico Legislature, in Special Session in September and October of 2016, added a new section to the Tax Administration Act, Section 7-1-69.2 NMSA 1978, providing a civil penalty equal to 20% of the value of the hold harmless distribution resulting from an incorrect deduction when a taxpayer deducts gross receipts pursuant to Sections 7-9-92 or 7-9-93 NMSA instead of another applicable provision of the Gross Receipts and Compensating Act as required by those sections.

## Sample Form CRS-1prior July 1, 2021

State of New Mexico - Taxation and Revenue Department

**CRS-1 - LONG FORM** PAGE 1  
**COMBINED REPORT SYSTEM**  
 Rev. 09/2010

 Mail to: NM Taxation and Revenue Department,  
 P.O. Box 25128, Santa Fe, NM 87504-5128

NAME Dr. John Doe	NEW MEXICO CRS ID NO.	02-111111-000
STREET / BOX 222 Santa Fe Street		
CITY, STATE, ZIP Santa Fe, NM, 87504		

**TAX PERIOD**

01	01	2019	through	01	01	2019
Month	Day	Year		Month	Day	Year

Check if applicable: ☐ Amended report

Payment made by:

☐ Automated clearinghouse deposit  
☐ Federal wire transfer

 Date \_\_\_\_\_  
 Date \_\_\_\_\_

If additional space is needed, use the supplemental page.

 Do not submit a photocopy of these forms to the Department. If additional space is needed, please obtain an original form from your local district office or download the form from our web site at [www.tax.newmexico.gov](http://www.tax.newmexico.gov)

A Municipality / county name	B Special code*	C Location code	D Gross receipts (excluding tax)	E Total deductions	F Taxable gross receipts	G Tax rate	H Gross receipts tax
Albuquerque/Bern		02-100	20,000.00	500.00	19,500.00	7.8750	1,536.63
Albuquerque/Bern		D0-011	10,000.00	10,000.00	0.00	7.8750	0.00
Albuquerque/Bern	M	02-100	30,000.00	30,000.00	0.00	7.8750	0.00
Santa Fe/Santa Fe		01-123	15,730.00	520.00	15,210.00	8.4375	1,283.34
Santa Fe/Santa Fe	M	01-123	20,591.00	20,591.00	0.00	8.4375	0.00
Enter total of columns D, E and H, this page. * See instructions for column B.			\$ 96,321	\$ 61,611			\$ 2,819.97
If supplemental pages are attached, enter total of all columns D, E and H from this page and all supplemental pages.			\$	\$			\$

SAMPLE

I declare that I have examined this return including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of taxpayer or agent

Print name

Date

Title

Phone

E-mail address

1	TOTAL GROSS RECEIPTS TAX ALL PAGES	2,819.97
2	COMPENSATING TAX	10.00
3	WITHHOLDING TAX	
4	TOTAL TAX DUE	2,829.97
5	PENALTY	
6	INTEREST	
7	TOTAL AMOUNT DUE	2,829.97

## Sample Form TRD-41413, Gross Receipts Tax Return starting July 1, 2021

TRD-41413  
Rev. 06/01/2021New Mexico Taxation and Revenue Department  
GROSS RECEIPTS TAX RETURNThis report can be filed online at <https://tap.state.nm.us>.

New Mexico Business Tax Identification Number (NMBTN) 02-111111-000		
Federal Employer Identification Number (FEIN) 12-3456789	Social Security Number (SSN)	
Business Name (Print) Dr. Jane Doe		
<input type="checkbox"/> If the address is new or changed, mark this box. If there are any additional changes to your NMBTN please complete and send in <a href="#">ACD-31016, Business Tax Registration Application and Update Form</a> .		
Mailing Address (Number and street) 222 Santa Fe Street		
City Santa Fe	State NM	Postal/ZIP Code 87504
If foreign address, enter country		Foreign Province or state
Email address drjanedoe@test.com		Phone Number 505-123-4567

Tax Period	
Beginning (MM/DD/CCYY) 01/01/2021	Ending (MM/DD/CCYY) 01/30/2021
Amended Return	
<input type="checkbox"/> <b>Amended Return</b> Check the box above only if you are amending over your original return. Be sure to fill out this return as it should have been originally filed for the specified Tax Period. The amended return will override all information reported on your original return. Reason for amending, see instructions for more information. <b>IMPORTANT:</b> If your amended return will result in an overpayment or refund due, you must attach <a href="#">RPD-41071, Application For Refund</a> and supporting documentation to justify your refund request. Incomplete requests can result in a refund delay, request for information, or denial. Reason for amending: _____	

