

# 2010 New Mexico Instructions for Corporate Income and Franchise Tax Return Form CIT-1

**READ THE INSTRUCTIONS CAREFULLY.** They will answer most questions, save time and may save money. You may also want to read publication FYI-350 - *Corporate Income and Corporate Franchise Tax*, which explains in more detail various aspects of the New Mexico corporate income tax program. File your return as early as possible. If you have additional questions or want a copy of FYI-350, write to:

New Mexico Taxation and Revenue Department  
**ATTENTION:** Corporate Income and Franchise Tax  
P. O. Box 25127  
Santa Fe, New Mexico 87504-5127  
or visit our website at:  
[www.tax.newmexico.gov](http://www.tax.newmexico.gov)

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## GENERAL INSTRUCTIONS

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### CORPORATIONS REQUIRED TO FILE A NEW MEXICO CORPORATE INCOME AND FRANCHISE TAX RETURN

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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 Corporate Income and Franchise Tax Return. These include:

- all corporations organized under the laws of the state of New Mexico whether they have New Mexico income or not;
- out-of-state corporations that derive income from business transactions, property or employment in this state;
- corporations exempt from federal income tax under the Internal Revenue Code that have unrelated business income; and
- all other business entities that are required or elect to file a Federal Corporation Income Tax Return including partnerships and limited liability companies treated as corporations by the Internal Revenue Service.

**EXCEPTION:** The following companies are exempt and are not required to file a New Mexico Corporate Income Tax Return:

- insurance companies and reciprocal or interinsurance exchanges that pay a premium tax to New Mexico, and
- rural electric cooperatives established under the Rural Electric Cooperative Act (Sec. 62-15-28 NMSA 1978).

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### CORPORATIONS REQUIRED TO PAY THE NEW MEXICO FRANCHISE TAX

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All corporations engaging in business in New Mexico and every domestic or foreign corporation having or exercising its corporate franchise in this state, **whether actively engaged in business or not**, must file a New Mexico Corporate Income and Franchise Tax Return and pay the \$50 franchise tax even if no income tax is due. This includes "disregarded" corporations doing business in New Mexico. The only exceptions are:

- corporations exempt from federal income tax under the Internal Revenue Code that have no unrelated business income;
- insurance companies and reciprocal or interinsurance exchanges that pay a premium tax to New Mexico; and
- rural electric cooperatives established under the Rural Electric Cooperative Act.

Limited liability companies that are not required or do not elect to file a Federal Corporation Income Tax Return are not required to pay the New Mexico Franchise Tax.

Taxpayers who have no nexus in New Mexico pursuant to P.L. 86-272, are not immune from paying New Mexico Franchise Tax.

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### WHICH RETURN TO FILE

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FISCAL-YEAR TAXPAYERS must file a 2010 return for fiscal years beginning in 2010 and ending in 2011.

If your business does not file a New Mexico Corporate Income and Franchise Tax Return, New Mexico may require you to file one of the following forms for New Mexico instead:

- New Mexico Income and Information Return for Pass-Through Entities (PTE),
- New Mexico Personal Income Tax Return (PIT-1), or
- New Mexico Fiduciary Income Tax Return (FID-1).

Corporations electing to be taxed as S corporations for federal income tax purposes, or most partnerships (excluding "investment partnerships" in which income is derived solely from interest, dividends and sales of securities), or

any joint venture, common trust fund, limited association, pool or working agreement, limited liability company or any other combination of persons or interests that is required to file a federal partnership return of income must file a *New Mexico Income and Information Return for Pass-Through Entities* (PTE) if any of the entity's income is from New Mexico.

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

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 personal income tax return, Form PIT-1. No franchise tax is due.

Estates and trusts are subject to the New Mexico personal income tax. Except for grantor trusts, the fiduciary for an estate or trust must file Form FID-1, *Fiduciary Income Tax 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 Form FID-1.

**NOTE:** All New Mexico Taxation and Revenue Department forms, instructions and information brochures are available on the Department's Internet home page. Our address is: [www.tax.newmexico.gov](http://www.tax.newmexico.gov). Forms are also available at any New Mexico Taxation and Revenue Department district office, or you may request forms by calling 505-827-2206 (not a toll-free number).

