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## Recent changes to Pass-Through Withholding

Starting with tax year 2023, pass-through withholding is reported on the PTE-D, S-Corp-D, or FID-D whichever applies to the taxpayer. In tax years before 2023, pass-through withholding was reported on the RPD-41367, *PTW-D Pass-through Entity Withholding Detail Report*, which has been retired.

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### Due Dates

The New Mexico Pass-Through Entities Tax Return is due on or before the due date of the federal tax return required for the pass-through entity for the taxable year. This is the case whether filing using a calendar year or a fiscal year. Enter the due date of the required federal return for the PTE on the New Mexico PTE return.

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### Privacy Notification and Confidentiality

The New Mexico Taxation and Revenue Department requires each taxpayer to furnish a federal employer identification number (FEIN) for taxpayer identification. The Department protects all information supplied electronically by taxpayers using encryption and firewalls. Taxpayer information on returns is protected in accordance with the confidentiality provisions of the Tax Administration Act, Section 7-1-8 NMSA 1978.

**IMPORTANT:** If a taxpayer furnishes a truncated FEIN, such as XX-XXX1234, the return is incomplete and the Department sends it back to the taxpayer to refile.

### Contact Information

Contact the Department by mail, email, or phone.

New Mexico Taxation and Revenue Department  
Corporate Income and Franchise Tax Unit  
P. O. Box 25127  
Santa Fe, NM 87504-5127

[CIT.TaxReturnHelp@tax.nm.gov](mailto:CIT.TaxReturnHelp@tax.nm.gov)

(505) 827-0825 in Santa Fe or Toll free (866) 809-2335

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### Forms Covered in These Instructions

- PTE, *New Mexico Pass-Through Entities Tax Return*
  - PTE-A, *New Mexico Apportionment Factors*
  - PTE-B, *Allocated Non-business Income Taxable to Owners*
  - PTE-D, *Detail of Owner Withholding, Composite Tax and Entity-level tax*
- PTE-ES, *Pass-Through Entities Estimated Tax Payment Voucher*
- PTE-PV, *Pass-Through Entities Penalty Payment Voucher*
- PTE-EXT, *Pass-Through Entity Extension Payment Voucher*

### E-File and E-Pay Services

You can use Taxpayer Access Point (TAP) or third-party software through Federal/State filing to e-file tax returns.

- E-file and e-pay the 2025 PTE using TAP <https://tap.state.nm.us>. First-time filers will need to create a login name and password.
- **Pay via credit card.** A convenience fee is calculated on the amount of the transaction and covers costs that the companies bill the state when you use your card.
- **Pay via electronic check at no charge.** An electronic check authorizes the Department to debit your checking account in the amount and on the date you specify.

### 2025 Legislative Summary

For information about New Mexico tax law changes enacted during 2025, see **LS-2025 Legislative Summary 2025**. To view the summary, go to <https://www.tax.newmexico.gov/forms-publications/>, and click Publications, then Legislative Summaries.

## Contacting the New Mexico Secretary of State

Visit <https://www.sos.nm.gov/> for more information about Profit and Non-Profit Corporate Reporting. You may contact the New Mexico Secretary of State Office by mail, email, or phone:

New Mexico Secretary of State  
Corporations Bureau  
325 Don Gaspar, Suite 300  
Santa Fe, NM 87501

Email: [Business.Services@sos.nm.gov](mailto:Business.Services@sos.nm.gov)

Phone: (505) 827-4508 in Santa Fe or Toll free (800) 477-3632

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## Contact Our Local Offices

Local tax offices can provide full service and information about the Department's taxes, programs, and forms, as well as specific information about your filing situation.

### Albuquerque:

10500 Copper Avenue NE, Suite C  
Albuquerque, NM 87123

### Farmington:

3501 E. Main Street, Suite N  
Farmington, NM 87402

### Las Cruces:

2540 S. El Paseo, Building #2  
Las Cruces, NM 88001

### Roswell:

400 North Pennsylvania, Suite 200  
Roswell, NM 88201

### Santa Fe:

Manuel Lujan Senior Building  
1200 South St. Francis Drive  
Santa Fe, NM 87505

**Call Center: 1-866-285-2996**

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## Use Our Online Services

<https://www.tax.newmexico.gov/online-services/>

- Ask a question.

For questions about state tax policies, legislation, regulations, and rulings, email [policy.office@tax.nm.gov](mailto:policy.office@tax.nm.gov). For questions about the PTE return, email [CIT.TaxReturnHelp@tax.nm.gov](mailto:CIT.TaxReturnHelp@tax.nm.gov).

- E-file and e-pay taxes with TAP using a credit card or an electronic check.

Taxpayer Access Point (TAP), our secure resource at <https://tap.state.nm.us>, lets you e-file certain returns and e-pay taxes.

A convenience fee will be calculated on credit card transaction amounts. It covers costs companies bill us when you use this payment option. Or e-pay by electronic check at no charge. An electronic check authorizes us to debit the checking account in the amount and on the date you specify.

- Check the status of an account and more with TAP.

With TAP you can also check the status of tax accounts, register a business, change an address, and manage tax account history.

- Save time with a direct deposited refund.

To request direct deposit of a refund, fill in the **Refund Express** section at the bottom of the PTE return.

- Download forms and publications.

For the latest and prior year forms and publications, go to <https://www.tax.newmexico.gov/forms-publications/>.

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# INSTRUCTIONS FOR 2025 NEW MEXICO PASS-THROUGH ENTITY TAX RETURN

## GENERAL INSTRUCTIONS

### Who Must File

Pass-through entities (PTEs) doing business in the state must file a New Mexico Pass-Through Entities Tax Return (Form PTE). This requirement includes entities registered to do business in the state, transacting business in, into or from the state, or receiving any income from property or employment within the state, and includes any partnership, joint venture, common trust fund, limited association, pool or working agreement, limited liability company or any other combination of persons or interests required to file a federal partnership return.

### Due Dates

The due date of the Form PTE is on or before the due date of the federal tax return required for the pass-through entity. This is the case whether filing using a calendar year or a fiscal year. You will enter the due date of the required federal return on the New Mexico Form PTE.

### Timely Returns

A PTE return and payment are timely if the United States Postal Service (USPS) postmark on the envelope bears a date on or before the due date. If the due date falls on a Saturday, Sunday, or a state or national legal holiday, the return is timely if the postmark bears the date of the next business day. Delivery through a private delivery service is timely if the date recorded or marked by the private delivery service is on or before the due date.

### Extension Of Time To File

The Department accepts an extension of time granted by the Internal Revenue Service if a copy of the automatic federal extension accompanies the PTE return at the time of filing.

If the entity needs an extension of time to file the New Mexico PTE return but has not obtained a federal extension, or if additional time to file the New Mexico return is needed beyond the federal extension date, the entity should request an extension by letter or by filing New Mexico Form RPD-41096, *Extension of Time to File*, on or before the due date of the return.

An extension of time to file your return does not also extend the time to pay tax due. If tax is due, interest continues to accrue.

### Which Return To File

In general, the federal return that you are required or elect to file determines the New Mexico income tax return that you file. See "If You File..." on page 6.

### Fiscal-Year and Short-Year Filers

Fiscal-year and short-year filers use the PTE return for the tax year when the fiscal year or short year begins. For example,

if the tax year begins on June 30, 2025, use the 2025 PTE return, even though the ending date of the tax year is 2026.

### When to File Other Returns

If the business does not file a New Mexico PTE return, New Mexico may require you to file one of the following returns for New Mexico instead:

- CIT-1, *New Mexico Corporate Income and Franchise Tax Return*
- S-Corp, *New Mexico Sub-Chapter S Corporate Income and Franchise Tax Return*
- PIT-1, *New Mexico Personal Income Tax Return*
- FID-1, *New Mexico Fiduciary Income Tax Return*

**NOTE:** An entity that files the S-Corp or FID-1 return is able to report withholding tax, entity-level tax, and composite return tax on that return.

### File Electronically

If a PTE has 51 or more payees who receive New Mexico net income, the PTE is required to electronically file Form PTE through TAP or approved third-party software. If the PTE has 51 or more New Mexico payees, and is unable to file electronically because a hardship exists, the PTE may request Department approval to file by paper. The PTE may request approval by filing Form RPD-41350, *E-File and E-Pay Exception Request Form*. The request must be received by the Department at least 30 days before the taxpayer's electronic report is due.

If the PTE has 50 or fewer payees who receive New Mexico taxable net income, the PTE may choose to submit the completed return electronically or in paper format.

**IMPORTANT:** When required to file electronically, a paper filed return will be rejected by the Department.

### Requirement to Report and Pay New Mexico Withholding Tax

A PTE must use the PTE-D to report each owner's share of net income or losses allocable to New Mexico, even if no tax is being withheld. The PTE must then report and remit New Mexico withholding tax for each non-resident owner, unless there exists an exception corresponding to a reason code, see "T2. Reason Codes: Withholding Not Required" on page 22.

**NOTE:** Except for a PTE that is a personal services business, if the PTE entered into an agreement with the owner for the owner to file and pay tax due on the owner's share of allocable net income using RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding On Behalf of a Pass-Through Entity or Remitter*, the PTE does not withhold and enters "2" in the PTE-D box 6, "Reason Code." A personal services business is a business organization that receives payments

for the services of a performing artist for purposes of the film production tax credit. A PTE that is a personal services business cannot enter into an agreement with its owners using RPD-41353.

PTEs are subject to withholding tax from allocable net income distributions to their non-resident owners, partners, or members according to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-10 NMSA 1978). A PTE must annually report each owner's (partner's, member's, beneficiary's) share of net income allocable to New Mexico and remit the New Mexico tax withheld for each owner. Additionally, PTEs are required to provide sufficient information to enable their owners to comply with the provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act by reporting the owner's share of the net New Mexico income. The PTE must submit Schedule PTE-D of the Pass-Through Entities Tax Return for its required annual reporting of withholding to the Department. Payment of withholding, entity-level, and composite tax is reported to owners using form 1099-Misc, *pro forma* 1099-Misc, or RPD-41359 as described in "Reporting New Mexico income, withholding, entity-level tax, and/or composite income tax to owners," below.

**NOTE:** A PTE that elects to file and pay entity-level tax may have owners for which it is not allowed to pay tax under Section 7-3A-10. Owners that the entity may not file and pay entity-level tax for include owners that are corporations that file New Mexico corporate income tax as part of a unitary group, and owners that are themselves PTEs. Since the PTE may not pay entity-level tax for these owners, there may be a requirement to pay withholding tax for those non-resident owners under Section 7-3A-3. In this scenario, the PTE filing the PTE return may pay withholding tax and entity-level tax on the same return (this could also include composite income tax if there is an owner for which the PTE may not pay entity-level tax and the owner elects to have the PTE file a composite income tax return on its behalf). See more on the election to file entity-level tax below.