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I
Municipality/County Name	Location Code	Special Rate Code	Gross Receipts (excluding Tax)	Deduction Code	Deduction Amount	Taxable Gross Receipts	Tax Rate	Gross Receipts Tax Due
Albuquerque/Bern	02-100		20,000.00	G0-999	500.00	19,500.00	7.8750%	1,535.63
Albuquerque/Bern	02-100		10,000.00	D0-011	10,000.00	0.00	7.8750%	0.00
Albuquerque/Bern	02-100	M	30,000.00		30,000.00	0.00	7.8750%	0.00
Santa Fe/Santa Fe	01-123		15,730.00	D0-011	520.00	15,210.00	8.4375%	1,283.34
Santa Fe/Santa Fe	01-123	M	20,591.00		20,591.00	0.00	8.4375%	0.00
Enter the total amount of gross receipts (excluding tax) here:			96,321.00		61,611	A. Enter the total amount of gross receipts tax due here:		+ 2,818.97
If Schedule A pages are attached, enter total of columns D and I:						B. Enter the total amount of gross receipts tax from all Schedule A pages:		+

1. Total Gross Receipts Tax. (Add line A and B, enter amount here) .....	1. = 2,818.97
2. Business-Related tax credits applied, from Schedule CR, line A. Attach Schedule CR. (This line cannot be more than line 1) .....	2. -
3. Net Tax. (Subtract line 2 from line 1, enter amount here) .....	3. = 2,818.97
4. Penalty. (If you want penalty computed for you, leave blank) .....	4. +
5. Interest. (If you want interest computed for you, leave blank) .....	5. +
6. Total Amount Due. (Add lines 3, 4, and 5, enter amount here) .....	6. = 2,818.97
7. Refundable business-related tax credits applied, from Schedule CR, line B. Attach Schedule CR. ....	7. -
8. Overpayment. Attach RPD-41071 (Subtract line 6 from line 7, enter amount here) .....	8. =

Fuel Only	Total amount of taxable gross receipts attributable to the sale of fuel specially prepared and sold for use in turboprop or jet-type engine. (This line replaces RPD-41296, which has been retired)	
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I declare that I have examined this return including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

	Jane Doe	Owner	02/25/2021
Signature of taxpayer or authorized agent	Print Name	Title	Date



## 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 <http://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 Department's 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 <http://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 Pointe Avenue NE  
Albuquerque, NM 87123

#### SANTA FE

Manuel Lujan Sr. Bldg.  
1200 S. St. Francis Dr.  
Santa Fe, NM 87504

#### FARMINGTON

3501 E. Main St., Suite N  
Farmington, NM 87499

#### LAS CRUCES

2540 S. El Paseo Bldg. #2  
Las Cruces, NM 88004

#### ROSWELL

400 Pennsylvania Ave., Suite 200  
Roswell, NM 8820

#### New Mexico Regulation and Licensing Department

2500 Cerrillos Road  
P. O. Box 25101  
Santa Fe, NM 87504-5101  
(505) 827-7003  
[www.rld.state.nm.us](http://www.rld.state.nm.us)

#### Public Regulation Commission

Insurance Division  
Life, Health and Accident  
P. O. Drawer 1269  
PERA Building, Room 536  
Santa Fe, NM 87504  
(505) 827-4555  
[www.nmprc.state.nm.us](http://www.nmprc.state.nm.us)

#### New Mexico Department of Health

1190 St. Francis Drive  
Harold Runnels Building  
Santa Fe, NM 87504  
(505) 827-2613  
[www.nmhealth.org](http://www.nmhealth.org)

For forms and instructions visit the Department's web site at <http://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 8485  
Albuquerque, NM 87198-8485

For additional contact information please visit the Department's website at

<http://www.tax.newmexico.gov/contact-us/>

#### New Mexico Medical Society

7770 Jefferson N.E., Suite 400  
Albuquerque, NM 87109  
(505) 828-0237  
(505) 828-0336(fax)  
[www.nmms.org](http://www.nmms.org)

#### National Association of Health Underwriters

2000 North 14th Street Suite 450  
Arlington, VA 22201  
(703) 276-0220  
(703) 841-7797 (fax)  
[www.nahu.org](http://www.nahu.org)

*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](http://www.tax.newmexico.gov).*

*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.*