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#### REQUIRED ATTACHMENTS TO FORM CIT-1

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**IMPORTANT:** We can process your return more quickly if you submit your forms and attachments in the following sequence:

- **CIT-1, pages 1 and 2:** *Corporate CIT-1*

*Income and Franchise Tax Return*

- **CIT-A:** *Apportioned Income for Multistate Corporations*
- **CIT-B, CIT-C and CIT-D:** *Allocation of Non-business Income; Computation of New Mexico Percentage; and Foreign Dividend Deduction Schedule, respectively.*
- **CIT-CR, if applicable:** *Non-refundable Credit Schedule* and required attachments
- **Federal Form 1120** (pages 1 through 5 **ONLY**): Required of all corporations. Corporations filing under separate corporate entity or combined filing methods must attach a simulated Federal Form 1120, pages 1 through 5. The New Mexico return **IS NOT** complete and **WILL NOT** be processed if these forms are missing.
- **Other attachments** as required by instruction.

**Important: Attach only pages 1 through 5 of Federal Form 1120.**

*NOTE: If you include a simulated or pro forma federal return, write, "PRO FORMA" across the top of the return. If you attach a copy of a state form as backup for an amended return, write "DO NOT PROCESS" across the face of the return.*

If your return shows a balance due, complete **Form CIT-PV, Payment Voucher**, to include with your check or money order.

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#### Other Forms or Attachments You May Have to File

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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 information returns and withholding statements.** Attach a copy of all annual information returns and withholding statements showing income and New Mexico income tax withheld, if reporting amounts withheld on lines 20 or 21, Form CIT-1. Attach Forms W-K 2010, *New Mexico Income and Withholding From Pass-Through*

*Entity*, federal Form 1099-MISC or equivalent, or New Mexico Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*.

The beneficiary of a simple trust or a grantor trust may claim tax withheld on behalf of the simple or grantor trust by attaching a copy of **Form WT, Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds**. The simple trust or grantor trust may distribute its withholding of oil and gas proceeds to its beneficiaries by reporting the withholding paid to the Department and issuing New Mexico Form WT to the beneficiary.

**Attach Federal Form(s) 8886, if required-** If federal Form(s) 8886 must be attached to your federal income tax return, mark the checkbox in Question L, on Form CIT-1 and attach a copy of federal Form(s) 8886, *Reportable Transaction Disclosure Statement*. See page 5 of these instructions for details.

When you calculate New Mexico taxable income using a net operating loss carry-forward, attach a **net operating loss schedule** showing the year that each net operating loss occurred. The schedule should also list the year in which the loss(es) was carried forward.

**Schedule CC, Alternative Tax Schedule.** Corporations that 1) have no business activity in New Mexico other than sales; 2) do not own or rent real estate in New Mexico; and 3) have annual gross sales in New Mexico of \$100,000 or less qualify to use the alternative tax for computing New Mexico corporate income tax.

Corporations with seasonal or annualized income may be able to reduce penalty and interest on underpayment of estimated tax by completing **Form RPD-41287, 2010 Calculation of Penalty and Interest on Underpayment of Estimated Tax**.

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

See *Schedule CIT-CR, Available Credits* on page 9 for a description of the **attachments required to claim any non-refundable credits**. For more information on business-related credits, also see publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*, download the claim forms from the TRD website at [www.tax.newmexico.gov](http://www.tax.newmexico.gov) or call (505) 476-3683.

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## PAYMENT OF THE CORPORATE INCOME AND FRANCHISE TAXES

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Complete Form CIT-PV and attach it to your check or money order. Mail the return, payment voucher CIT-PV, payment, and required attachments to:

**Taxation and Revenue Department  
P. O. Box 25127  
Santa Fe, New Mexico 87504-5127**

Do not cut or resize the bottom portion of the payment voucher in any way. When printing the document from the Internet, the printer setting "Page Scaling" should be set to 'none' to prevent resizing.

Make your check or money order payable to the Taxation and Revenue Department. Do not mail cash to pay your corporate income and franchise taxes.

To avoid misapplication of funds write "2010 CIT-1" 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. The corporation will be assessed a minimum penalty of \$20 in addition to other applicable penalties and interest.

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## DUE DATE

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For corporations that file on a calendar-year basis, the 2010 New Mexico corporate income and franchise tax return is due on or before March 15, 2011, together with payment of taxes due.

For corporations that file on a fiscal-year  
CIT-1

basis, or a short-year return, the New Mexico corporate income and franchise tax return is due on or before the 15th day of the third month following the close of the fiscal year with payment of taxes due.

A New Mexico income tax return and tax payment are timely if the United States Post Office postmark on the envelope bears a date on or before the due date. If the due date falls on a Saturday, Sunday, 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.

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## EXTENSION OF TIME TO FILE

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The Taxation and Revenue Department accepts an extension of time granted by the Internal Revenue Service if a copy of the automatic or approved federal extension accompanies the CIT-1 at the time of filing.

