NEW MEXICO BULLETIN

TAXATION & REVENUE NEW MEXICO

Taxability of COVID Relief Payments

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Tax Relief Act of 2020 provided emergency relief to New Mexico taxpayers to address the economic impact of the COVID-19 pandemic through direct payments, loans, and grants to individuals, and to state and local governments that then made payments, loans, and grants to individuals and businesses. This bulletin provides guidance on the impact of the payments for New Mexico taxpayers.

ECONOMIC IMPACT PAYMENTS (EIP)

EIP are not subject to New Mexico personal income tax. The Internal Revenue Service (IRS) has provided clear guidance that direct payments made to individuals provided through the CARES Act, called EIP, are an advance of a credit for 2020 and therefore not included in federal gross income. New Mexico personal income tax is calculated based upon the federal adjusted gross income (AGI). Since the payments are not included in this amount, they are not included in New Mexico taxable income.

PAYCHECK PROTECTION PROGRAM (PPP) LOANS

Gross Receipts Tax

PPP loans are not gross receipts. PPP loans were created by the CARES Act to allow businesses to continue to pay their workers and some overhead expenses. PPP is a loan and therefore does not meet the definition of gross receipts found in Section 7-9-3.5 NMSA 1978. This is the case even if the loans were forgiven.

For a payment to be considered gross receipts it must result from an activity described within the definition found in Section 7-9-3.5 NMSA 1978. As stated in statute, gross receipts are the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside New Mexico the product of which is initially used in New Mexico, or from performing services in New Mexico. Since the loans are not gross receipts derived from these activities, they are not subject to gross receipts tax.

Income Tax

Federal rules determine whether a PPP loan is subject to income taxes. In New Mexico both personal and corporate income tax is based on reported federal income and therefore conforms to the federal rules in determining whether these loans are taxable. Personal income tax is determined by the federal AGI and then by allowing the standard or itemized deductions. Corporate income tax is based upon the federal taxable income before net operating loss and special deductions.

In both cases, PPP has been determined to be a loan that is not federal taxable income, even if forgiven, and therefore also not taxable income for New Mexico state income taxes. The CARES Act specifically provides that a forgiven PPP loan is not taxable. These forgiven loans, then, would not be reflected as taxable income on the New Mexico tax return. Revenue Ruling 2021-2 issued in January 2021 by the IRS further clarified that following the passage of the Tax Relief Act of 2020 in December 2020, expense deductions from forgiven PPP loans were also allowable.

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New Mexico Taxation and Revenue Department
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Santa Fe, NM 87504-0630

GRANTS PROVIDED AS PART OF THE CARES ACT

Gross Receipts Tax

Most grants received through CARES Act funding are not subject to gross receipts tax. For an amount of money to be considered gross receipts the payment must be the result of an activity within the definition of gross receipts found in Section 7-9-3.5 NMSA 1978. Receiving a grant, therefore, would normally not be considered gross receipts unless the receipt of the grant required the recipient to perform a transaction, such as performing services. This means that most small-business grants provided to businesses by local governments through funds made available through the CARES Act are not included in gross receipts. The City of Albuquerque's Small Business Economic Relief Grant, which was funded by the CARES Act, is one such example. The city providing the grant does not require the recipient to perform a service to receive the grant.

Furthermore, payments received by most healthcare providers from the Provider Relief Fund, created by the CARES Act, are explicitly exempt from gross receipts tax. Section 7-9-41.6 NMSA 1978 exempts the "receipts of health care providers, other than hospitals licensed by the department of health, from payments by 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." This exempts payments made from the Provider Relief Fund to reimburse healthcare providers for expenses for providing patient care. However, as the statute states above, this exemption does not apply to hospitals. Hospitals may have gross receipts if the grant they received was in exchange for performing services.

Income Tax

Federal rules determine whether grant is subject to income taxes. While not subject to gross receipts tax, a grant is likely taxable as income for most recipients. Funds a business receives through a grant would generally be considered income, but each grant has its own rules and may have exclusions from tax in some cases. The IRS provided guidance earlier in the year that the income provided to businesses from the CARES Act is generally taxable. If the grant money is taxable at the federal level, it would be taxable at the state level for the same reasons of conformity provided above. Furthermore, special rules apply to tribes and Pueblos, tribal corporations, and entities, for whom such grants are often not subject to income taxation. Taxpayers falling into this category should seek further guidance.

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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 Ave. NE, Suite C
Albuquerque, NM 87123

SANTA FE
Manuel Lujan Senior Building
1200 S. Saint. Francis Dr.
Santa Fe, NM 87505

FARMINGTON
3501 E. Main St., Ste N
Farmington, NM 87402

LAS CRUCES
2540 El Paseo Bldg. 2
Las Cruces, NM 88001

ROSWELL
400 N. Pennsylvania Ave., Ste 200
Roswell, NM 88201

For forms and instructions visit the Department's web site at https://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 https://www.tax.newmexico.gov/contact-us/

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 https://www.tax.newmexico.gov/forms-publications/

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 https://www.tax.newmexico.gov/.

This publication provides instructions or general information to the taxpayer. It does not constitute a regulation or ruling as defined under Section 7-1-60, New Mexico Statutes Annotated, 1978. 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 Bulletin.

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