



# This Week in State Tax (TWIST)

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## **New Mexico: New Draft Regulations Address Taxation of Digital Advertising**

On October 5, the New Mexico Department of Taxation and Revenue submitted proposed regulations regarding the taxation of digital advertising services under the Gross Receipts and Compensating Tax Act. The regulations were initially proposed last year, but the Department withdrew them to incorporate comments submitted by the business community. The Department has maintained that the proposed regulations only clarify existing law.

The updated proposed rules specify that the receipts of a provider of a digital platform that displays digital advertising services, whose digital platform may be accessed or viewed within New Mexico, from the sale of advertising services to advertisers within and without New Mexico are subject to the gross receipts tax. The updated proposed rules also remove an explicit declaration that the imposition of New Mexico's gross receipts tax on digital advertising receipts does not impose an unconstitutional burden on interstate commerce. Finally, the proposed rules provide an updated example which illustrates that a digital advertising service provider's reporting location is based on the location of the service provider. Under the previous version of the rules, the reporting location was based on the location of the service provider's server hosting the digital platform from which the advertising is accessed.

A public hearing will be held on the proposed rule changes on Thursday, November 9, 2023. For questions regarding the proposed regulations, please contact [Carolyn Owens](#).

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