If the corporation needs an extension of time to file the New Mexico corporate income and franchise tax 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 corporation 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.

To make an extension payment by mail or delivery, you will need to complete Form CIT-EXT, and submit the payment with this form.

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## EXTENSION PAYMENT

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To make an extension payment by mail or delivery, you will need to complete Form CIT-EXT, *New Mexico Corporate Income and Franchise Tax Extension Payment Voucher*. An extension payment is made when either a federal automatic extension or a New Mexico extension has been obtained, and a payment towards the tax liability is

made to avoid the accrual of interest. An extension of time to file your return does not extend the time to pay. If tax is due, interest continues to accrue. If you expect to owe more tax when you file your 2010 return, make a payment using the 2010 CIT-EXT payment voucher and avoid the accrual of interest on that amount.

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## PENALTIES AND INTEREST

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**Interest:** Interest accrues on tax that is not paid on or before the due date of your 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.* Prior to January 1, 2008, interest was calculated at the statutory rate of 15% per year, computed on a daily basis. Beginning January 1, 2008, interest is computed on a daily basis at the rate established for individual income tax purposes by the U.S. Internal Revenue Code.

The IRC rate changes quarterly. The IRC rate for each quarter is announced by the Internal Revenue Service in the last month of the previous quarter. The annual rate for the four quarters of the 2010 tax year, was 4% and the daily rate was 0.010958904%. At the time these instructions were sent to the printer, the rate for the first quarter of 2011 had not been announced. The annual and daily interest rates for each quarter will be posted on our website at [www.tax.newmexico.gov](http://www.tax.newmexico.gov).

Important: You may elect not to figure the amount of penalty or interest due on your return. Once your principal tax liability is paid, penalty and interest stops accruing and the Department will bill you for any penalty or interest due.

If you are due a refund, you may be entitled to interest on your overpayment at the same rate charged for underpayments, but only under certain conditions. The Department shall pay no interest if the refund is made within 55 days of the date of the claim for refund, if the interest is less than \$1 or if your return cannot be processed. For processing to take place, your return must show your name, address, federal employer identification number or

public regulation commission number, signature and the information needed to mathematically verify your tax liability. The CRS identification number should also be included unless the entity is not required to have one.

**Negligence Penalty for Late Filing or Late Payment:** If a return is not filed or tax remains unpaid when due because of negligence or disregard of rules or regulations, but without intent to defraud, the entity is liable for a penalty of 2% of the tax due for each month, or partial month, from the date the return was due, not to exceed 20% of the amount of tax due. The penalty does not apply if there is an extension of time and the tax is paid by the extended due date. Calculate this penalty by multiplying the tax due by 2% times the number of months (including any partial month as a full month) past the due date or extended due date.

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**ESTIMATED TAX PAYMENTS**

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Every corporation may be required to pay estimated corporate income tax if its tax after applicable credits is \$5,000 or more in the current year. Form CIT-ES is used for making estimated payments. See instructions for *How to make an estimated quarterly payment*, on page 17.

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**AMENDED RETURNS**

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Use Form CIT-1 for the year being amended and mark the checkbox at the top of page 1 of the form to indicate the type of amended return. Attach all required schedules.

**NOTE:** Generally, you do not need to attach a copy of the originally filed state form CIT-1 as backup for the amended return. If you do attach a copy of a state form as backup, write "DO NOT PROCESS" across the face of the return.

If additional tax is due, include payment for the full amount. You may include interest calculated from the date the original return was due and any applicable penalty. If you wish the Department to compute penalty and interest for you, leave lines 27 and 28 blank.

**Amended - R.A.R.:** Report changes resulting from an Internal Revenue Service audit within 90 days of the date the federal adjustments are final. Attach a copy of the Revenue Agent's Report (RAR) inclusive of spreadsheets detailing federal adjustments by company name.

*IMPORTANT: If the New Mexico amended return shows changes as the result of a Revenue Agent's Report, the changes must be reported within 90 days of the date the federal adjustments are final.*

**Amended - Capital Loss:** You may carry back a federal capital loss as allowed by the Internal Revenue Code only to the extent it does not increase or create a net operating loss in the tax year to which it is carried. A schedule showing the application of the capital loss for each carryback and carryover year must accompany the amended return. The New Mexico return is not complete and will not be processed without it.

The capital loss of any taxpayer may not be carried back or forward to any other taxpayer. If in a prior year the members of a consolidated or combined group had filed a New Mexico corporate income and franchise tax return, only the capital losses of the members of that particular consolidated or combined group may be carried back to its own prior year's New Mexico income tax returns. The loss may not be carried back to offset any other group's or corporation's taxable income.