### **Election to File and Pay Entity-Level Tax**

Under Section 7-3A-10 NMSA 1978, a PTE may use the PTE return to elect, on an annual basis, to file and pay tax directly for its owners. This election is binding on all members of the PTE. The PTE makes the election on the PTE return and pays the entity-level tax based on the share of New Mexico net income distributed to eligible owners. The PTE return will calculate the income on which the PTE is paying tax and determine the amount of the tax. The PTE will then report the credit for entity-level tax to the owner on Form RPD-41359, *Annual Statement of Pass-Through Entity Withholding*.

It is important to note that, though the election is binding on all members of the PTE, under Section 7-3A-10(D) the PTE may not be able to pay entity-level tax for all its owners. Owners for whom the PTE may not pay entity-level tax include owners who are:

- (a) the United States, this state or a political subdivision of either;

- (b) a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, or any political subdivision thereof;
- (c) an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code;
- (d) a corporate partner that would properly include the income in the partner's New Mexico tax return as part of the partner's unitary business income; or
- (e) a pass-through entity that is an owner of the electing pass-through entity.

Since the PTE is not paying entity-level tax on behalf of these owners, the owners will not receive a credit for entity-level tax and may be required to pay tax on their individual income tax returns. The PTE may also have a requirement to pay pass-through entity withholding tax for any non-resident owners for which it is not permitted to pay entity-level tax.

### **Composite Income Tax Return Election**

Any non-resident owner whose only source of income in New Mexico is from pass-through entities, and for which the PTE is not paying entity-level tax, may, under Section 7-3-14 NMSA 1978, elect to have the PTE file a composite income tax return on their behalf. The PTE will pay tax for this owner at the same rate as it would for withholding. The PTE return calculates the tax owed by the PTE, and the PTE issues a statement (Form RPD-41359, *Annual Statement of Pass-Through Entity Withholding*) to the owner, to report that the tax was paid for the owner.

### **Reporting New Mexico Income, Withholding, Entity-Level Tax, and/or Composite Income Tax to Owners**

A PTE that uses a Schedule K-1 or equivalent form to report to its owners their share of the net income must also provide its owners federal Form 1099-Misc, *a pro forma* 1099-Misc, or Form RPD-41359, *Annual Statement of Pass-Through Entity Withholding*, to report to the owners the allocable net income and the New Mexico tax withheld. A Schedule K-1 may not be used by the owners to obtain credit for New Mexico tax withheld. If the owner elects to have the entity file a composite income tax return on the owner's behalf, the PTE will provide Form RPD-41359 as support to the owner that the tax has been paid. Only nonresident members may elect to have the PTE file a composite income tax return.

A PTE that elects to file and pay entity-level tax must provide Form RPD-41359 to its owners to show the owner's share of net income subject to entity-level tax and the owner's share of entity-level tax paid by the entity. The election to pay entity-level tax is binding on all owners of the electing pass-through entity whose income is included in the entity's distributed net income.

Form 1099-Misc, *pro forma* 1099-Misc, or Form RPD-41359, must be provided to the owner by February 15th of the year following the year for which the statement is made. **The PTE is not required to submit these forms to the Department.**

## Basic Guidelines

- Round up to the next dollar.
- References to federal form line numbers correspond to the most recent federal forms available. If they're incorrect, please use information from the line on the federal form that matches the description of the information requested.
- Use approved, high-quality original state forms and vouchers. The Department only accepts prescribed forms.
- Separately pay tax due and estimated taxes.
- Do not staple or tape the return or any attachments.

Keep copies of the return and all attachments.

## After You File Your Return

At any time after filing your return, it may be subject to further review, verification or correction. The State of New Mexico, pursuant to reciprocal information exchange agreements, exchanges information with the Internal Revenue Service, certain other state agencies and taxing authorities in other states.

If your tax return is adjusted or an assessment of additional tax is issued, you will be provided a description of your rights as a taxpayer. Our Publication FYI-406, *Your Rights Under the Tax Laws*, describes in detail how to dispute an adjustment or assessment made by the Department. Publication FYI-406 is available by contacting your local district tax office or online <https://www.tax.newmexico.gov>.

## IF YOU FILE...

| If you file federal form |  | You must file New Mexico form |   |
|--------------------------|--|-------------------------------|---|
| 1065                     | U.S. Return of Partnership Income                        | PTE                           | New Mexico Pass-Through Entities Tax Return             |
| 1120                     | U.S. Corporation Income Tax Return                       | CIT-1                         | Corporate Income and Franchise Tax Return               |
| 1120-REIT                | U.S. Income Tax Return for Real Estate Investment Trusts | S-Corp                        | Sub-Chapter S Corporate Income and Franchise Tax Return |
| 1120S                    | U.S. Income Tax Return for an S Corporation              | S-Corp                        | Sub-Chapter S Corporate Income and Franchise Tax Return |
| 1040                     | U.S. Individual Income Tax Return                        | PIT-1                         | Personal Income Tax Return                              |
| 1041                     | U.S. Income Tax Return for Estates and Trusts            | FID-1                         | Fiduciary Income Tax Return                             |

### If You File Federal Form 1120

Every entity having income from activities or sources within New Mexico that is required to file a federal corporation income tax return or equivalent return must file a New Mexico CIT-1 return. These include all corporations organized under the laws of the State of New Mexico and corporations exempt from federal income tax under the Internal Revenue Code which have unrelated business income.

### If You File Federal Form 1120S

Corporations and Limited Liability Companies (LLCs) electing to be taxed as S corporations for federal income tax purposes must file a *New Mexico S Corporate Income and Franchise Tax Return* (S-Corp) if the entity is registered to do business in the state, transacts business in, into or from the state, or derives any income from property or employment within the state.

Each owner of the partnership, limited liability corporation, S corporation or similar business association must include his or her share of the pass-through entity income on the New Mexico personal or corporate income tax return.

### If You File Federal Form 1120-REIT

A Real Estate Investment Trust (REIT), which does business in New Mexico and files a federal Form 1120-REIT, must file a New Mexico S-Corp return.

### If You File Federal Form 1041

Estates and trusts are subject to New Mexico personal income tax. The fiduciary for an estate or trust must file a FID-1 return.

Each beneficiary of an estate or trust must include his or her share of the estate or trust income on the New Mexico

personal or corporate income tax return even if the estate or trust was not required to file FID-1.

### If You File Federal Form 1040

If you are a New Mexico resident, you must file a New Mexico return if you meet any of the following conditions:

- You have to file a federal return.
- You want to claim a refund of any New Mexico state income tax withheld from your pay.
- You want to claim any New Mexico rebates or credits.

New Mexico's law says every person who has income from New Mexico sources and who is required to file a federal income tax return must file a personal income tax return in New Mexico. This includes non-residents who have income from wages, rents, royalties, businesses, estates...every New Mexico source. Even foreign nationals and persons who reside in states that do not have income taxes must file here when they have a federal filing requirement and have income from any New Mexico source whatsoever.

A single-owner LLC or similar organization doing business in New Mexico who is required to or elects to file a federal Form 1040 Schedule C instead of a federal corporate income tax return or a federal pass-through entity return, must file a New Mexico PIT-1 return. No franchise tax is due.

A non-resident owner's and remittee's requirement to file a New Mexico personal income tax return is met when the PTE or remitter withholds from oil and gas proceeds and/or pass-through entity withholding, and the owner or remittee has no other income from New Mexico sources.

## Obtaining Forms

All New Mexico Taxation and Revenue Department forms, instructions and publications are available on the Department's website <https://www.tax.newmexico.gov/forms-publications/>.

**IMPORTANT:** File Returns on Approved State Forms. Always submit 2025 Pass-Through Entity Returns on official state forms provided by or approved by the Department. Never submit a return with a form that has been photocopied or photo shopped as it will not be accepted.

## Required Attachments to Form PTE

Your return can be processed more quickly if you submit all required forms, schedules, and attachments in the following sequence:

- PTE, *New Mexico Pass-Through Entities Tax Return*
  - PTE-A, *New Mexico Apportionment Factors*
  - PTE-B, *Allocated Non-business Income Taxable to Owners*
- PTE-D, *Detail of Owner Withholding, Composite Tax and Entity-level tax*
- PTE-ES, *Pass-Through Entities Tax Estimated Tax Payment Voucher*
- PTE-PV, *Pass-Through Entities Tax Payment Voucher*
- PTE-EXT, *Pass-Through Entities Tax Extension Payment Voucher*
- Federal Form 1065, pages 1 through 5.
- Other attachments as required by instruction.

**NOTE:** If any of these forms are omitted when required, the New Mexico return is incomplete.

## Other Forms or Attachments You May Have to File

If the PTE is not required to electronically file because it has 50 or fewer payees or has obtained an exception for electronically filing from the Department, submit the completed PTE return by mail.

If a PTE has 51 or more payees who receive New Mexico net income, the PTE is required to electronically file their PTE return in TAP or by using an approved third party software.

A copy of the **approved federal extension or the approved New Mexico extension** if the return is filed after the original due date of the return. If a copy is omitted, a late-filing penalty will be assessed.

**All annual returns and withholding statements issued to the entity.** Attach a copy of all annual returns and withholding statements showing income and New Mexico income tax withheld, if reporting amounts withheld on lines 30 or 31 of the PTE return. Attach New Mexico Forms RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*, or RPD-41359, *Annual Statement of Pass-Through Entity Withholding*, or federal Form 1099-Misc or equivalent.

**IMPORTANT:** To receive proper credit for withholding, all annual statements of income and withholding must be issued to the entity filing the New Mexico return. A Schedule K-1 or equivalent is not sufficient evidence of New Mexico income tax withheld.

**Federal Forms and Schedules.** The Department may require you to furnish a true and correct copy of your federal tax return and attachments.

## AMENDED RETURNS

To amend a PTE return, follow these steps:

1. Complete the PTE return for the year amended. Self-generated schedules or other documents will not be accepted in lieu of a completed and accurate return.
2. Check the "Amended" box **and** indicate the **Type** of amended return. If applicable, provide the **Final Determination Date**. If you make the election under 7-1-13(G) to pay, check the box.
3. Attach all schedules previously filed with the original return.

For more detailed information related to Amended Returns see instructions for PTE boxes **A** and **B** after "Taxpayer Information Data Block" on page 9.

If the New Mexico amended return reports changes as the result of filing an amended federal return, attach copies of the applicable federal forms and schedules. In all other cases, attach an explanation of the changes. If the New Mexico amended return shows changes as the result of a Revenue Agent Report (RAR), the changes must be reported within 180 days of the date the federal adjustments are final. Attach a copy of the RAR.

