

N. M. S. A. 1978, § 63-9D-3

West's New Mexico Statutes Annotated [Currentness](#)

☞ [Chapter 63](#). Railroads and Communications

☞ [Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-3. Definitions

As used in the Enhanced 911 Act:

- A. "911 emergency surcharge" means the monthly uniform charge assessed on each access line in the state and on each active number for a commercial mobile radio service subscriber whose billing address is in New Mexico;
- B. "911 service area" means the area designated by the fiscal agent, local governing body or the division to receive enhanced 911 service;
- C. "access line" means a telecommunications company's line that has the capability to reach local public safety agencies by dialing 911, but does not include a line used for the provision of interexchange services or commercial mobile radio service;
- D. "commercial mobile radio service" means service provided by a wireless real-time two-way voice communication device, including:
- (1) radio-telephone communications used in cellular telephone service;
 - (2) the functional or competitive equivalent of radio-telephone communications used in cellular telephone service;
 - (3) a personal communications service; or
 - (4) a network radio access line;
- E. "commercial mobile radio service provider" means a person who provides commercial mobile radio services, including a person who purchases commercial mobile radio service from a provider and resells that service;
- F. "commission" means the public regulation commission;
- G. "database" means information that is collected, formatted and disseminated and that is necessary for the functioning of the enhanced 911 system, including geographic information system (GIS) addressing and digital mapping information;
- H. "department" means the taxation and revenue department;
- I. "division" means the local government division of the department of finance and administration;
- J. "enhanced 911 system" means a landline or wireless system consisting of network switching equipment, database, mapping and on-premises equipment that uses the single three-digit number 911 for reporting police, fire, medical or other emergency situations, thereby enabling a caller to reach a public safety answering point to report emergencies by dialing 911, and includes the capability to:
- (1) selectively route incoming 911 calls to the appropriate public safety answering point operating in a 911 service area;
 - (2) automatically display the name, address and telephone number of an incoming 911 call on a video monitor at the appropriate public safety answering point;
 - (3) provide one or more access paths for communications between users at different geographic locations through a network system that may be designed for voice or data, or both, and may feature limited or open access and may employ appropriate analog, digital switching or transmission technologies; and
 - (4) relay to a designated public safety answering point a 911 caller's number and base station or cell site location and the latitude and longitude of the 911 caller's location in relation to the designated public safety answering point;
- K. "enhanced 911 equipment" means the public safety answering point equipment directly related to the operation of an enhanced 911 system, including automatic number identification or automatic location identification controllers and display units, printers, logging recorders and software associated with call detail recording, call center work stations, training, latitude and longitude base station or cell site location data and

GIS equipment necessary to obtain and process locational map and emergency service zone data for landline and wireless callers;

L. "equipment supplier" means a person who provides or offers to provide telecommunications equipment necessary for the establishment of enhanced 911 services;

M. "fiscal agent" means the local governing body that administers grants from the fund for a given locality or region by agreement;

N. "fund" means the enhanced 911 fund;

O. "local governing body" means the board of county commissioners of a county or the governing body of a municipality as defined in the Municipal Code;

P. "proprietary information" means customer lists, customer counts, technology descriptions or trade secrets, including the actual or development costs of individual components of an enhanced 911 system; provided that such information is designated as proprietary by the commercial mobile radio service provider or telecommunications company; and provided further that "proprietary information" does not include individual payments made by the division or any list of names and identifying information of subscribers who have not paid the surcharge;

Q. "public safety answering point" means a twenty-four-hour local communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency;

R. "subscriber" means a person who is a retail purchaser of telecommunications services that are capable of originating a 911 call;

S. "surcharge" means the 911 emergency surcharge;

T. "telecommunications company" means a person who provides wire telecommunications services that are capable of originating a 911 call; and

U. "vendor" means a person that provides 911 equipment, service or network support.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-4

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§ 63-9D-4. Provision for enhanced 911 services by local governing bodies; enhanced 911 system costs; payment of costs; joint powers agreements; aid outside jurisdictional boundaries

A. A local governing body or a consortium of local governing bodies may incur costs for the purchase, lease, installation or maintenance of enhanced 911 equipment and training necessary for the establishment of an enhanced 911 system and may pay such costs through disbursements from the fund; provided that the local governing body has employed properly trained staff in its public safety answering point pursuant to the Public Safety Telecommunicator Training Act.