When amending a return to carry back a capital loss, attach a copy of the federal Form 1139 or 1120X filed with

the Internal Revenue Service.

**Amended - Other:** Other Changes-- If the New Mexico amended return reports changes resulting from filing an amended federal return, attach copies of all applicable federal forms or schedules. If amending for any other reason, attach an explanation for all changes.

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**LINE INSTRUCTIONS FOR COMPLETING FORM CIT-1**

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**FORM CIT-1, PAGE 1**

**Computerized schedules WILL NOT be accepted in lieu of completing the appropriate forms. All applicable line items on Form CIT-1 and Schedules CIT-A, CIT-B, CIT-C, CIT-D and CIT-CR must be completed for the return to be processed.**

**NOTE:** References to federal form line numbers correspond to the most recent federal forms as of the date of this printing. If the references do not correspond to the federal form, use the applicable line from the federal form for the item described.

Round all dollar amounts to the nearest whole dollar.

Complete the taxpayer information at the top of Form CIT-1. Type or print the corporation's registered name, address and ZIP code in the space provided. Verify that the information is correct. Mark the checkbox indicating an original or amended return.

Type or print the corporation's federal employer identification number (required), New Mexico CRS identifica-

<b>Line 10.</b>	
<b>CORPORATE INCOME TAX RATES</b>	
<b>Net Taxable Income</b>	<b>Tax</b>
Not over \$500,000.....	4.8% of net taxable income
Over \$500,000 but not over \$1,000,000 .....	\$24,000 plus 6.4% of the excess over \$500,000
Over \$1,000,000 .....	\$56,000 plus 7.6% of the excess over \$1,000,000

tion number, and New Mexico Public Regulation Commission number. If the corporation does not require a New Mexico CRS identification number because the corporation has no gross receipts, withholding or compensating tax due, the New Mexico CRS identification number may be left blank.

Fiscal-year or short-year filers should enter the beginning and ending dates (month and year only) from their federal return. No entry is required for calendar-year filers.

If the due date has been extended, **write in the extended due date.** A copy of the extension must be attached to the return.

Enter a contact telephone number for the taxpayer. This number may be the same number as the taxpayer phone number on page 2 of Form CIT-1.

#### **Complete Questions A through L.**

**Question D. NAICS (North America Industrial Classification System) Code.** The business activity code reported for New Mexico filing purposes would be the same as reported for federal purposes. If you don't know your NAICS code, refer to the instructions for federal Forms 1120 and 1120-A. Federal forms and instructions can be downloaded from the IRS website [www.irs.gov](http://www.irs.gov).

**Question E. Method of Reporting.** New Mexico recognizes three corporate income tax reporting methods:

1. Separate Corporate Entity.
2. Combination of Unitary Domestic Corporations (includes all unitary corporations incorporated in the United States and all unitary foreign corporations doing business in the United States).
3. Federal Consolidated Group.

A corporation may change its reporting method subject to the following limitations: a corporation may change its method of reporting without prior permission from the Department if the new reporting method chosen has a higher number on the above list than the previous reporting method. If a cor-

poration wishes to change to a reporting method with a lower number, e.g., from Federal Consolidated Group to Separate Corporate Entity, it must obtain written permission PRIOR TO the start of the tax year from the Taxation and Revenue Department. Permission will be granted only after it demonstrates that the prior method would materially misrepresent the corporation's income in New Mexico. **Retroactive election of a different reporting method is not permitted.**

See Publication FYI-350, *Corporate Income and Corporate Franchise Tax*, for more information about allowable New Mexico reporting methods.

**Question F. Method of Accounting.** The corporation must indicate its method of accounting. "Other" includes such accounting methods as "completed contract" and "percentage of completion" and must be specified in the space provided.

New Mexico requires a corporation to use the same method of accounting for both New Mexico and federal corporate income tax purposes.

**Question I.** This question must be completed if you are filing a combined or consolidated return. If completing Question I, the total of column 3 must equal line 19 of CIT-1 and the total of column 4 must equal line 15 of CIT-1.

**Question K.** If the reporting entity is taxed as a corporation but is an entity other than a corporation, enter the legal entity type in the space provided. Examples of legal entity types are LLC and partnership. For example, a New Mexico partnership elects or is required to file federal Form 1120, thus required to file New Mexico Form CIT-1. The partnership answers Question K by entering the legal entity type "partnership" in the space provided.