## PAYMENTS AND PAYMENT VOUCHERS

### Pay Online

Using the Department website, you may pay by electronic check at **no charge**. Your electronic check authorizes the Taxation and Revenue Department to debit your checking account in the amount and on the date you specify. Directions are available on the website. Pay your tax due online using the Department's website at <https://tap.state.nm.us>.

You may also make tax payments using a credit card. A convenience fee is applied for using a credit card. The State of New Mexico uses this fee, calculated on the transaction amount, to pay charges from the credit card companies.

### Making Payment By Check or Money Order

Whether submitting payment separately or attached to your return, complete the PTE-PV, PTE-ES, or PTE-EXT and include your check or money order with the payment voucher.

Make your check or money order payable to New Mexico Taxation and Revenue Department. **Do not mail cash.**

Mail the return, payment voucher, payment and required attachments to:

Taxation and Revenue Department  
Corporate Income and Franchise Tax Unit  
P.O. Box 25127  
Santa Fe, New Mexico 87504-5127

When you provide a check as payment, you authorize the Department to use information from your check to make a one-time electronic fund transfer from your account. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day you make your payment.

A check that is not paid by the financial institution on which it is drawn does not constitute payment, and a minimum penalty of \$20 is assessed in addition to other applicable penalties and interest.

### When to Make an Extension Payment

Make an extension payment when you receive either a federal automatic extension or a New Mexico extension. An extension payment towards the tax liability avoids accrual of interest.

**IMPORTANT:** An extension of time to file the PTE return does not extend the time to pay. If tax is due, interest continues to accrue. See the next section for details.

### What Makes a Payment On Time

Tax payments are timely if the envelope's postmark bears a date on or before the due date. If the due date is on a Saturday or a Sunday, or on a state or national legal holiday, the payment is timely if the postmark bears the date of the next business day. Delivery through a private delivery service is timely if the date recorded or marked by the service is on or before the due date.

### Collection of Debts from a Refund

If the entity owes other taxes to the Department, the Department may retain all or part of an overpayment. The Department applies the amount due to the liability and notifies the entity.

If the entity owes amounts due under the Unemployment Compensation Law or the Workers' Compensation Administration Act, the law under the Intercept Act also requires the Department to transfer all or part of an overpayment to those accounts. The Department refunds any amount over the liability and debt.

### Payment Vouchers

The Department uses high-speed scanners, a quality form helps ensure accuracy. **Do not photocopy and be sure to cut on the dotted line only.** When printing the voucher from the Internet or a software product, prevent resizing by setting the printer's page scaling function to none. If your payment voucher has a scanline (a very long row of numbers) within the bottom 1 and 1/2 inch of the voucher do not write in the area around the scanline.

To avoid misapplication of funds write "2025 PTE" and your federal employer identification number on the check or money order.

A check that is not paid by the financial institution on which it is drawn does not constitute payment, and a minimum penalty of \$20 is assessed in addition to other applicable penalties and interest.

### PTE-PV

When you submit a regular PTE tax payment, complete and include PTE-PV, *New Mexico Pass-Through Entities Tax Payment Voucher*, with the payment. You can send vouchers and payments with or without the PTE return.

To complete the PTE-PV, fill in the following fields:

- Name and address of entity responsible for filing the PTE return.
- **Tax Year Ended**, in **MM/DD/CCYY** format.
- **FEIN** of corporation responsible for filing the PTE return

### Amount Enclosed

To complete the check or money order, do the following:

- Make it payable to **NM Taxation & Revenue Dept.**
- Write the FEIN and **2025 PTE-PV** on it.

### PTE-ES

When you make an estimated payment, complete and include PTE-ES, *New Mexico Pass-Through Entities Tax Estimated Tax Payment Voucher*, with the payment.

To complete the PTE-ES, fill in the following fields and boxes:

- Name and address of entity responsible for filing the PTE return.
- **Tax Year Ended**, in **MM/DD/CCYY** format. For calendar year returns, enter December 31 of the year of the return, or **12/31/2025**. For fiscal year returns, enter the last day of the fiscal year.
- Mark the box for the quarter (**1ST QTR**, **2ND QTR**, **3RD QTR**, or **4TH QTR**) to apply the payment.
- **FEIN** of entity responsible for filing the PTE return.
- **AMOUNT ENCLOSED**

To complete the check or money order, do the following:

- Make it payable to **NM Taxation & Revenue Dept.**
- Write the FEIN, **PTE-ES**, and tax year/quarter on it.

### PTE-EXT

When you make an PTE extension payment, complete and include PTE-EXT, *New Mexico Pass-Through Entities Tax Extension Payment Voucher*, with the payment.

To complete the PTE-EXT, fill in the following fields:

- Name and address of entity responsible for filing the PTE return.
- **Tax Year Ended**, in **MM/DD/CCYY** format.
- **FEIN** of entity responsible for filing the PTE return.
- **AMOUNT ENCLOSED**

To complete the check or money order, do the following:

- Make it payable to **NM Taxation & Revenue Dept.**
- Write the FEIN and **2025 PTE-EXT** on it.

## INTEREST AND PENALTIES

This section gives you general instructions and information about interest and penalties.

### Interest on Taxes Underpaid or Not Paid and Internal Revenue Code (IRC) Rates

Interest accrues on tax, including estimated tax, underpaid or not paid on or before the due date of the PTE return, even if you receive an extension of time to file. Interest is a charge for the use of money and by law cannot be waived.

Interest is calculated on a daily basis at the rate established for individual income tax purposes by the IRC. The IRC rate, which changes quarterly, is announced by the IRS in the last month of the previous quarter. The annual and daily interest rates for each quarter are posted on our website at <https://www.tax.newmexico.gov/individuals/file-your-taxes-overview/penalty-interest-rates/>.

### Negligence Penalty for Late Filing or Late Payment

The Department imposes a penalty when a return is not filed or paid timely. The penalty is 2% of the tax due for each month, or partial month, from the date the return was due, not to exceed 20% of tax due. The penalty does not apply if the entity has an extension of time to file and the tax is paid by the extended due date.

### When Penalty and Interest Stop Accruing

After the principal tax liability is paid, penalty and interest stop accruing.

### Penalty on a Check Not Paid

A check not paid by the financial institution on which it is drawn does not constitute payment. The Department as-

sesses the corporation a minimum penalty of \$20 in addition to other applicable penalties and interest.

### A Refund and Possible Interest on the Refund

If the return shows an overpayment and you requested a refund of all or part of the overpayment, please allow at least 12 weeks for processing before contacting the Department. Processing time varies according to when you file the return.

You may be entitled to interest on an overpayment under certain conditions. The interest rate is the same charged for underpayments.

The Department shall pay no interest in any of these situations:

- If the interest is less than \$1.00
- If the refund is approved within 55 days of the date of the claim for refund for current tax year
- If the refund is approved within 120 days of the date of the claim for refund for prior tax years
- If the Department cannot process the PTE return due to missing information
- If the interest is for a refund of any credits claimed for the Investment Credit Act, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act, Rural Job Tax Credit, or High wage Job Tax Credit.

To process an PTE return, the return must be fully completed. This means the return complies with all instructions for the return and contains all attachments required by those instructions. The Department pays any refund interest due when a return is complete.

## INSTRUCTIONS FOR 2025 PTE FORM

### Taxpayer Information Data Block

Type or print the entity's information at the top of the PTE return as described here. Then complete all information in lines A through C, and mark all relevant boxes.

**Name of Pass-through Entity.** Enter the entity's registered name.

**FEIN. (Required)** Enter the entity's Federal Employer's Identification Number (FEIN).

**IMPORTANT:** The Department cannot process a return without the FEIN. Failure to provide the FEIN will cause rejection of the return.

**NMBTIN.** Enter the entity's New Mexico Business Tax Identification Number (NMBTIN).

**NAICS.** Enter the entity's 5- or 6-digit NAICS code. This is the North America Industry Classification System business activity code reported for New Mexico and federal filing purposes. If you do not know the NAICS code, see the instructions for federal returns at <https://www.irs.gov>.

**Address (number and street name).** Enter the number and street name of the entity's mailing address.

If the entity has a foreign address, enter the street address, city name and postal code in the appropriate line. Also com-

plete the spaces for the foreign province and/or state and country.

**City.** Enter the city of the entity's mailing address.

**State.** Enter the state of the entity's mailing address.

**Postal/Zip Code.** Enter the postal/zip code of the entity's mailing address.

**If foreign address, enter country.** If the entity's address is a foreign address, enter the country's full name. Do not abbreviate the country name.

**Foreign province and/or state.** Enter the foreign province and/or state of the entity's mailing address. Follow the country's practice to enter the foreign province and/or state.

**Beginning of Tax Year.** Enter tax year start date (the date the entities' books open for the tax year) from their federal returns.

**Last Day of Tax Year.** Enter tax year end date (the date the entities' books close for the tax year) from their federal returns.

**Federal Due Date.** Enter the original due date of the entities's required federal return. If the federal return provides an electronic due date for that return, enter that date. The original federal due date is not the extension due date.

**Extended Due (MM/DD/CCYY).** If the due date was extended, enter the extension date and include a copy of the federal or New Mexico extension with the PTE return.

**State where organized.** Enter the state where the entity was organized.

**Date of Organization.** Enter the date the entity was organized.

**Date business began in NM.** Enter the date business began in New Mexico.

**Date terminated in New Mexico.** If the New Mexico business was terminated in New Mexico, enter that date.

#### **Box A**

If this return is an original return, mark box **A**.

#### **Box B**

If this return is an amended return, mark box **B** and continue to lines B.(i) and B.(ii) for **Type** and **Date** below.

If you check the amended box, you must complete the **Type** and **Date** lines, if they are applicable, for your amendment reason. See table "T1. Amended Reasons" on page 11 for more information.

**Line B.(i) Type. (Required) Review table "T1. Amended Reasons"** on page 11 and determine which Amended Reason fits your tax situation. Enter the two-digit Type Code.

**Line B.(ii) Date.** If your amended reason is due to an RAR (Type 01) or FAR (Type 03) enter the **Final Determination Date** on this line. **IMPORTANT:** Format requirement MM/DD/CCYY.

**NOTE:** A complete amended return indicating **Amended-FAR** is sufficient to meet the requirement of filing a Federal Adjustment Report (FAR) with the New Mexico Taxation and Revenue Department under Section 7-1-13 NMSA 1978.

**NOTE:** For more information about amended returns, see "Amended Returns" on page 7.

**Line B.(iii) 7-1-13(G) Payment Election.** For federal adjustments made with Final Determination Dates occurring after January 1, 2022, legislative changes made in 2021 under Senate Bill 410 allow for an election to pay in lieu of taxes owed by direct or indirect taxable partners under Section 7-1-13(G) NMSA 1978.

