NOTICE OF PROPOSED RULEMAKING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to repeal and replace certain rules and regulations pertaining to the Cigarette Tax Act. The State Records and Archives Administrative Law Division is requiring a repeal and replace of the following rules to make amendments, citing Regulation Subsection C of 1.24.11.9 NMAC.

Summary of Proposed Changes:
The New Mexico Taxation and Revenue Department proposes to repeal and replace the following rules:

Cigarette Tax Act:
Title 3:- Taxation; Chapter 9: Cigarette Products Taxes; Part 1: General Provisions
3.9.1.1 - Issuing Agency
3.9.1.2 - Scope
3.9.1.3 - Statutory Authority
3.9.1.4 -Duration
3.9.1.5 - Effective Date
3.9.1.6 - Objective
Section 7-12-2 NMSA 1978 - Definitions
3.9.1.7 - Definitions
3.9.1.18 - False and Fraudulent Manufacturing Labels
Section 7-12-4 NMSA 1978 - Exemption
3.9.1.9 - Documentation to Substantiate the Issuance of a Tribal License
3.9.1.10 - Documentation to Substantiate Sales of Cigarettes to Exempt Entities
Section 7-12-5 NMSA 1978 - Affixing Stamps
3.9.1.8 - Cigarettes as a Prize are Taxable
3.9.1.11 - Qualifications for a Stamp to be Considered Affixed
Section 7-12-7 NMSA 1978 - Sale of Stamps; Prices
3.9.1.12 - Cigarette Stamp Quantities
Section 7-12-9.1 NMSA 1978 - Licensing; General Licensing Provisions
3.9.1.13 - Cigarette Distributor and manufacturer - Licensing Fee
Section 7-12-9.4 NMSA 1978 - Retail Sale of Cigarettes
3.9.1.14 - Cigarettes Not Purchased from a Licensed Distributor
Section 7-12-13.1 NMSA 1978 - Civil Penalties
3.9.1.15 - Civil Penalties
Section 7-12-13.2 NMSA 1978 - Criminal Offenses; Criminal Penalties; Seizure and Destruction of Evidence
3.9.1.19 - Possession of Contraband Cigarette; Seizure
3.9.1.20 - Right of Appeal
3.9.1.21 - Appeal Procedures
3.9.1.22 - Forfeit
Section 7-12-18 NMSA 1978 - Reports
3.9.1.16 - Reporting Under Section 7-12-18 NMSA 1978
3.9.1.17 - Documentation of Cigarettes Shipped Out of New Mexico

Title 3: Taxation; Chapter 9: Cigarette Products Taxes; Part 1: Shipment of Unstamped Cigarettes in New Mexico
3.9.1.1 - Issuing Agency
3.9.1.2 - Scope
3.9.1.3 - Statutory Authority
3.9.1.4 -Duration
3.9.1.5 - Effective Date
3.9.1.6 - Objective
3.9.1.7 - Definitions
Section 7-12-12 NMSA 1978 - Shipment of Unstamped Cigarettes in New Mexico

3.9.2.8 - Transporting Unstamped Cigarettes into New Mexico

Technical Information:
No technical information was consulted in drafting these proposed rule changes.

Purpose of Proposed Rule:
The proposed rule updates are to match the regulations to current rule formatting and to update the regulations based on current department and industry business practices. Some regulations have been placed under the definition portion of the rule to make clear they apply to the entire Act, and some regulations have been repealed if the statutes themselves clearly outline the requirement. The civil penalty regulations have been updated to outline the process for businesses with multiple locations. The appeal process has been updated; the Administrative Hearings Office (AHO) has been removed from the Taxation and Revenue Department since 2015. The civil penalty assessments currently fall under the protest process with the AHO. The appeal process has been updated to align the timeline with the protest submittal timeline of ninety days.

Notice of Public Rule Hearing:
A public hearing will be held on the proposed rule changes on Thursday, August 27, 2026, from 11AM to noon at the 3rd floor in the Montoya Building, 1100 South St. Francis Drive, Santa Fe, New Mexico 87504. The hearing will be recorded, and oral comments can be made during the public hearing. Written comments can be submitted as outlined at the end of this notice.

Virtual meeting access is available using Microsoft Teams:
https://teams.microsoft.com/meet/22314554383040?p=qD5X24SESgaq8TLeKy
Meeting ID: 223 145 543 830 40
Passcode: 9eb6cb3e
Dial in by phone 1-505-312-4308
Conference ID: 790 861 760#

The rule proposals were placed on file in the Office of the Secretary on July 13, 2026. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about September 22, 2026.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact the Tax Information and Policy Office at policy.office@tax.nm.gov. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Copies of the proposed rules:
Are located at: https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/ or are available upon request by contacting the Tax Policy Office at policy.office@tax.nm.gov.

Notice of Acceptance of Written Public Comment: Written comments on the proposals can be submitted by email to policy.office@tax.nm.gov or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or by 5PM on Thursday, August 27, 2026.

All written comments received by the agency will be posted on https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/ no more than three business days following receipt to allow for public review.