**Question L. Checkbox Indicating Federal Form(s) 8886 is Required to be Attached**

Put an "X" in the box if federal Form(s) 8886, *Reportable Transaction Disclosure Statement*, must be attached to your 2010 New Mexico Form CIT-1. If

federal Form(s) 8886 is required to be attached to your 2010 federal income tax return or information return, then it is also required to be attached to your 2010 New Mexico income tax return or information return. The Internal Revenue Service requires taxpayers to appropriately disclose participation in certain "listed transactions" on tax returns. Listed transactions are those that the IRS has determined to be structured for the significant purpose of tax avoidance or evasion. See the instructions for your 2010 federal income tax return or information return, or federal Form 8886 for details.

#### **Refund Express**

If you request an amount to be refunded to you on line 25b, you may wish to have your tax refund deposited directly into your bank account through Refund Express. To choose Refund Express, complete the "Refund Express" portion on page 1 of the Form CIT-1. **All fields are required.** Complete the bank routing number, the account number, and you must mark the appropriate box to indicate the type of account. Failure to complete all fields will cause your Refund Express request to be denied, and the Department will mail you a paper check.

#### **Important Changes Affecting Refund Express - Direct Deposit**

A direct deposit of your refund, "Refund Express", may not be made to a bank account located at a financial institution outside the territorial jurisdiction of the United States. In order to comply with new federal banking rules, anyone wishing to have their refund directly deposited into their account must answer an additional question when completing the Refund Express portion of their return. If you do not answer the question, your refund will be mailed to you in the form of a paper check. If you answer the question incorrectly, your refund may be delayed, rejected or frozen by the National Automated Clearing House Association (NACHA) or the Office of Foreign Assets Control (OFAC). The question asks whether the refund will go to or through an account located outside the United States. The question also warns you that if the answer is "yes", you should not choose the

Refund Express method of delivering your refund. Your options are to use a different bank account or to leave the Refund Express portion of your return blank and a paper check will be mailed to the address on the return.

A financial institution is located within the territorial jurisdiction of the United States if it is:

- located within the United States;
- located on a United States military base; or
- located in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico or the U.S. Virgin Islands.

The Department will mail you a paper check if your bank does not accept your Refund Express information.

Refund express is available for deposits to the taxpayer's account *only*. **Taxpayers may not request the funds to be deposited into the account of another payee.**

TRD is not responsible for the misapplication of a direct deposit refund that is caused by the error, negligence or malfeasance on the part of the taxpayer. Verify that you enter the correct bank information.

### Why Use Refund Express?

- Avoid delays that may occur in mailing a check. Refund Express does not guarantee that you will receive your refund check earlier — only that when the check is issued, it will reach the bank more quickly.
- Payment is more secure. There is no check to get lost.

- More convenient. No trip to the bank to deposit your check.
- Saves tax dollars. A refund by direct deposit costs less than a check.

### What is the Routing Number?

The routing number is for bank identification and **must be nine digits**. If the first two digits are not 01 through 12 or 21 through 32, the system will reject the direct deposit and you will receive a check. On the sample check below, the routing number is 211500151.

Your check may state that it is payable through a bank different from the financial institution where you have your checking account. If so, do not use the routing number on that check. Instead, contact your financial institution for the correct routing number to enter on this line.

### Entering Your Account Number

Your account number can be up to 17 characters. Include hyphens, but omit spaces and special symbols. 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.

You *must* indicate the **type of account**. Place an "X" in the "Checking" box if it is a checking account, or in the "Savings" box if the account is a savings account. This field is required.

**Caution:** Verify that the information you enter is correct and that your financial institution will accept a direct deposit payable to the name on Form CIT-1.

**NOTE:** Taxation and Revenue is not responsible if a financial institution refuses a direct deposit.

You must answer whether the funds for this payment will go to or through an account located outside the territorial jurisdiction of the United States. The required response is "Yes". New federal banking rules require that you answer this question. A refund sent to an account located at a financial institution outside the territorial jurisdiction of the United States, even if the payment passes through a U.S. financial institution, may not be made using this refund option. You may select a different bank account or you may leave the *Refund Express* portion of your return blank and a paper check will be mailed to you.

A financial institution is located within the territorial jurisdiction of the United States if it is:

- located within the United States;
- located on a United States military base; or
- located in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico or the U.S. Virgin Islands.

See *Important Changes Affecting Refund Express - Direct Deposit* on page 5.

### Collection of Debts From Your Refund

The Department will keep all or part of your overpayment if you owe other taxes to the Department. We will apply that amount to the liability and notify you.