**T1. Amended Reasons**

| <b>Type Code</b> | <b>Amended Reason</b>     | <b>Amended Description</b>  |
|------------------|---------------------------|---|
| 01               | Amended- RAR              | Report changes resulting from an IRS audit and their Revenue Agent's Report (RAR) within 180 days of the date that the federal adjustments are final. Attach a copy of the RAR including spreadsheets that detail the federal adjustments by company name.  |
| 02               | Amended-Capital Loss      | A taxpayer may carry back a federal capital loss as allowed by the IRC only if it does not increase or create a net operating loss in the tax year to which it is carried back. For the Department to process the amended to carry back a capital loss, always include the following: <ul style="list-style-type: none"> <li>• A schedule showing the application of the capital loss for each carryback and carryover year</li> <li>• A copy of federal Form 1139 or 1120X filed with the IRS.</li> </ul> A taxpayer's capital loss may not be carried back or forward to any other taxpayer. If the taxpayer is a filing group, its capital losses may not be carried back or forward to offset any other group's or corporation's taxable income.  |
| 03               | Amended- FAR              | Federal adjustments arising from a partnership level audit or an administrative adjustment request. <b>Note:</b> This amendment reason is sufficient to fulfil the Federal Adjustment Report (FAR) required by Section 7-1-13 NMSA 1978. <ul style="list-style-type: none"> <li>• In case of an audited partnership, file the returns required to be filed no later than 90 days after the final determination date.</li> <li>• In the case of a tiered partner of an audited partnership, file the returns required no later than 90 days after the final determination date.</li> <li>• For taxable direct partners of the audited partnership, no later than 180 days after the final determination date</li> <li>• For taxable indirect partners of the audited partnership, no later than 180 days after the time for the audited partnership's filing and furnishing statements to tiered partnerships and their partners as established by the IRC.</li> </ul> |
| 04               | Amended-Error on Original | If you are amending due to making an error on your original return filing (ie. calculation errors, misreported figures, etc.), attach an explanation for all changes.   |
| 05               | Amended- Other            | If the amended return reports changes other than the reasons provided above, attach copies of all applicable federal forms, schedules, and attach an explanation for all changes.   |

**IMPORTANT:** If you are making the election under this section you must check the box. This will notify the Department to your election.

(G): The election provided by this subsection applies only to federal adjustments other than the distributive share of federal adjustments that must be included in the unitary business income of any direct or indirect corporate partner; provided that this can be reasonably determined, or federal adjustments resulting from an administrative adjustment request. A partnership making an election pursuant to this subsection shall:

- (1) file a completed federal adjustments report and notify the department that it is making the election pursuant to this subsection; and
- (2) pay an amount, determined as follows, in lieu of taxes owed by its direct and indirect taxable partners:
  - (a) exclude from the total final federal adjustments the distributive share reported to a direct partner that is an exempt partner unless the adjustment represents unrelated business taxable income;
  - (b) include only the portion of the total federal adjustment to distributive shares of partners taken into account pursuant to Section 6225(b)(2) of the Internal Revenue Code;
  - (c) apportion and allocate the adjustments as provided by the Uniform Division of Income for Tax Purposes Act as applied at the partnership level following any Department regulations adopted for this purpose;

- (d) multiply the resulting amount by the highest tax rate provided by Section 7-2A-5 NMSA 1978; and
- (e) add to the amount calculated pursuant to Subparagraph (d) of this paragraph an amount of penalty and interest computed pursuant to the Tax Administration Act.

**Box C. Mark the legal entity type that applies to you**

Mark the box that indicates if your entity is an LLC or Partnership.

**Section 1. Computation of net income.**

**NOTE:** If electing to file entity-level tax, the net income subject to PTE withholding on line 14 will only include income of owners whose income is not included in distributed net income subject to entity-level tax on line 27. If all net income of the entity is included on line 27, there is no requirement to withhold.

**Line 1. Ordinary business income (loss) from federal Form 1065, Schedule K.** Enter the ordinary income or loss as recognized on federal tax return Form 1065, Schedule K.

**Line 2. Other income (loss) from federal Form 1065, Schedule K.** Enter the summation of all other income or losses recognized on federal tax return Form 1065, Schedule K.

**Line 3. Interest income from municipal bonds, excluding New Mexico bonds.** Enter interest income from non-New Mexico state and local bonds not subject to federal income tax under IRC Section 103.

**Line 4. Subtotal of lines 1, 2, and 3.** Add line 1 ordinary business income, line 2 other income (loss), and line 3 interest income from municipal bonds excluding New Mexico bonds, then enter the result on this line.

**Line 5. Interest from U.S. government obligations or federally-taxed New Mexico bonds.** Interest or dividend income from U.S. government obligations is deductible from an entity's taxable income only if, and to the extent that, it was included in taxable income on line 1. Expenses related to income from U.S. obligations must be subtracted and the net amount entered.

**IMPORTANT:** Income from Fannie Mae, Ginnie Mae, Freddie Mac and other U.S. guarantee entities is not deductible. Income from repurchasing agreements (REPOs) of U.S. obligations is not deductible. Interest on notes issued by the Federal Home Loan Bank obligations are deductible, but not dividends issued by the Federal Home Loan Bank. That portion of income paid by mutual funds, unit investment trusts, and simple trusts which is derived from investments in U.S. obligations may be deductible.

Interest income from bonds issued by the State of New Mexico or its political subdivisions may also be deductible on this line to the extent that income was included in federal taxable income.

**Line 6. Allowable deductions from Schedule K.** Enter the allowable deductions recognized on the federal tax return Form 1065, Schedule K. Neither net operating loss carry-over nor oil and gas depletion deductions are allowed to be claimed at the entity level on the PTE return.

**Line 7. Deduction for certain expenses related to a New Mexico licensed cannabis business.** A licensed cannabis business may enter an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed pursuant to Section 280E of the Internal Revenue Code, as that section may be amended or renumbered.

**Line 8. Total allocated income (from PTE-B, line 8, column 1).** Enter total allocated income from Schedule PTE-B, column 1, line 8, if applicable.

**Line 9. Apportionable income. Add lines 5, 6, 7 and 8, then subtract from line 4.** Add line 5 interest from U.S. government obligations or federally-taxed New Mexico bonds, line 6 allowable deductions from Schedule K, line 7 deduction for certain expenses related to a New Mexico licensed cannabis business, and line 8 total allocated income; subtract the result from line 4 subtotal of lines 1,2, and 3, then enter the final result on this line.

**Line 10. Average New Mexico percentage.** Enter the average New Mexico percentage from Schedule PTE-A, line 5.

**Line 11. New Mexico apportionable income.** Multiply the line 9 apportionable income by line 10 average New Mexico percentage, then enter the result on this line.

**Line 12. New Mexico allocated non-business income.** Enter New Mexico allocated income from PTE-B, column 2, line 9, if applicable.

**Line 13. New Mexico net income.** Add line 11 apportionable income and line 12 allocated income, then enter the result on this line.

## Section 2. Computation of Withholding tax.

**Line 14. Amount of net income from line 13 that is subject to PTE withholding tax.** Enter the portion of New Mexico net income that the entity has determined is subject to PTE withholding tax, including any additional amounts that the entity has decided to withhold on for owners. Also include any income on this line for which withholding tax was paid by another entity and this withholding is being reported as passed directly to owners on line 17. Note that no withholding is due with respect to any net income on which the entity pays tax directly, i.e. any amount included in Section 4, line 27. If electing to file entity-level tax, include only the net income of owners whose income is not included in the distributed net income subject to entity-level tax on line 27. If all net income of the owners is included on line 27, leave line 14 blank.

For more information on what income distributed to owners is required to have New Mexico withholding, see "Requirement to Report and Pay New Mexico Withholding Tax" on page 4 and "T2. Reason Codes: Withholding Not Required" on page 22.

**Line 15. Withholding tax rate.** The withholding tax rate is 5.9%.

**Line 16. Amount of withholding tax on net income.** Multiply the amount on line 14 amount of net income subject to PTE withholding tax by line 15 withholding tax rate, then enter the result on this line.

**Line 17. Total withholding tax passed directly to owners.** Enter the amount of withholding tax that was withheld from a payment made to this PTE or an owner of this PTE, which payment was passed directly on to an owner or owners of this PTE. This line allows the PTE to subtract any withholding tax that was already paid by another entity.

If this PTE has had tax withheld from the oil and gas proceeds or the allocable net income received from another PTE, this PTE may pass credit for the tax withheld to its owners by issuing each owner a 1099-Misc, a pro forma 1099-Misc or a New Mexico Form RPD-41359, Annual Statement of Pass-Through Entity Withholding. Do not include on this line any tax that was or is to be withheld and paid by the PTE which files this return. The withholding tax reported on this line must not be reported on lines 30 and 31.

**Line 18. Total withholding tax.** Subtract line 17 withholding passed directly to owners from line 16 amount of withholding on net income, then enter the result on this line.

## Section 3. Computation of composite income tax.

**Line 19. Amount of net income from line 13 subject to composite income tax for electing owners.** Enter the portion of net income distributed to owners that have elected to have the entity file composite income tax on their behalf.

**Line 20. Composite income tax rate.** The composite tax rate is 5.9%.

**Line 21. Total composite tax.** Multiply the amount on line 19 net income subject to composite income tax by line 20 composite income tax rate, then enter the result on this line.

#### **Section 4. Computation of entity-level tax.**

Complete this section if electing to file and pay entity-level tax. If not electing to file entity-level tax, you may leave Section 4, lines 22 through 29, blank. The election to file entity-level tax is binding on all owners of the pass-through entity whose income is included in the net income subject to entity-level tax.

**Line 22. New Mexico net income from line 13.** Enter the amount entered on line 13.

**Line 23. Guaranteed payments required to be reported by partnerships.** Enter the total amount of guaranteed payments made by partnerships, other than payments for premiums for health insurance paid by the partnership on behalf of a partner.

**Line 24. Subtotal.** Add line 22 New Mexico net income and line 23 Guaranteed payments required to be reported by partnerships, then enter the result on this line.

**Line 25. New Mexico net capital gains deduction.** Enter the amount of net capital gains that may be deducted from net income pursuant to Section 7-2-34 NMSA 1978 for owners who are subject to the Income Tax Act. The PTE may deduct from net income all or part of net capital gains reported and claimed on the federal tax return that is allocated to owners who are **subject to personal income tax**. For purposes of this deduction, "net capital gains" are defined by Section 1222(11) of the Internal Revenue Code as the excess of net long-term capital gains over short-term capital losses for the tax year. "Net capital gains" do not include "short-term capital gains."

