

### **Exemptions from Gross Receipts Tax**

A government may say, "We're not taxable, so don't charge us gross receipts tax." Remember that the gross receipts tax applies to the *seller's* receipts. Unless an exemption or deduction applies, the seller's receipts are taxable regardless of the buyer's tax status. When an exemption is in place, the seller's receipts are not taxed and do not have to be reported (Section 7-9-12 NMSA 1978). Only the seller or lessor can be exempt from taxation because gross receipts tax is the liability of the seller of a product or a service and of the person who leases property to someone else. While governmental entities are exempt from gross receipts tax on their own receipts (Section 7-9-13 NMSA 1978), *persons who sell to governmental entities are not automatically exempt from gross receipts tax on their receipts*. Note, however, that even when a transaction is not exempt, it may be deductible.

### **Deductions from Gross Receipts Tax**

A deduction from gross receipts, like an exemption, is a nontaxable amount. Unlike an exemption, a deduction must be reported (Section 7-9-45 NMSA 1978). Only receipts from specific types of transactions with the government are deductible from gross receipts. Although there are some exceptions, sales of tangible personal property to governments are deductible, but leases of property and sales of services and intangible personal property are fully taxable (Section 7-9-54 NMSA 1978) (See TRANSACTIONS AND THEIR TAX TREATMENT, page 4).

### **Verification of Deductions**

The Department requires taxpayers to retain documentation to support any deduction from gross receipts. The most widely held substantiation supporting a deduction from gross receipts is a New Mexico nontaxable transaction certificate (NTTC). There are many different types of NTTCs, but the Type 9 (purchase of tangible personal property by a governmental entity or a 501(c)3 organization) and Type 15 (purchase of tangible personal property by a contractor for certain federal government agencies) are the only types delivered by government agencies when they are the final customers. A seller also may document a deductible sale to a government by retaining a purchase order, a copy of the payment check, or other documentation that verifies the sale. *Available only to foreign nations* is the Type 16 NTTC for accredited diplomats or missions for the purchase of property and services or for the lease of property.

There are other times when the government is engaging in business and resells property or services, or it may lease property on its own. Please see Part II, Sales by Governments, page 10.

**Federal Government Credit Cards:** The federal government uses credit cards for some purchases. It is important to keep in mind that the use of a credit card does not automatically make the transaction deductible. Only credit cards bearing the legends "**United States of America,**" and "**Tax Exempt I.D. 140001849**" are acceptable. Sales to an individual who pays with these cards are sales to the federal government, so the guidelines cited above apply: receipts from the sale of tangible personal property are deductible from gross receipts, but receipts from leasing property or performing services are fully taxable. Receipts from the sale of construction materials for a construction project are fully taxable to the vendor no matter the form of payment.

For information about other federal credit card categories, please call the United States General Services Administration at (703) 308-4191, or contact the web address at <http://pub.fss.gsa.gov/services/gsa-smartpay>.

**Procurement Cards:** Payment with a government-issued procurement card, whether state or federal, does not automatically guarantee a tax-deductible purchase. The only deduction available to a vendor who deals with a government purchaser is for the sale of tangible personal property.