The law also requires the Department to transfer all or part of your overpayment if you owe amounts due under the Unemployment Compensation Law or the Workers' Compensation Administration Act. Any amount over your liability and debt will be refunded.

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### FORM CIT-1, PAGE 2

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**NOTE:** References to federal form line numbers correspond to the most recent federal forms as of the date of this printing. If the references do not correspond to the federal form, the correct line from the federal form for

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

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

ANYPLACE BANK  
Anyplace, NM 87000

For \_\_\_\_\_

Routing Number: 211500151

Account Number: 2015551517

1540  
15-000000000

Do not include the check number

\$ \_\_\_\_\_ DOLLARS

the item described should be used.

Round all dollar amounts to the nearest whole dollar. The forms do not allow the entry of cents.

**Line 1.** Enter the federal taxable income before net operating loss (NOL) and special deductions from federal Form 1120. Corporations exempt from federal income tax that have unrelated business income must enter unrelated business taxable income from Federal Form 990-T, Part II.

**NOTE:** If you had no nexus in New Mexico (your New Mexico activities were immune from New Mexico corporate income tax under P.L. 86-272) for the 2010 tax year, enter zero on line 1 and write "nexus" on the line 25 dotted line. You must also complete and attach Schedule CIT-A.

**Line 2.** Enter interest income from non-New Mexico municipal bonds and other obligations not subject to federal income tax under IRC Section 103.

**Line 5.** Enter the New Mexico net operating loss (NOL) carryover. **Include the full amount of the available NOL carryover.** Attach a schedule to your return showing the tax year when each New Mexico net operating loss occurred. The schedule also should list each loss for each tax year for which it was carried forward, including 2010.

**All New Mexico net operating losses must flow from a federal net operating loss. You cannot have a New Mexico NOL without first having a federal NOL. The New Mexico NOL can be increased by the income, if any, from U.S. government obligations less related expenses.**

Unlike a federal net operating loss carry-forward, a New Mexico net operating loss incurred in tax years after 1990 *cannot be carried back* and may only be carried forward for five years or until the total amount of the loss carry-over has been used, whichever occurs first. You cannot apply a New Mexico net operating loss carry-forward until the following tax year -- provided you have filed a timely return -- or until the first tax year that begins after the date

you file a return establishing the loss.

The New Mexico NOL carryover deduction is limited to the sum of:

(a) the amount of any federal NOL carryover claimed and allowed for losses incurred in tax years beginning prior to January 1, 1991, and

(b) the amount of any NOL (as defined by Section 172(c) of the Internal Revenue Code) incurred in tax years beginning on or after January 1, 1991.

**Line 6. Interest from U.S. government obligations or federally taxed New Mexico bonds.** Interest or dividend income from U.S. government obligations is deductible from the corporation's taxable income only if, and to the extent that, it was included in taxable income on line 1 of Form CIT-1. Expenses related to income from U.S. obligations must be subtracted and the net amount entered.

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

Interest income from bonds issued by the state of New Mexico or its political subdivisions may also be deducted on this line to the extent that the income was included in federal taxable income (CIT-1, line 1).

**Line 8.** Enter the total New Mexico foreign dividend deduction from line 5 of Schedule CIT-D. You must also attached Schedule CIT-D

**Line 12. New Mexico Income Tax.** Multiply line 10 by the percentage on line 11. However, if you qualify to file Schedule CC, then enter **only the amount from line 3 of Schedule CC.**

**Line 13. Total Non-refundable Credits.** If any of the credits listed beginning

on page 9 are claimed, complete Schedule CIT-CR and attach the applicable form(s), statements or other required back-up. Enter the sum of non-refundable credits claimed on line 17, Schedule CIT-CR. The supporting documentation required to claim any of the non-refundable credits is described beginning on page 9 and must accompany the return or the credit will not be allowed.

To calculate the amount that may be claimed for any tax year, refer to the claim form and supporting instructions for the non-refundable credit. The sum of the non-refundable credits may not exceed the amount of New Mexico corporate income tax reported on line 12, Form CIT-1.

For more information on business-related credits, see publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*, download related forms from the TRD website at [www.tax.newmexico.gov](http://www.tax.newmexico.gov), or call (505) 476-3683 or your local district office.

**Line 15. Franchise Tax.** Every domestic or foreign corporation must pay a franchise tax of \$50 if it:

- transacts business in, into or from New Mexico;
- derives income from property or employment within this state;
- has or exercises its corporate franchise in New Mexico, whether engaged in active business or not; or
- is an otherwise tax-exempt corporation with unrelated business income.

The \$50 franchise tax is due for each tax year, including short years. The franchise tax may not be prorated based on a short-year return.