B. If the enhanced 911 system is to be provided for territory that is included in whole or in part in the jurisdiction of the local governing bodies of two or more public agencies that are the primary providers of emergency firefighting, law enforcement, ambulance, emergency medical or other emergency services, the agreement for the procurement of the enhanced 911 system shall be entered into by the fiscal agent designated by the local governing bodies. A local governing body may expressly exclude itself from the agreement. Nothing in this subsection shall be construed to prevent two or more local governing bodies from entering into a joint powers agreement pursuant to the Joint

Powers Agreements Act to establish a separate legal entity that can enter into an agreement as the enhanced 911 system customer.

C. A public agency in an enhanced 911 service area shall provide that, once an emergency unit is dispatched in response to a request for aid through the enhanced 911 system, the emergency unit shall render services to the requester without regard to whether the unit is operating outside its normal jurisdictional boundaries.

D. A local governing body in an enhanced 911 service area shall provide GIS addressing and digital mapping data to the public safety answering point that provides the enhanced 911 service to the local governing body.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-4.1

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-4.1. Email notification

State and local 911 systems shall be able to receive emergency notifications by email.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-5

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-5. Imposition of surcharge

A. There is imposed a 911 emergency surcharge in the amount of fifty-one cents (\$.51) to be billed to each subscriber access line by a telecommunications company and on each active number for a commercial mobile radio service subscriber whose billing address is in New Mexico; provided, however, that the surcharge shall not be imposed upon subscribers receiving reduced rates pursuant to the Low Income Telephone Service Assistance Act.

B. Commercial mobile radio service providers shall be required to bill and collect the surcharge from their subscribers whose places of primary use, as defined in the federal Mobile Telecommunications Sourcing Act [\[FN1\]](#), are in New Mexico. Telecommunications companies shall be required to bill and collect the surcharge from their subscribers. The surcharge required to be collected by the commercial mobile radio service provider or telecommunications company shall be added to and stated clearly and separately in the billings to the subscriber. The surcharge collected by the commercial mobile radio service provider or telecommunications company shall not be considered revenue of the commercial mobile radio service provider or telecommunications company.

C. A billed subscriber is liable for payment of the 911 emergency surcharge until it has been paid to the commercial mobile radio service provider or telecommunications company.

D. A commercial mobile radio service provider or telecommunications company has no

obligation to take legal action to enforce the collection of the surcharge; an action may be brought by or on behalf of the department. A commercial mobile radio service provider or telecommunications company, upon request and not more than once a year, shall provide to the department a list of the surcharge amounts uncollected, along with the names and addresses of subscribers who carry a balance that can be determined by the commercial mobile radio service provider or telecommunications company to be nonpayment of the surcharge. The commercial mobile radio service provider or telecommunications company shall not be held liable for uncollected surcharge amounts.

E. The surcharge shall commence with the first billing period of each subscriber on or following July 1, 2005.

[\[FN1\] 4 U.S.C.A. §§ 116 to 126.](#)

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-7

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-7. Remittance of charges; administrative fee

A. The surcharge collected shall be remitted monthly to the department, which shall administer and enforce collection of the surcharge in accordance with the Tax Administration Act. The surcharge shall be remitted to the department no later than the twenty-fifth day of the month following the month in which the surcharge was imposed. At that time, a return for the preceding month shall be filed with the department in such form as the department and telecommunications company or commercial mobile radio service provider shall agree upon. A telecommunications company or commercial mobile radio service provider required to file a return shall deliver the return together with a remittance of the amount of the surcharge payable to the department. The telecommunications company or commercial mobile radio service provider shall maintain a record of the amount of each surcharge collected pursuant to the Enhanced 911 Act. The record shall be maintained for a period of three years after the time the surcharges were collected.

B. From a remittance to the department made on or before the date it becomes due, a telecommunications company or commercial mobile radio service provider required to make a remittance shall be entitled to deduct and retain one percent of the collected amount or fifty dollars (\$50.00), whichever is greater, as the administrative cost for collecting the surcharge.
and network and database surcharge fund is transferred to the enhanced 911 fund."