The PTE may deduct the greater of:

- 100% of the owner's net capital gains, not to exceed \$2,500; **or**
- 40% of up to one million dollars (\$1,000,000) of the owner's net capital gain income from the sale of a business that is allocated or apportioned to New Mexico pursuant to Section 7-2-11 NMSA 1978 for the taxable year for which the deduction is being claimed.

The PTE may claim **only** one-half of the net capital gains deduction allocated to an owner who files a married filing separate return.

**Line 26. Distributions not subject to entity-level tax.** Income of certain owners is not included in distributed net income, and the entity may not pay tax directly on such income. Income distributed to the following entities listed below are not subject to entity-level tax, and the taxpaying pass-through entity may not pay tax directly with respect to or on behalf of such owners.

Subtract from net income or guaranteed payments properly allocated or made to the following:

- (a) the United States, this state or a political subdivision of either;
- (b) a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, or any political subdivision thereof;
- (c) an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code;
- (d) a corporate partner that would properly include the income in the partner's New Mexico tax return as part of the partner's unitary business income; or
- (e) a pass-through entity that is an owner of the electing pass-through entity.

**Line 27. Distributed net income subject to entity-level tax.** Add line 25 New Mexico net capital gains deduction and line 26 distributions not subject to entity-level tax; subtract the result from line 24 subtotal, then enter the final result on this line.

**Line 28. Entity-level tax rate.** The entity-level tax rate is 5.9%.

**Line 29. Total entity-level tax.** Multiply the amount on line 27 distributed net income subject to entity-level tax by the percentage on line 28 entity-level tax rate, then enter the result on this line.

#### **Section 5. Payments and Credits.**

**Line 30. Tax withheld from distributions of oil and gas proceeds made to this PTE.** (Attach all 1099-Misc and RPD-41285 forms issued to the PTE.) This is the total amount of tax withheld for the PTE from payments of oil and gas proceeds made to the PTE. Do not include on this line any withholding already reported on Line 17 of this form.

**Line 31. Tax withheld from distributions of a pass-through entity made to this PTE.** (Attach all 1099-Misc and RPD-41359 forms issued to the PTE.) This is the total amount of tax withheld for the PTE from payments of another pass-through entity made to the PTE. Do not include on this line any withholding already reported on Line 17 of this form.

**Line 32. Estimated payments, extension payments, and overpayments applied from prior year.** Enter the total amount of estimated payments, extension payments, and overpayments applied from prior year. For amended returns, include additional tax paid on or after the due date of the return.

**IMPORTANT:** If any amounts on line 32 were paid using an FEIN other than the one entered at the top of the PTE return, a schedule is required with the name and FEIN under which the payment was made.

**Line 33. Approved Film Production Tax Credit.** If claiming the Film Production Tax Credit, attach the RPD-41228 claim form. See the FYI-106, *Claiming Business-Related Tax*

*Credits for Individuals and Business*, for more information on this credit and the application process.

**Line 34. Approved New Film Production Tax Credit.** (attach RPD-41228). See the FYI-106, *Claiming Business-Related Tax Credits for Individuals and Business*, for more information on this credit and the application process.

**Line 35. Approved New Mexico Film Partner New Film Production Credit.** (attach RPD-41228). See the FYI-106, *Claiming Business-Related Tax Credits for Individuals and Business*, for more information on this credit and the application process.

**Line 36. Total payments and credits.** Add lines 30 through 35. Then enter the result on this line.

#### **Section 6. Tax due or overpayment.**

**Line 37. Total withholding, composite, and entity-level tax.** Add lines 18, 21 and 29, then enter the result on this line.

**Line 38. Amended returns only:** If this is an amended return, enter the total amount of all 2025 refunds received and overpayments applied to 2026.

**Line 39. Subtotal of tax.** Add line 37 total withholding, composite, and entity-level tax and line 38 amended returns only, then enter the result on this line.

**Line 40. Tax due.** If line 39 subtotal of tax is **greater** than line 36 total payments and credits, subtract line 36 from line 39, then enter the result on this line.

**Line 41. Penalty.** Calculate penalty if any of the following is true:

- You file late.
- You do not pay the tax on or before the due date of the return.
- You do not pay the tax on or before the extended due date of the return.

Calculate penalty by multiplying the unpaid or late filed amount of tax due on line 40 by 0.02 (2%). Then multiply this amount by the number of months or partial months for which your return or payment is late. Penalty is not to exceed 20% of the tax due and cannot be less than \$5.00.

**Line 42. Interest.** If the entity fails to file timely or to pay the amount on line 40 when due, add interest on this line. Interest accrues daily on the unpaid principal of tax due. The interest accrual rate can change on a quarterly basis.

#### **Interest Changes Quarterly**

The IRC rate, which changes quarterly, is announced by the IRS in the last month of the previous quarter. The annual and daily interest rates for each quarter are posted on our website at <https://www.tax.newmexico.gov/individuals/fileyour-taxes-overview/penalty-interest-rates/>.

#### **Formula To Calculate Interest**

Calculate interest by multiplying the unpaid or late filed amount of tax due on line 40 by the daily interest rate for the

quarter. Then multiply this amount by the number of days which your return or payment is late.

**Line 43. TAX, PENALTY, AND INTEREST DUE.** Subtotal of line 40 tax due, line 41 penalty, and line 42 interest; then enter the result on this line.

**Line 44. Overpayment.** If line 36 total payments and credits is **greater** than 39 subtotal of tax, subtract 39 from 36; then enter the result on this line.

**Line 45. Amount of overpayment to apply to 2026 tax liability.** If you want to apply some or all of an overpayment from line 44 to the 2026 liability, enter the amount to apply. Otherwise, enter zero.

**Line 46. AMOUNT TO BE REFUNDED.** If you want to receive a refund of all or part of an overpayment, subtract line 45 amount of overpayment to apply to the 2026 tax liability from line 44 overpayment, then enter the result on this line.

#### **Refund Express**

If you want a refund of overpaid tax and any credit directly deposited into a checking or savings account, complete the **Refund Express** section. Failure to complete all lines and boxes in this section results in the Department denying the request and mailing a paper check to you.

**NOTE:** The Department is not responsible if a financial institution refuses a direct deposit, or if misapplication of a direct deposit refund was caused by a taxpayer's error, negligence, or malfeasance.

#### **Requirements for Refund Express**

- Lines 1 and 2 and boxes 3 and 4 are complete in the **Refund Express** section.
- The account must be located in the territorial jurisdiction of the U.S.
- Direct deposits are only allowable to the taxpayer's account. The Department denies any request to deposit funds into another payee's account.
- The financial institution accepts direct deposits payable to the name on the PTE return.

#### **Why Use Refund Express**

- Prevent any mailed check delays. **Refund Express** does not guarantee that you receive a refund sooner, but the refund reaches the bank more quickly.
- Payment is more secure. There is no check to get lost.
- It is convenient. Avoid an extra trip to the bank.
- It saves tax dollars. Direct deposit costs less than a check.

#### **Refund Express Lines 1 and 2 and Boxes 3 and 4**

**Line RE1.** The routing number, for bank identification, has nine digits. If the first two digits are not 01 through 12 or 21 through 32, the system rejects the direct deposit and you receive a check. On the sample check, the routing number is **211500151**.

**S CORPORATION'S NAME**  
123 Main Street  
Anyplace, NM 87000

PAY TO THE ORDER OF \_\_\_\_\_

ANYPLACE BANK  
Anyplace, NM 87000

For \_\_\_\_\_

Routing Number: 211500151 A  
Account Number: 2015551517 C  
1540

15-000000000

1540

Do not include the check number

**SAMPLE**

\$ \_\_\_\_\_

DOLLARS

**Line RE2.** The account number has up to 17 characters. Include hyphens, but omit spaces and special symbols as you enter the number from left to right. Leave unused boxes blank. On the sample check, the account number is **2015551517**. Do not include the check number.

**Box RE3.** Mark an **X** in the **Checking** or **Savings** box to indicate the type of account.

**Box RE4.** Mark an **X** in the **YES** or **NO** box to answer whether the funds for a refund would go to or through an account located outside the U.S. Marking **NO** means the financial institution's location is within the territorial jurisdiction of the U.S., which includes any of the following:

- Within the U.S.
- On a U.S. military base
- In American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands

**What Happens for Different Answers**

- If you mark an **X** in the **YES** box, you cannot use **Refund Express**. Either use a different bank account or to leave the **Refund Express** section blank to receive a paper check.
- If you do not answer the question, the Department mails the refund to you in a paper check. To comply with federal banking rules, anyone who wants their refund directly

deposited into their account must answer this question.

- If you answer the question incorrectly, the National Automated Clearing House Association (NACHA) or the Office of Foreign Assets Control (OFAC) may delay, reject, or freeze the refund.

- If the bank does not accept the **Refund Express** entries, the Department mails a check to you.

**Taxpayer's Signature and Preparer Information**

**Taxpayer's Signature**

An officer, member, or partner of the entity must sign and date the return. Enter the following information:

- Signature of Officer, Member, or Partner
- Date of signature
- Title of officer, member, or partner
- Contact phone number
- Taxpayer's email address

**Paid Preparer's Use Only**

Any person, other than an employee of the entity, who prepares the return for compensation must also sign and date the return. A preparer other than an employee of the entity is required to enter the following:

- Signature of preparer
- Date of signature
- Firm name, or if preparer is self-employed their name.
- New Mexico Business Tax Identification Number (NMB-TIN), if the preparer has one.
- FEIN, if applicable
- PTIN, the Preparer Tax Identification Number
- Preparer's phone number

The Department considers an improperly signed or unsigned return invalid and incomplete for filing purposes. If the Department receives completed information after the due date, the Department may assess penalty and interest.

**INSTRUCTIONS FOR  
2025  
PTE-A NEW MEXICO APPORTIONMENT FACTORS**

**New Mexico Apportionment Factors, Lines 1-5**

Schedule PTE-A must be used by an entity to apportion its income from the entity's regular trade or business activities when income is derived from both inside and outside New Mexico.

Complete lines 1 through 5 of PTE-A.

Round each percentage to four decimal places (for example, 22.6270%).

The average percentage on line 5 must be supplied to all owners of the entity. Also enter this percentage on page 1, line 10 of the PTE return.

All filers who have business activity outside New Mexico, including filers:

- who have no nexus in New Mexico;
- whose activities in New Mexico are immune from corporate income tax under P.L. 86-272, **and**
- who have no business activity in New Mexico during the tax year, must complete Schedule PTE-A in its entirety in order for your return to be processed.