Corporations that are exempt from federal income tax, such as homeowners' associations and 501(c)(3) organizations, are subject to the franchise tax if the corporation has unrelated business income. Insurance companies and reciprocal or inter-insurance exchanges that pay a premium tax to New Mexico are exempt from franchise tax, as well as rural electric cooperatives established under the Rural Electric Cooperative Act.

Taxpayers who have no nexus in New Mexico pursuant to P.L. 86-272, are not immune from paying the New Mexico franchise tax.

**REMINDER: It is your responsibility to comply with all additional filing requirements imposed by the New Mexico Public Regulation Commission. For information call (505) 827-4508 or visit their website at [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us).**

**NOTE:** Each corporation that is a member of a combination of unitary corporations or a member of a consolidated group that meets any one of the above requirements must pay the \$50 corporate franchise tax. If you file using a combined unitary or consolidated group method, the total amount must equal the amount on CIT-1, page 1, Question I, column 4.

**Line 19.** Enter the total amount of all extension and quarterly estimated tax payments and any amount applied from the prior year. For amended returns, include additional tax paid on or after the due date of the return. Mark the appropriate box(es) to indicate the source of the tax payments.

**NOTE:** If any amounts on line 19 were paid using a federal employer identification number (FEIN) other than the one entered at the top of Form CIT-1, a schedule indicating the name and FEIN under which the payment was made is required. If you file using a combined unitary or consolidated group method, Question I, on CIT-1, page 1 satisfies the requirement for the statement. Ensure that the total amount in column 3 equals the amount on line 19, Form CIT-1, page 2.

If you owe penalty and interest for underpayment of estimated corporate income tax, and you qualify to use the special penalty calculation (method 4), you may be able to reduce the amount of penalty and interest on underpayment of the estimated tax payments by filing Form RPD-41287, *2010 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment*. If you elect to file using method 4, you must mark the checkbox below line 19 on Form CIT-1, page 2 and attach a

completed Form RPD-41287.

Generally, taxpayers who pay penalty and interest on underpayment of estimated tax do not need to mark the indicator box on line 19 or file Form RPD-41287. If estimated tax is due, the Department will calculate the penalty and interest on underpayment of estimated corporate income tax using the lower of methods 1, 2 or 3 and send you a bill. However, if you owe penalty for underpayment of estimated payments, you may reduce or eliminate penalty if you qualify for the special penalty calculation method 4.

See *How to determine the amount of your quarterly estimated tax payment* on page 17 for a description of the calculation methods.

**LINE 20:** Enter total New Mexico income tax withheld from all annual information returns, other than tax withheld from oil and gas proceeds. Attach a copy of all annual information returns showing New Mexico income tax withheld, including Forms W-K 2010, *New Mexico Income and Withholding From a Pass-Through Entity*, and federal Forms 1099.

**LINE 21:** Enter the total of all New Mexico income tax withheld from oil and gas proceeds as shown on your annual withholding statements, 1099-MISC, or RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*. Also include tax withheld and reported on New Mexico Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*. Be sure to include a copy of the forms with your CIT-1.

**IMPORTANT:** To receive proper credit for withholding, all annual statements must be issued to the entity filing the New Mexico income tax return.

With the exception of simple and grantor trusts, an entity filing a New Mexico Form PIT-1, CIT-1, PTE or FID-1, that has had tax withheld on oil and gas proceeds may not pass the withholding statement directly to its owners, members, partners or beneficiaries. The entity must file and report the tax withheld on oil and gas proceeds on its

New Mexico income tax return.

Only a simple trust or grantor trust may distribute its withholding of oil and gas proceeds to its beneficiaries. To distribute the withholding to its beneficiaries, the simple or grantor trust must first report the withholding paid to the Department, and then issue New Mexico Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*, to its beneficiaries. To report the withholding tax to be passed on, attach Schedule FID-WD, *Withholding Tax Distributions for Simple and Grantor Trusts*, to Form FID-1. If you are a grantor trust not required to file Form FID-1, simply submit a completed Schedule FID-WD and the Grantor Trust letter listing the trust FEIN and grantor social security number. Also attach a copy of the annual statement of withholding issued to the trust. **NOTE:** If a grantor trust has become irrevocable upon the grantor's death, it must file Form FID-1.

The beneficiary of a simple trust or a grantor trust may claim tax withheld on behalf of the simple or grantor trust simply by reporting it on his or her New Mexico income tax return and attaching a copy of Form WT, showing the withholding passed to the beneficiary.

**LINE 22:** Enter the amount of approved film production tax credit on line 22. Attach a copy of the credit approval from the Taxation and Revenue Department.

