

New Mexico Taxation and Revenue Department

Quick Guide

501(c)(3) Nonprofit Groups & New Mexico's Gross Receipts Tax

501(C)(3) NONPROFITS

Nonprofit groups receive income from donations, fees, sales of tangible personal property, sales of services, space rentals, etc. Nonprofit organizations also buy goods and services. It is this activity that gives rise to most of the misunderstanding in New Mexico about, "But we're tax exempt!"

This quick guide explains how gross receipts tax (GRT) affects the purchases made by a 501(c)(3) organization. Of specific value is a paragraph on construction purchases for sellers and their 501(c)(3) customers. For more detailed information about the tax treatment of nonprofit organizations, including 501(c)(3) groups, please check publication **FYI-103, Information for Nonprofit Organizations**

501(C)(3) ORGANIZATIONS

Nonprofit organizations recognized by the federal government under Section 501(c) of the Internal Revenue Code (IRC) enjoy tax-exempt status in New Mexico for certain taxes to varying degrees. The IRC distinguishes among many types of nonprofit organizations but 501(c)(3) groups are primarily religious, charitable or educational in purpose.

The exemptions the state grants are for property tax, income tax, and GRT. To be exempt from GRT for sales that are made by the 501(c)(3) business the income from that sale must relate to the group's mission authorized by the Internal Revenue Service (IRS). **Unrelated income is fully taxable for GRT and income tax purposes.** Tax-exempt status awarded to the organization by the IRS applies to the organization only and does not apply to its individual members.

PLEASE NOTE: In New Mexico GRT holds the seller or lessor responsible for taxes on transactions. Unless the law provides an exemption or deduction for a transaction, the seller owes GRT on that sale and will likely recover the tax, like any other overhead, from the buyer no matter who that buyer is.

NONPROFIT PURCHASES

The only purchase a 501(c)(3) nonprofit organization can make without paying a seller's passed along GRT is a purchase of **tangible personal property**. Intangible personal property and construction materials are ineligible, unless the construction materials are sold to a 501(c)(3) organized for the purpose of providing home ownership opportunities to low-income families.

Sellers of services performed in New Mexico and lessors of property used in New Mexico do not receive deductions for transactions when sold to nonprofit organizations.

Sellers of tangible personal property receive deductions

when the buyer give the seller a Type 9 nontaxable transaction certificate (NTTC). That certificate is the vendor's evidence that the transaction is deductible under Section 7-9-60 (A) NMSA 1978. When the seller's transaction is deductible, there is no GRT to recover from the buyer. The seller must report deductible transactions even when no tax is due. Not all 501(c) categories may deliver NTTCs. For more information on NTTC's see **FYI-204, Nontaxable Transaction Certificates NTTC's**.

Construction is a service. All materials that become an ingredient or component of a construction project are part of the service. A construction contractor will recover GRT from its buyer (nonprofit, government, or otherwise). 501(c)(3) organizations organized for the purpose of providing homes for low-income families may use a Type 9 NTTC to purchase construction materials for use in these homes. Organizations organized for other purposes may not give a Type 9 NTTC to the vendor of construction materials even if your organization does its own construction. Such materials are not tangible personal property when intended for a construction project.

Use of hotel rooms, banquet halls and other rented spaces are licenses or "intangible" property and are taxable when sold to a 501(c)(3) organization.

Meals and other tangibles that a 501(c)(3) group buys for conferences, retreats and meetings are deductible to the seller using a Type 9 NTTC.

For more information on exemptions and deductions for GRT please see **FYI-105, Gross Receipts & Compensating Taxes - An Overview**.

WHERE TO FIND DOCUMENTS

The publications, forms, instructions and rate tables are located on the Taxation and Revenue Department's (Department) website at www.tax.newmexico.gov/forms-publications/.

You can also file electronically by going to the Taxpayer Access Point (TAP) <https://tap.state.nm.us/Tap>.

INTERNAL REVENUE SERVICE

The IRS is the agency that a 501(c)(3) needs to get its letters of designation and exemption from. Locate more information online at www.irs.gov.

BUSINESS TAXES UNIT

The Department's Business Taxes Unit can help with further questions you may have. You can email your question to the Department at grt.trdhelp@state.nm.us or call the Department's call center at 1-866-285-2996.

For additional contact information please visit the Department's website at www.tax.newmexico.gov/contact-us/.