On lines 1 through 5, columns 1 and 2, all entries must be either a positive number or a zero. Negatives are not allowed. Column 1 must be completed to compute the factors. For the

sales factor only, if you have either a federal taxable income or loss, you must have a positive number in the denominator (column 1, Gross Receipts line) of the sales factor.

**Line 1. Property Factor.** This factor is a percentage determined as follows:

**Divide** the average value of the real and tangible personal property owned or rented and used in New Mexico during the tax year to produce apportionable income (column 2)

**By** the average value of all real and tangible personal property owned or rented everywhere and used during the tax year to produce apportionable income (column 1). If the percentage is negative, enter zero.

Property shall be valued according to the following rules:

Inventory shall be valued according to the valuation method used for federal income tax purposes.

Value property owned during the tax year at its original cost before the allowance for depreciation amount at the time of acquisition by the taxpayer and adjusted by subsequent capital additions, improvements and partial dispositions.

Value property which was rented from others at eight (8) times the net annual rental rate. The net annual rate is the annual rent paid less any annual rent received from subrentals of the same property. If property owned by others is used by the entity at no charge or rented by the entity at a nominal rate, the net annual rental rate is determined on the basis of a reasonable market rental rate for the property.

Determine the average value of property by adding the total value of property held by the taxpayer at the beginning of the tax period to the total value of property held at the end of the tax period. Divide by two.

A taxpayer may be required to compute an average value on a monthly basis if the Department determines that a monthly average is necessary to correctly reflect the average value of the taxpayer's property.

**Line 2. Payroll Factor.** This factor is a percentage determined as follows:

**Divide** the total amount paid as compensation to employees in New Mexico during the tax year (column 2).

**By** the total amount paid as compensation to employees everywhere during the tax year (column 1).

"Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services. Only amounts paid directly to employees are included in the payroll factor. "Employees" include leased employees where the taxpayer is considered an employer for

payroll tax purposes, but "employees" are not independent contractors to whom the taxpayer issues federal Form 1099.

Only compensation that is attributable to business operations subject to apportionment is included in the payroll factor.

Compensation of any employee whose primary activities relate to the production of non-business income is excluded from the payroll factor, but may be included as a related expense of the allocated activity.

**Line 3. Sales Factor.** This factor is a percentage determined as follows:

**Divide** the total gross receipts attributable to New Mexico during the tax year, excluding returns, allowances and allocated income (column 2)

**By** the total gross receipts everywhere during the tax year, excluding returns, allowances and allocated income (column 1). If the percentage is negative, enter zero.

"Sales" means all gross receipts from transactions and activities in the regular course of business.

"Gross receipts" means all income from transactions and activities in the regular course of business including income from licensing intangible personal property.

**Sales of tangible personal property** are New Mexico sales if either of the following is true. The property is:

- Delivered or shipped to a purchaser other than the U.S. government within New Mexico regardless of the FOB (free on board) point or other conditions of the sale, **or**
- Shipped from an office, store, warehouse, factory, **or** other place of storage in New Mexico, **and**
  - The purchaser was the U.S. government, **or**
  - The taxpayer:
    - is not taxable in the state of the purchaser, **and**
    - did not make an election for apportionment of business income pursuant to Subsection B or C of Section 7-4-10 NMSA 1978.

**Sales other than sales of tangible personal property** are New Mexico sales if any of the following are true:

- In the case of sales, rental, lease or license of real property, if and to the extent the real property is located in this state;
- In the case of rental, lease or license of tangible personal property, if and to the extent the tangible personal property is located in this state;
- In the case of sale of a service, if and to the extent the service is delivered to a location in this state, and
- In the case of sale, rental, lease or license of intangible property, if and to the extent the intangible property is used in this state.
- Special rule: Gross receipts for the performance of personal services are attributable to this state to the extent such services are performed in this state.

**Lines 4 and 5. Total Factors and Average New Mexico Percentage.** New Mexico uses an evenly weighted three-factor formula. The three-factor formula is for all taxpayers except taxpayers who are:

- Qualifying manufacturers who elect to use the special manufacturers apportionment formula, or
- A taxpayer whose principal business activity in New

Mexico is a headquarters operation and who elects to use the single weighted sales factor apportionment formula, or

- Allowed or required to eliminate one or more factors because the three-factor formula does not fairly represent the extent of their business activity in New Mexico.

#### **Taxpayers using the three-factor formula, complete lines 4 and 5 as described on Schedule PTE-A.**

Taxpayers electing or required to use one of the exclusions described above must follow the instructions described next.

#### **Exclusion Formulas**

##### **How to Make the Exclusion Election**

To elect to use Exclusions 1, 2, or 3, you must notify the Department in writing no later than the filing date of the first return to which your election applies.

Submit your notification to make your election or to terminate your election to:

Taxation and Revenue Department  
Corporate Income and Franchise Tax Unit  
P.O. Box 630  
Santa Fe, NM 87504-0630

For assistance, call (505) 827-0825 or toll free: (866) 809-2335, option 4. Or, e-mail: [CIT.TaxReturnHelp@tax.nm.gov](mailto:CIT.TaxReturnHelp@tax.nm.gov).

##### **Election Period**

If the election is made for taxable years beginning prior to January 1, 2020, it applies to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier.

Elections made for a taxable year beginning on or after January 1, 2020, apply to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the Department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months.

On PTE-A, line 5, use the formula in the chart that corresponds to the tax year of your return to calculate the apportionment percentage.

##### **Exclusion 1**

##### **Electing Manufacturers Apportionment Formula**

Taxpayers whose principal activity is manufacturing may elect to use a special apportionment formula. For tax years beginning on or after January 1, 2014, the election allows taxpayers to apportion the business income to New Mexico using a single weighted calculation by dividing total sales within New Mexico by total everywhere sales.

The electing manufacturer must use the special factor method for a total of three consecutive tax years, covering at least

36 calendar months, or until the manufacturer notifies the Department in writing that the election is terminated.

The statutory authority for this elective method is in Section 7-4-10(B) NMSA 1978.

##### **Definition of Manufacturing**

"Manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

- (a) construction;
- (b) farming;
- (c) power generation; provided that "manufacturing" includes electricity generation at a facility that does not require location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the Public Utility Act;
- (d) processing natural resources, including hydrocarbons; or
- (e) processing or preparation of meals for immediate consumption.

##### **Exclusion 2**

##### **Electing Headquarters Operation Apportionment Formula**

Taxpayers whose principal business activity in New Mexico is a headquarters operation may elect to use a single weighted sales factor apportionment formula. For tax years beginning on or after January 1, 2014, the election allows taxpayers to apportion the business income to New Mexico using a single weighted calculation by dividing total sales within New Mexico by total everywhere sales.

If a filing group, or a taxpayer that is not a member of a filing group, has a headquarters operation in New Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

The statutory authority for this elective method is in Section 7-4-10(C) NMSA 1978.

##### **Definition of Headquarters**

"Headquarters operation" means:

1. the center of operations of a business:
  - (a) where corporate staff employees are physically employed;
  - (b) where centralized functions are performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including a call center;
  - (c) the function and purpose of which is to manage and direct most aspects and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or
4. the center of operations of a business:

- (a) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and
- (b) from which final authority over one or more centralized functions is issued.

Complete the property factor and payroll factor information in column 1 and column 2. Although an election for a single weighted formula has been made, this information is still necessary. The percentage factors for property and payroll are not included in the calculation of the Average New Mexico Percentage.

Compute the sales factor on line 3. Transfer the amount in line 3 to line 5. Also complete lines A and B at the bottom of Schedule PTE-A.

### Exclusion 3

**Eliminating one or more factors.** If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of your business activity in New Mexico, an election may be made for, or the Department may require, the exclusion of any one or more insignificant factors. A factor is considered insignificant if column 1 (the denominator) is less than 3% of net income.

## INSTRUCTIONS FOR 2025

### PTE-B ALLOCATED NON-BUSINESS INCOME TAXABLE TO OWNERS

Schedule PTE-B must be used by entities to allocate income not connected to the entity's regular trade or business.

Direct and indirect expenses related to allocated income must be deducted from the related income. Expenses related to allocated income are determined by the entity's books and records. If the entity's books and records do not reflect proper amounts for expenses, the entity may rely on other reasonable methods.

If you have an entry in column 2, you must also have an entry in column 1. The allocation cannot be correctly computed if both columns are not completed correctly.

Enter the following information on the appropriate lines of PTE-B to allocate income:

**Line 1. Net non-business dividends.** Column 2: Total amount in column 1 is allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

"Commercial domicile" means the principal place from which the taxpayer's trade or business is directed or managed.

**Line 2. Net non-business interest.** Column 2: Total amount in column 1 is allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

**Lines 3 and 4. Net non-business rents and royalties.** Column 2: The following net rent and royalty income should be allocated to New Mexico if it is non-business income:

1. Income from real property located in New Mexico;
2. Income from all tangible personal property if the taxpayer's commercial domicile is in New Mexico and the entity is not organized under the laws of or taxable in the state where the property is used;
3. Income from tangible personal property that is used in New Mexico;
4. Income from intangibles (patents, copyrights, franchises, trademarks and licenses) used in New Mexico, and
5. Income from intangibles if the taxpayer's commercial domicile is in New Mexico but the income from the intangible is not taxable in the state where the intangible is used.

A patent is used in New Mexico if it is used in production, fabrication, manufacturing or other processing in New Mexico.

A copyright is used in New Mexico if printing or other production occurs in New Mexico.

**LINE 5. Net non-business profit sale of assets (loss).** Column 2: The net gain or loss from the sale or exchange of the following should be allocated to New Mexico if it is non-business income:

1. Real property located in New Mexico;
2. Tangible personal property located in New Mexico at the time it was sold;
3. Tangible personal property not located in New Mexico at the time it was sold if:
  - (a) the entity's commercial domicile is within New Mexico, and
  - (b) the gain was not taxable in the state where the tangible personal property was located, and
3. Intangible personal property if the entity's commercial domicile is in New Mexico.

**Line 6. Net non-business partnership income (loss).** Column 2: Non-business partnership income should be allocated to New Mexico to the extent the partnership conducts business in this state.

**Line 7. Other net non-business income (loss).** Attach a schedule to identify all other allocated income.

### Consistency in Reporting

An entity is required to be consistent in:

- Classifying income as allocable or apportionable;
- The valuation of property and its inclusion in the property factor;
- The treatment of compensation for the payroll factor; and
- The exclusion or inclusion of receipts in the sales factor for returns filed in all states.

Any change or inconsistency from prior year returns must be disclosed in a statement attached to the return. Identify the amounts and reasons for the changes or inconsistencies.

### Petition Procedure Open to Taxpayer

If the above procedures for allocation and apportionment do not fairly represent the extent of the taxpayer's business activity in New Mexico, the taxpayer may petition, or the

Secretary of Taxation and Revenue may require, that another method be used to apportion or allocate all or any part of the taxpayer's business income.