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-8

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-8. Enhanced 911 fund; creation; administration; disbursement; reports to legislature

A. There is created in the state treasury a fund that shall be known as the "enhanced

911 fund". The fund shall be administered by the division.

B. All surcharges collected and remitted to the department shall be deposited in the fund.

C. Money deposited in the fund and income earned by investment of the fund are appropriated for expenditure in accordance with the Enhanced 911 Act and shall not revert to the general fund.

D. Payments shall be made from the fund to, or on behalf of, participating local governing bodies or their fiscal agents upon vouchers signed by the director of the division solely for the purpose of reimbursing local governing bodies or their fiscal agents, commercial mobile radio service providers or telecommunications companies for their costs of providing enhanced 911 service. A person who purchases commercial mobile radio services or telecommunications services from a commercial mobile radio service provider or telecommunications company for the purpose of reselling that service is not eligible for reimbursement from the fund. Money in the fund may be used for the payment of bonds issued pursuant to the Enhanced 911 Bond Act.

E. Annually, the division may expend no more than five percent of all money deposited annually in the fund for administering and coordinating activities associated with implementation of the Enhanced 911 Act.

F. Money in the fund may be awarded as grant assistance to provide enhanced 911 service and equipment upon application of local governing bodies or their fiscal agents to the division and upon approval by the state board of finance. If it is anticipated that the funds available to pay all requests for grants will be insufficient, the state board of finance may reduce the percentage of assistance to be awarded. In the event of such reduction, the state board of finance may award supplemental grants to local governing bodies that demonstrate financial hardship.


G. After requesting enhanced 911 service from a telecommunications company or commercial mobile radio service provider, a local governing body may, by ordinance or resolution, recover from the fund an amount necessary to recover the costs of providing the enhanced 911 system in its designated 911 service area. The division, on behalf of local governing bodies, shall directly pay or reimburse commercial mobile radio service providers and telecommunications companies for their costs of providing enhanced 911 service. If a commercial mobile radio service provider or telecommunications company does not receive payment or reimbursement for the costs of providing enhanced 911 service, the provider is not obligated to provide that service.

H. The division shall report to the legislature each session the status of the fund and whether the current level of the 911 emergency surcharge is sufficient, excessive or insufficient to fund the anticipated needs for the next year.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-8.1

 [Chapter 63](#). Railroads and Communications

 [Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-8.1. Division powers

A. The division may adopt reasonable rules necessary to carry out the provisions of the

Enhanced 911 Act.

B. The division may fund enhanced 911 systems pursuant to the provisions of the Enhanced 911 Act.

C. Division powers are limited and do not include power to intervene between two vendors or restrict marketing efforts of vendors.

D. The division and the local governing body may establish 911 service areas.

E. Unless otherwise provided by law, no rule affecting any person, agency, local governing body, commercial mobile radio service provider or telecommunications company shall be adopted, amended or repealed without a public hearing on the proposed action before the director of the division or a hearing officer designated by the director. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule or proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons or agencies who have made a written request for advance notice of the hearing and to all local governing bodies, telecommunications companies and commercial mobile radio service providers.

F. All rules shall be filed in accordance with the State Rules Act.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-10

 [Chapter 63](#). Railroads and Communications

 [Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-10. Immunity

Enhanced 911 systems are within the governmental powers and authorities of the local governing body or state agency in the provision of services for the public health, welfare and safety. In contracting for such services or the provisioning of an enhanced 911 system, except for willful or wanton negligence or intentional acts, the local governing body, public agency, equipment supplier, telecommunications company, commercial mobile radio service provider and their employees and agents are not liable for damages resulting from installing, maintaining or providing enhanced 911 systems or transmitting 911 calls.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-11

 [Chapter 63](#). Railroads and Communications

 [Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-11. Private listing subscribers and 911 service

A. Private listing subscribers waive the privacy afforded by nonlisted or nonpublished numbers only to the extent that the name and address associated with the telephone number may be furnished to the enhanced 911 system for call routing or for automatic retrieval of location information in response to a call initiated to 911.

B. Information regarding the identity of private listing subscribers, including names, addresses, telephone numbers or other identifying information, is not a public record and is not available for inspection.

