

[EXTERNAL] Comments on proposed regulation NMAC Title 3, Chapter 2, Part 211 (including 3.2.211.18)

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To:Office, Policy, TAX <policy.office@tax.nm.gov>

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 1 attachments (175 KB)

Assisted Living Facilities-FINAL-4.pdf;

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To: New Mexico Taxation and Revenue Department
Tax Policy Office

Set forth below are comments on proposed regulation NMAC Title 3, Chapter 2, Part 211 (including 3.2.211.18).

1. NMAC 3.2.211.18(A) should make clear that receipts of an assisted living facility include receipts from the leasing of real property, from providing services and from the sale tangible personal property, such as food and drink.
2. NMAC 3.2.211.18(A)(2) should also cover receipts from the sale of tangible personal property, such as food and drink.
3. NMAC 3.2.211.18(B) should provide that an independent fair market rent analysis obtained by an assisted living facility that establishes the fair rental value of the leased apartment is a reasonable accounting method and may be used to allocate revenue between deductible and non-deductible receipts.
4. NMAC 3.2.211.18(B) should provide that the burden is on the Department to show that an independent fair market rent analysis obtained by an assisted living facility does not establish the fair rental value of the facility's apartments.
5. NMAC 3.2.211.18(B) should provide that once fair rental value is established by an independent fair market rent analysis obtained by an assisted living facility the amount of rent determined by the study may be adjusted annually for cost-of-living increases based on the consumer price index (or some other reasonable cost of living index).
6. NMAC 3.2.211.18(B) should provide that an allocation of receipts of an assisted living facility based on the relative costs of providing the leased apartment and the tangible personal property and services to the tenant is a reasonable accounting method and may be used to allocate receipts between deductible and non-deductible receipts.

Thank you.

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