**Line 8. Total allocated income.** Add lines 1 through 7 Column 1. Enter on PTE, line 8.

**Line 9. Total New Mexico allocated income.** Add lines 1 through 7, Column 2. Enter on PTE, line 12.

## INSTRUCTIONS FOR 2025 PTE-D DETAIL OF OWNER WITHHOLDING, COMPOSITE TAX AND ENTITY- LEVEL TAX

Annually, a pass-through entity (PTE) subject to withholding tax from the allocable net income of its owners, partners, or members (owners), according to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-10 NMSA 1978), will file the New Mexico Pass-Through Entities Return and use the PTE-D, Detail of Owner Withholding, Composite Tax and Entity-level tax, to report withholding for each owner, composite income tax for any electing owners, and/or the amount of entity-level tax paid on behalf of each owner. The PTE-D:

- Lists only payees who have New Mexico net allocable income and losses
- Reports each owner's share of net income allocable to New Mexico for withholding tax and reports the owner's share of withholding
- Reports the amount of composite income tax paid for any electing owners
- If electing to file entity-level tax, reports each owner's share of allocable net income subject to entity-level tax
- May include all three types of tax (withholding, composite, and entity-level), but only for separate owners. The PTE-D should not typically reflect more than one type of tax paid or withheld for any individual owner.

The PTE reports all resident and non-resident owners on the PTE-D, even when no tax has been withheld. Do not include owners who did not receive New Mexico allocated net income.

Except for a PTE that is a personal services business, if the PTE entered into an agreement with the owner for the owner to file and pay tax due on the owner's share of allocable net income of the PTE, the PTE enters **Code 2** in the **Reason Code** box 6.

**"Personal Services Business"** means a business organization that receives payments for the services of a performing artist for purposes of the film production tax credit.

**NOTE:** A PTE that is a personal services business cannot enter into an agreement with its owners using RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding On Behalf of a Pass-Through Entity or Remitter*.

To complete the PTE-D and PTE-D Supplemental, do the following:

PTE return, PTE-A, B, and D

1. Determine every PTE owner with New Mexico net allocable income or loss.
2. Calculate the share of withholding tax paid on each owner's behalf if required.
3. Calculate the composite income tax paid for any electing owners.
4. If the entity has elected to file entity-level tax, determine each owner's share of allocable net income subject to entity-level tax. For owners that are subject to personal income tax, the entity will adjust the amount of allocable net income subject to entity-level tax with respect to the capital gains deduction allowed for these taxpayers. Be sure that for owners that are subject to corporate income tax, or owners that are another pass-through entity, the owner's allocable share of net income subject to entity-level tax does not reflect this deduction.
5. If the entity has elected to file entity-level tax, determine the amount of each owner's share of entity-level tax.
6. Complete all fields for each PTE as described in the **Line Instructions** section below.
7. If the PTE has more than 8 owners, print more copies of the PTE Supplemental directly from the website. **NOTE:** If you use more than 12 additional pages (over 51 owners), you must file electronically.
8. Attach all PTE Supplemental pages to the first page of the PTE-D. **IMPORTANT:** Do not use a copy machine to make more pages. Copied forms delay processing your report because high-throughput scanning machines have difficulty reading copied barcodes. It is easier for the machines to read printed barcodes than photocopied barcodes.

### Line Instructions for PTE-D

**Line 1a. Owner's SSN/ITIN/FEIN.** This information is required.

**Line 1b. ID Provided.** Check the box to indicate which ID type was provided on line 1a. SSN/ITIN or FEIN

**Line 2. Owner's Name.** Provide the owner's first, middle, and last name.

**Line 3a. Owner's Address (Number Street).** This field allows for two row entry, please provide full address.

**Line 3b. City.** Enter the City for the address provided on 3a.

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

**Line 3c. State.** Enter in the State for the address provided on 3a.

**Line 3d. ZIP Code/ Postal Code.** Enter the ZIP code and if applicable the Postal code for the address provided on 3a.

**Line 3e. Mark if outside of the US/Country Code.** If outside of the US check the box and provide the two character country code in the space allowed. You can find the country codes listed on the IRS website: <https://www.irs.gov/e-file-providers/foreign-country-code-listing-for-modernized-e-file>.

**Line 4. Residency Status.** Provide the owner's New Mexico residency status.

- N- Non-resident
- R- Resident

**Line 5. Withholding required.**

- **Y** for **Yes**, withholding required, skip line 6.
- **N** for **No**, withholding not required. If **No**, line 6 is required.

Withholding is not required if the PTE is filing a composite return or paying entity-level tax for the owner. See "T2. Reason Codes: Withholding Not Required" on page 22, for reasonable causes for not withholding.

**Line 6. Reason Code.** Enter the **Reason Code** in the box to identify the reasonable cause for not withholding. New Mexico regulations recognize the following reasonable causes for not withholding. See "T2. Reason Codes: Withholding Not Required" on page 22.

#### **Approval Required for Other Reasonable Causes**

If you believe the PTE has a valid reason for not withholding from an owner, other than the reasons listed in "T2. Reason Codes: Withholding Not Required" on page 22, the Secretary's approval of your reason before filing gives the PTE the right not to withhold. A request requires detailed information to support an alternative reasonable cause for not withholding.

To request the Secretary's approval, submit a written request to:

New Mexico Taxation and Revenue Department  
Corporate Income and Franchise Tax Unit  
P.O. Box 630  
Santa Fe, NM 87504-0630

**Line 7. Owner's Share of allocable net income.** Enter the owner's share of the PTE's allocable net income. The total of all line 7 amounts for all schedules corresponds to the amount on the PTE page 1, line 13, New Mexico net income.

**Line 8. Owner's share of withholding tax.** Enter the owner's share of withholding tax. The total of all line 8 amounts for all schedules corresponds to the amount on the PTE page 1, line 18, **Total amount of withholding tax**.

**NOTE:** When determining the amount of tax to withhold for each owner, see Adjustments To The Amount Withheld at the end of these instructions.

**Line 9. Owner's Percentage.** Enter the owner's percentage of ownership.

**Line 10. Amount of owner composite tax.** Amount of composite tax the PTE has paid for the owner. The total of all line 10 amounts for all schedules corresponds to the amount on the PTE page 1, line 21, **Total amount of composite income tax**.

**Line 11. Owner share of allocable net income subject to entity-level tax.** Enter the amount of allocable net income subject to entity level for this owner. The total of all line 11 amounts for all schedules corresponds to the amount on the PTE page 2, line 27, **New Mexico net income subject to entity-level tax**.

**Line 12. Owner share of entity-level tax.** Enter the share of entity-level tax for this owner. This line may include amounts of entity-level tax passed on from other PTEs to the owner.

#### **Adjustments To The Amount Withheld**

A PTE may make the following adjustments to the amount withheld:

- You may reduce, but not below zero, the amount of tax withheld from the owner's net income by the amount required to withhold for oil and gas proceeds.
- If a PTE deducted and withheld an amount, pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act, from the net income of an owner that is also a PTE, the payee PTE may take credit for that amount in determining the amount the payee PTE must withhold and deduct.

#### **More About RPD-41353**

RPD-41353 is required documentation showing the PTE and non-resident owner entered into an agreement that the non-resident owner agrees to pay New Mexico tax on the owner's share of the PTE's allocable net income. All PTEs except personal services businesses may enter into this agreement with its owners. Keep RPD-41353 in your files with the PTE's other records. Unless you receive a Department request that requires you to furnish a true and correct copy of this agreement, do not submit RPD-41353 to the Department.

### **Definitions**

**Apportionable income** means income arising from transactions and activities in the regular course of an entity's trade or business. Apportionable income includes income from both tangible and intangible property if the acquisition, management or disposition of the property constitutes integral parts of the entity's regular trade or business. It includes investment income related to or used in the entity's overall business

operations. The following sources of income are considered apportionable income and must be included:

- Dividend income from the investment of working capital or dividend income from an investment which is functionally connected to the entity's trade or business.
- Interest income from the investment of working capital, or interest income from capital investments used in the

overall business operations, or interest income from an investment which is functionally connected to the entity's trade or business.

- Royalty income and fees from patents, copyrights, franchises, trademarks and licenses developed in the regular course of the entity's trade or business, or royalty income and fees from a product or mineral interest used in the regular course of the entity's trade or business.
- Rental or subrental income from property purchased, leased or used in the regular course of the entity's trade or business.
- Gains or losses from the sale of assets used in the regular course of the entity's trade or business or assets sold which had been treated as business assets in prior years.

Income from a partnership or non-corporate entity if held within the regular course of the corporation's trade or business.

**Distributed net income** of a pass-through entity shall equal the amount of net income of the pass-through entity allocated and apportioned to New Mexico pursuant to the Uniform Division of Income for Tax Purposes Act, less allocations of net income from that amount to:

1. the United States, this state or a political subdivision of either;
2. a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, or any political subdivision thereof;
3. an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code; or
4. a corporate partner that would properly include the income in the partner's New Mexico tax return as part of the partner's unitary business income.

**Net income** means, for any PTE, the income reported to an owner by the PTE for federal income tax purposes, including ordinary business income or loss, net rental income or loss, guaranteed payments to a partner of a partnership, dividends, royalties, and capital gain or loss, less associated deductions, plus interest earned on a state or local bond, less interest earned on a bond issued by the State of New Mexico or its political subdivisions, less income from obligations of the U.S. less expenses incurred to earn that income.

In the case of a subchapter S corporation, net income also includes income taxable to the corporation for federal income tax purposes. Net income also includes appropriate allocation and apportionment of that income to New Mexico in accordance with the Uniform Division of Income for Tax Purposes Act.

**Owner** means a partner in a partnership not taxed as a corporation for federal income tax purposes for the tax year, a shareholder of an S corporation or of a corporation other than an S corporation that is not taxed as a corporation for federal income tax purposes for the tax year, a member of a limited liability company, or any similar person holding an ownership interest in any PTE. Owner also means a performing artist to whom payments are due from a personal services business.

**Pass-through entity** means a personal services business or any other business association other than any one of the following:

- A sole proprietorship
- An estate or trust that does not distribute income to beneficiaries
- A corporation, limited liability company, partnership, or other entity not a sole proprietorship taxed as a corporation for federal income tax purposes for the tax year
- A partnership that is organized as an investment partnership in which the partner's income is derived solely from interest, dividends, and sales of securities
- A single member limited liability company that is treated as a disregarded entity for federal income tax purposes
- A publicly traded partnership as defined in Section 7704(b) of the Internal Revenue Code

**Partnership** means a combination of persons, including a partnership, joint venture, common trust fund, association, pool, or working agreement, or any other combination of persons treated as a partnership for federal income tax purposes.