C. Proprietary information provided by a commercial mobile radio service provider or telecommunications company is not public information and may not be released to any person without the express permission of the submitting provider, except that information may be released or published as aggregated data that does not identify the number of subscribers or identify enhanced 911 system costs attributable to an individual commercial mobile radio service provider or telecommunications company.

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N. M. S. A. 1978, § 63-9D-11.1

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-11.1. Violation; penalties

A. Any person who knowingly dials 911 for the purpose of reporting a false alarm, making a false complaint or reporting false information that results in an emergency response by any public safety agency is guilty of a petty misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500) or imprisonment for a term not to exceed six months, or both.

B. A municipality may adopt an ordinance making it a violation for any person to knowingly dial 911 for the purpose of reporting a false alarm, making a false complaint or reporting false information that results in an emergency response by any public safety agency. The municipality may adopt and enforce the ordinance pursuant to the authority provided in [Section 3-17-1 NMSA 1978](#).

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-13

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-13. Definitions

As used in the Enhanced 911 Bond Act:

A. "board" means the state board of finance;

- B. "division" means the local government division of the department of finance and administration;
- C. "enhanced 911 bonds" means the bonds authorized in the Enhanced 911 Bond Act;
- D. "enhanced 911 project" means actions authorized under [Section 63-9D-14 NMSA 1978](#) that pertain to a specific component of the enhanced 911 system; and
- E. "enhanced 911 revenue" means the revenue to and the income of the enhanced 911 fund that are pledged to the payment of enhanced 911 bonds under the Enhanced 911 Bond Act.

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N. M. S. A. 1978, § 63-9D-14

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-14. Enhanced 911 bonds; authority to issue; pledge of revenues; limitation on issuance

A. In addition to any other law authorizing the board to issue revenue bonds, the board may issue enhanced 911 bonds pursuant to the Enhanced 911 Bond Act for the purposes specified in this section.

B. Enhanced 911 bonds may be issued for:

- (1) acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating the enhanced 911 system, the payment of which shall be secured by enhanced 911 revenues;
- (2) reimbursing a commercial mobile radio service provider or telecommunications company for its reasonable costs of providing enhanced 911 service, the payment of which shall be secured by enhanced 911 revenues; or
- (3) reimbursing a local governing body or its fiscal agent for its reasonable costs of providing the enhanced 911 system, the payment of which shall be secured by enhanced 911 revenues.

C. The board may pledge irrevocably enhanced 911 revenues in the manner set forth in Subsection B of this section to the payment of the interest on and principal of enhanced 911 bonds. Any general determination by the board that expenditures are reasonably related to and constitute a part of a specified enhanced 911 project shall be conclusive if set forth in the proceedings authorizing the enhanced 911 bonds.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-15

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-15. Use of proceeds of bond issue

It is unlawful to divert, use or expend any money received from the issuance of enhanced 911 bonds for any purpose other than the purposes for which the bonds were issued.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-16

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-16. Enhanced 911 bonds; terms

Enhanced 911 bonds:

A. shall bear interest at a coupon rate or coupon rates not exceeding the maximum coupon rate which is permitted by the Public Securities Act; provided that interest shall be payable annually or semiannually and may or may not be evidenced by coupons; and provided further that the first interest payment date may be for interest accruing for any period not exceeding one year;

B. may be subject to a prior redemption at the board's option at such time or times and upon such terms and conditions, with or without the payment of such premium or premiums, as may be provided by action of the board;

C. may mature at any time or times not exceeding twenty years after the date of issuance;

D. may be serial in form and maturity or may consist of one bond payable at one time or in installments;

E. shall be sold for cash at, above or below par and at a price which results in a net effective interest rate which does not exceed the maximum permitted by the Public Securities Act; and

F. may be sold at public or private sale.

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N. M. S. A. 1978, § 63-9D-17

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-17. Bond authorization

The board may issue and sell enhanced 911 bonds in compliance with the Enhanced 911 Bond Act. The board shall schedule the issuance and sale of the bonds in the most expeditious and economical manner upon a finding by the board that the division has certified that the need exists for the issuance of bonds and upon an action by the board designating the enhanced 911 fund to be the source of pledged revenues.

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N. M. S. A. 1978, § 63-9D-18

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-18. Authority to refund bonds

The board may issue and sell at public or private sale enhanced 911 bonds to refund outstanding enhanced 911 bonds and other bonds payable from the enhanced 911 fund by exchange, immediate or prospective redemption, cancellation or escrow, including the escrow of debt service funds accumulated for payment of outstanding bonds, or any combination thereof, when, in its opinion, such action will be beneficial to the state.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 63-9D-19

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-19. Enhanced 911 bonds not general obligations; authentication

A. Enhanced 911 bonds or refunding bonds issued as authorized by the Enhanced 911 Bond Act are:

- (1) not general obligations of the state; and
- (2) collectible only from the proper pledged revenues, and each bond shall state that it is payable solely from the pledged revenues, and that the bondholders may not look to any other state fund for the payment of the interest and principal of the bonds.

B. The bonds and coupons shall be signed and sealed as provided by the resolution of the board issuing the bond, and the Uniform Facsimile Signature of Public Officials Act shall be applicable.

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N. M. S. A. 1978, § 63-9D-20

[Chapter 63](#). Railroads and Communications

[Article 9D](#). Enhanced 911 ([Refs & Annos](#))

§ 63-9D-20. Amount of surcharge; security for bonds

A. The legislature shall provide for the continued imposition, collection and deposit of the 911 emergency surcharge into the enhanced 911 fund in amounts that, together with other amounts deposited into the fund, will be sufficient to produce an amount necessary to meet annual debt service charges on all respective outstanding enhanced 911 bonds.

B. The legislature shall not repeal, amend or otherwise modify any law that affects the 911 emergency surcharge in a manner that impairs any outstanding enhanced 911 bonds secured by a pledge of the 911 emergency surcharge unless:


- (1) the outstanding enhanced 911 bonds to which the revenues from the surcharge are pledged have been discharged in full; or
- (2) provision has been made to discharge fully the outstanding enhanced 911 bonds to which the revenues from the surcharge are pledged.

C. Nothing in this section shall require any increase in the 911 emergency surcharge.

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N. M. S. A. 1978, § 7-1-2

[Chapter 7](#). Taxation

 [Article 1](#). Administration

§ 7-1-2. Applicability

The Tax Administration Act applies to and governs:

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

- (1) Weight Distance Tax Act;
- (2) the workers' compensation fee authorized by [Section 52-5-19 NMSA 1978](#), which fee shall be considered a tax for purposes of the Tax Administration Act;
- (3) Uniform Unclaimed Property Act (1995);
- (4) **911 emergency** surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

N. M. S. A. 1978, § 7-1-3

 [Chapter 7](#). Taxation

 [Article 1](#). Administration

§ 7-1-3. Definitions

Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

- A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;
- B. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;
- C. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;
- D. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;
- E. "financial institution" means any state or federally chartered, federally insured depository institution;
- F. "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended;
- G. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;
- H. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;
- I. "managed audit" means a review and analysis conducted by a taxpayer under an agreement with the department to determine the taxpayer's compliance with a tax administered pursuant to the Tax Administration Act and the presentation of the results to the department for assessment of tax found to be due;
- J. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;
- K. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;
- L. "paid" includes the term "paid over";
- M. "pay" includes the term "pay over";
- N. "payment" includes the term "payment over";

O. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in [Sections 7-1-72 through 7-1-74 NMSA 1978](#), also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

P. "property" means property or rights to property;

Q. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

R. "secretary" means the secretary of taxation and revenue and, except for purposes of [Subsection B of Section 7-1-4 NMSA 1978](#) and [Subsection E of Section 7-1-24 NMSA 1978](#), also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

S. "secretary or the secretary's delegate" means the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

T. "security" means money, property or rights to property or a surety bond;

U. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

V. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act and, unless the context otherwise requires, includes the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law and includes, unless the context requires otherwise, the amount of any interest or civil penalty relating thereto;

W. "taxpayer" means a person liable for payment of any tax, a person responsible for withholding and payment or for collection and payment of any tax or a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; and

X. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person.