**Personal services business** means a business organization that receives payments for the services of a performing artist for purposes of the film production tax credit

## T2. Reason Codes: Withholding Not Required

| Reason Codes   | Explanation  |
|----------------|--|
| <b>Code 1</b>  | <p>Documentation is on file showing that the owner maintains its place of business or residence in New Mexico and any of the following is true:</p> <ul style="list-style-type: none"> <li>• The owner's address on Form 1099-MISC, pro forma 1099-MISC, or RPD-41359, <i>Annual Statement of Pass-Through Entity Withholding</i>, is a New Mexico address.</li> <li>• An individual has a signed RPD-41354, <i>Declaration of Principal Place of Business or Residence in New Mexico</i>, on file that declares the individual is a resident of New Mexico and the physical location of the individual's abode is in New Mexico.</li> <li>• A corporation has a signed RPD-41354, <i>Declaration of Principal Place of Business or Residence in New Mexico</i>, on file that declares the corporation's principal place of business is in New Mexico.</li> </ul> <p><b>NOTE:</b> Keep RPD-41354 in your files with the PTE's other records. Unless you receive a Department request that requires you to furnish a true and correct copy of this agreement, do not submit RPD-41354 to the Department.</p> <ul style="list-style-type: none"> <li>• A corporation incorporated in New Mexico has on file Articles of Incorporation and sufficient portions of those papers demonstrate incorporation in New Mexico, or information from the Secretary of State, Corporation Bureau website indicates the corporation is a New Mexico corporation in good standing and shows its address.</li> </ul> |
| <b>Code 2</b>  | <p>Documentation is on file showing that the PTE and owner executed the tax agreement RPD-41353, in which the owner agreed to report and pay the amount to the Department on behalf of the owner. If the PTE has on file a signed RPD-41353, <i>Owner's or Remittee's Agreement to Pay Withholding on Behalf of a Pass-through Entity or Remitter</i>, use this code.</p> <p>The owner satisfies the terms of the agreement by filing a New Mexico income tax return and paying the tax due. If the Department notifies the PTE that the owner failed to remit the required payment, the RPD-41353 agreement is no longer acceptable by the Department as reasonable cause for failure to withhold. The PTE is not responsible for withholding on the net income earned in periods that ended before the Department's notification.</p>  |
| <b>Code 3</b>  | <p>Documentation shows the U.S. Commissioner of Internal Revenue granted the owner exemption from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code. In addition to this documentation, on file is a copy of the owner's Form W-9 or a copy of the IRS determination letter. <b>IMPORTANT:</b> If the income constitutes unrelated income, the obligation to deduct and withhold from payments applies to these organizations.</p>   |
| <b>Code 4</b>  | <p>Documentation is on file showing the owner is the U.S., New Mexico, or any agency, instrumentality, or political subdivision.</p>   |
| <b>Code 5</b>  | <p>Documentation is on file showing the owner is a federally-recognized Indian nation, tribe, or pueblo or any agency, instrumentality, or political subdivision thereof.</p>  |
| <b>Code 6</b>  | <p>Documentation is on file showing the PTE's inability to make payment of withholding from net income for the tax year due to non-availability of cash, or due to contracts and other binding written covenants with unrelated third parties. However, if the PTE made cash payment(s) to any owner during the tax year, the PTE is liable for payment of the withholding amount due up to the extent of those cash payment(s).</p>   |
| <b>Code 7</b>  | <p>The PTE made a timely election for federal income tax purposes that changes the net income of a PTE in a prior quarter.</p>   |
| <b>Code 8</b>  | <p>For tax years 2014 through 2018, the PTE elected pursuant to Section 26 U.S.C .108(i) to defer income from the discharge of indebtedness in conjunction with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument for the period 2014 through 2018, and the entity has insufficient cash to remit the withholding amount due on the deferred income reported in the year.</p>  |
| <b>Code 9</b>  | <p>The owner is an insurance company, reciprocal, or interinsurance exchange that pays a premium tax to New Mexico and falls under the provisions of Section 59A-6-6 NMSA 1978.</p>  |
| <b>Code 10</b> | <p>The amount to withhold from an owner's allocable share of the net income in any calendar year is less than \$100.</p>   |
| <b>Code 11</b> | <p>The owner's allocable share of net income is subject to entity-level tax of an electing PTE.</p>  |
| <b>Code 12</b> | <p>A composite income tax return is being filed on the owner's behalf under Section 7-3-14 NMSA 1978.</p>  |

# NEW MEXICO TAXPAYER BILL OF RIGHTS

Most tax transactions happen without problems. Sometimes, though, troubles arise through misunderstanding, mathematical error, missed deadlines, lost papers, high volume of transactions and many other situations. Changes in the law may make earlier information outdated. Over the years the Legislature and the Department have created ways to handle difficulties according to the provisions of the state tax code. Following are some of your rights as outlined in Sections 7-1-4.1 through 7-1-4.3 NMSA 1978:

- The right to available public information and prompt and courteous tax assistance;
- The right to representation and advice by counsel or other qualified representatives at any time during your interactions with the Department according to provisions of Section 7-1-24 NMSA 1978, or with the Administrative Hearings Office in accordance with the provisions of the Administrative Hearings Office Act;
- The right to have audits, inspections of records and meetings conducted at a reasonable time and place according to Section 7-1-11 NMSA 1978;
- The right to have the Department conduct its audits in a timely and efficient manner and be entitled to the correct calculation of interest as provided in the Tax Administration Act under Section 7-1-67 and 7-1-68 NMSA 1978;
- The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest, appeals and collection proceedings under the Tax Administration Act;
- The right to receive an explanation of audit results and the basis for audits, assessments or denials of refunds that identify tax, interest or penalty due;
- The right to seek review through formal or informal proceedings of findings or unfavorable decisions arising from determinations during audit or protest procedures according to Section 7-1-24 NMSA 1978 and the Administrative Hearings Office Act;
- The right to have your tax information kept confidential unless otherwise specified by law in Sections 7-1-8 through 7-1-8.11 NMSA 1978;
- The right to an abatement of an assessment of taxes incorrectly, erroneously or illegally made (Section 7-1-28 NMSA 1978) and a right to seek a compromise of an asserted tax liability. When the Secretary of Taxation and Revenue in good faith doubts that you owe us what we claim you owe, you also have the right to seek a compromise if one exists in your particular case (Section 7-1-20 NMSA 1978);
- The right to clear information about penalties if a tax assessment is not paid, secured, protested or otherwise provided for according to Section 7-1-16 NMSA 1978. If you become a delinquent taxpayer, upon notice of delinquency you have the right to timely notice of collection actions that require sale or seizure of your property under the Tax Administration Act, and
- The right to apply to pay your tax obligations by installment payment agreements according to the provisions of Section 7-1-21 NMSA 1978.

## **Confidentiality Provisions:**

Statutes protecting the privacy of your taxes are strict and are outlined in Sections 7-1-8 through 7-1-8.11 NMSA 1978. Section 7-1-8.2 NMSA 1978 limits requiring the Department to answer questions about whether a taxpayer is registered to do business in New Mexico or is registered for other tax programs. It does not allow employees to say whether you have filed a return. Employees may discuss your account only with you or your authorized representative. A hearing officer's written ruling on questions of evidence or procedure pursuant to the Administrative Hearings Office Act are in the public domain. The name and identification number of the taxpayer requesting the ruling are not public record. Public record includes the monthly gasoline tax reports of numbers of gallons of gasoline and ethanol-blended fuels received and deducted, and the tax paid by each filer or taxpayer pays. Identities of rack operators, importers, blenders, suppliers or distributors and the number of gallons of gasoline and other fuels are public record. The Department may reveal to the Gaming Control

Board the tax returns of license applicants and their affiliates.

## **Audit Provisions:**

The Department must provide you with written, dated notice that an audit is about to begin on a specific date, and the notice must tell you which tax programs and reporting periods will be covered. We must issue a second notice, which states any outstanding records or books of account requested and not yet received, between 60 and 180 days after the audit begins. If you do not produce the records within 90 days, the Department can issue an assessment of tax on the basis of the information as it stands. If you need additional time, you must submit a specific request in writing. Interest on outstanding liabilities accrues if the Department does not issue an assessment within 180 days of the notice of outstanding records or books, or within 90 days after time has expired under your request for additional time; however, you are entitled to an abatement of interest for the period of time after you have complied with Department requests and the Department has not acted on the audit.

## **Administrative Hearing Procedures:**

A hearing officer may not engage or participate in any way in the enforcement or formulation of general tax policy other than to conduct hearings. You may request the Chief Hearing Officer of the Administrative Hearings Office determine if a hearing officer has engaged or participated in the enforcement or formulation of tax policy and if the hearing officer's activities have affected his or her impartiality. The Chief Hearing Officer may designate another hearing officer for the matter. Hearing officers may not communicate unilaterally about a matter you have protested while that matter is still pending. The chief hearing officer may appoint another hearing officer if that occurs. You may request a written ruling on any contested question of evidence in matters in which you have filed a pending written protest. You also may request that two or more protests on related issues be combined and heard jointly, and the hearing officer shall grant the request unless it creates an unreasonable burden on the Department.

## **Credit Claims:**

The Department has 120 days from the filing date to approve or deny a statutory tax credit. If it does not act, the credit is approved. For more information see Section 7-1-29.2 NMSA 1978.

## **Refund Offset:**

The Secretary decides whether a refund of tax due you may be offset against your other tax liabilities, and you will receive notice that the refund will be made accordingly. You are entitled to interest until the tax liability is credited with the refund amount. Please see the paragraph above on "Audit Provisions" for interest due to you if the Department does not offset a refund or credit against your other tax liabilities within the prescribed time. The Department may make a direct refund of overpaid taxes to the taxpayer without requiring the taxpayer to file a refund claim. The Department does not have to pay interest on credits or refunds if it applies the amount to a tax interception program, to an estimated payment, or to offset prior liabilities of the taxpayer.

## **Awarding of Costs and Fees:**

If you prevail in an administrative or court proceeding brought by you or against you after July 1, 2003, under the Tax Administration Act, you may be entitled to a judgment or a settlement for reasonable administrative costs connected to the action.

## **Penalty:**

The Department may not assess penalty against you if you fail to pay tax when due because of a mistake of law made in good faith and on reasonable grounds. If the Secretary determines that it is unfair to hold a spouse or former spouse liable for payment of unpaid taxes, the Secretary may decline to take action against the spouse or former spouse of the person who actually owes the tax. In extreme cases of delinquency under Section 7-1-53 NMSA 1978 the Department may enjoin a taxpayer from continuing in business after a hearing and until the delinquency is cleared.