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N. M. S. A. 1978, § 7-1-6

[Chapter 7](#). Taxation

[Article 1](#). Administration

§ 7-1-6. Receipts; disbursements; funds created

A. All money received by the department with respect to laws administered under the provisions of the Tax Administration Act shall be deposited with the state treasurer before the close of the next succeeding business day after receipt of the money, except that for 1989 and every subsequent year, money received with respect to the Income Tax Act during the period starting with the fifth day prior to the due date for payment of income tax for the year and ending on the tenth day following that due date shall be deposited before the close of the tenth business day after receipt of the money.

B. Money received or disbursed by the department shall be accounted for by the department as required by law or regulation of the secretary of finance and administration.

C. Disbursements for tax credits, tax rebates, refunds, the payment of interest, the payment of fees charged by attorneys or collection agencies for collection of accounts as agent for the department, attorney fees and costs awarded by a court or hearing officer, as the result of oil and gas litigation, the payment of credit card service charges on payments of taxes by use of credit cards, distributions and transfers shall be made by the department of finance and administration upon request and certification of their appropriateness by the secretary or the secretary's delegate. There are hereby created in the state treasury the "tax administration suspense fund", the "extraction taxes suspense fund" and the "workers' compensation collections suspense fund" for the purpose of making the disbursements authorized by the Tax Administration Act.

D. All revenues collected or received by the department pursuant to the provisions of the taxes and tax acts administered under [Subsection A of Section 7-1-2 NMSA 1978](#) shall be credited to the tax administration suspense fund and are appropriated for the purpose of making the disbursements authorized under this section or otherwise authorized or required by law to be made from the tax administration suspense fund.

E. All revenues collected or received by the department pursuant to the taxes or tax acts administered under [Subsection B of Section 7-1-2 NMSA 1978](#) shall be credited to the extraction taxes suspense fund and are appropriated for the purpose of making the disbursements authorized under this section or otherwise authorized or required by law to be made from the extraction taxes suspense fund.

F. All revenues collected or received by the department pursuant to the taxes or tax acts administered under [Subsection C of Section 7-1-2 NMSA 1978](#) may be credited to the tax administration suspense fund, unless otherwise directed by law to be credited to another fund or agency, and are appropriated for the purpose of making disbursements authorized under this section or otherwise authorized or required by law.

G. All revenues collected or received by the department pursuant to the provisions of [Section 52-5-19 NMSA 1978](#) shall be credited to the workers' compensation collections suspense fund and are appropriated for the purpose of making the disbursements authorized under this section or otherwise authorized or required by law to be made from the workers' compensation collections suspense fund.

H. Disbursements to cover expenditures of the department shall be made only upon approval of the secretary or the secretary's delegate.

I. Miscellaneous receipts from charges made by the department to defray expenses pursuant to the provisions of [Section 9-11-6.2 NMSA 1978](#) and similar charges are appropriated to the department for its use.

J. From the tax administration suspense fund, there may be disbursed each month amounts approved by the secretary or the secretary's delegate necessary to maintain a fund hereby created and to be known as the "income tax suspense fund". The income tax suspense fund shall be used for the payment of income tax refunds.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 7-1-6.1

[Chapter 7](#). Taxation

[Article 1](#). Administration

§ 7-1-6.1. Identification of money in tax administration suspense fund; distribution

After the necessary disbursements have been made from the tax administration suspense fund, the money remaining, except for remittances received within the previous sixty days that are unidentified as to source or disposition, in the suspense fund as of the last day of the month shall be identified by tax source and distributed or transferred in accordance with the applicable provisions of the Tax Administration Act. After the necessary distributions and transfers, any balance shall be distributed to the general fund.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)

N. M. S. A. 1978, § 7-1-6.31

[Chapter 7](#). Taxation

[Article 1](#). Administration

§ 7-1-6.31. Distributions; enhanced 911 fund; network and database surcharge fund

A. Pursuant to [Section 7-1-6.1 NMSA 1978](#), a distribution shall be made to the enhanced **911** fund in an amount equal to the net receipts attributable to the **911 emergency** surcharge.

B. A distribution pursuant to [Section 7-1-6.1 NMSA 1978](#) shall be made to the network and database surcharge fund of the net receipts attributable to the network and database surcharge imposed pursuant to the Enhanced **911** Act.

Current through laws effective May 14, 2008 of the Second Regular Session of the 48th Legislature (2008)