The film production tax credit provides a credit for an eligible film production company. The amount of the credit is equal to 25% of direct production and direct postproduction expenditures. Direct production expenditures must be directly attributable to the production in New Mexico of a film or commercial audiovisual and both direct and postproduction expenditures must be subject to taxation by the State of New Mexico.

To obtain approval for the credit, first apply to the New Mexico Film Office of the Economic Development Department (EDD). When it receives approval from EDD, the film production company may apply for Taxation and Revenue Department approval of the credit. See

the *Application for Film Production Tax Credit*, Form RPD-41229.

**Line 23.** Enter the amount of approved renewable energy production tax credit claimed on Form RPD-41227, *Renewable Energy Production Tax Credit Claim Form*.

Corporate income taxpayers may receive a credit for producing electricity by solar light or heat, wind or biomass power at a penny per kilowatt hour up to the first 400,000 megawatt hours of electricity produced yearly per taxpayer for 10 years. For a qualified energy generator using a solar-light-derived or solar-heat-derived qualified energy source, the credit is a variable rate for each year beginning with \$.015 per kilowatt hour in the first year in which the qualified energy generator produces electricity, increasing in increments of 1/2 cent each of the next five years, to a maximum of four cents, and then will decline by 1/2 cent per year in the next four years to two cents in the tenth year of operation. Unused credits may be carried forward, or if the qualified energy generator first produced electricity on or after October 1, 2007, may be refunded.

To qualify, the taxpayer must either hold title to a qualified energy generator that first produced electricity on or before January 1, 2018, or lease property upon which a qualified energy generator operates from a county or municipality, under the authority of an industrial revenue bond, and if the qualified energy generator first produced electricity on or before January 1, 2018. The Energy, Minerals and Natural Resources Department (EMNRD) must first approve the business as eligible.

When approval is received from EMNRD, you may claim the credit by attaching to Form CIT-1, a completed Form RPD-41227, *Renewable Energy Production Tax Credit Claim Form*, the certificate of eligibility issued by EMNRD, the Allocation Notice approved by EMNRD if applicable, and documentation of the amount of electricity produced by the facility in the tax year.

**Line 24.** Enter the sum of lines 19 through 23 to compute total payments, CIT-1

tax withheld and credits.

**Line 25.** If line 24 is greater than line 18, enter the difference on line 25. All or part of an overpayment on an original return may be applied to the 2011 liability. Indicate the amount of overpayment you want applied to 2011 on line 25a, and the amount of overpayment you wish to be refunded on line 25b.

**Line 27.** Add penalty if you file late and owe tax, or you do not pay the tax on or before the date the return is due. Calculate penalty by multiplying the unpaid amount on line 26, Form CIT-1, by 2%, then by the number of months or partial months for which the payment is late, not to exceed 20% of the tax due or a minimum of \$5, whichever is greater. You may leave this line blank if you wish the Department to compute the penalty for you. The Department will send you a bill. See *Penalty and Interest* in these instructions, for recent legislative changes affecting this penalty.

**Line 28.** Add interest if the amount of tax due on line 26 was not paid by the original due date, **even if an extension of time to file was obtained.** You may leave this line blank if you wish the Department to compute the interest for you. The Department will bill you for any interest due. Important: Once your principal tax liability is paid, penalty and interest stops accruing.

Beginning January 1, 2008, interest is computed on a daily basis at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC). The IRC rate changes quarterly. The IRC rate for each quarter is announced by the Internal Revenue Service in the last month of the previous quarter. The annual and daily interest rate for each quarter will be posted on our website at [www.tax.newmexico.gov](http://www.tax.newmexico.gov).

The formula for calculating daily interest is: **Tax due x the daily interest rate for the quarter x number of days late = interest due.**

**Line 29.** Enter the sum of lines 26, 27 and 28. This is the amount you owe.

**SIGNATURE. The return must be**

**signed and dated by an officer of the corporation.** Complete all information, including a phone number and e-mail address.

Any person, other than an employee of the corporation, preparing the return for compensation must also sign and date the return. A preparer other than an employee of the corporation must enter the paid preparer's identifying information in the section, *Paid preparer's use only*, next to the taxpayer's signature. Enter the preparer's New Mexico CRS identification number, if the preparer has one, and the Federal Employer Identification Number (FEIN), if applicable. All paid preparers must enter the preparer's social security number (SSN) or Preparer's Taxpayer Identification Number (PTIN).

An improperly signed or unsigned return will be considered invalid for filing purposes, and penalty and interest may be assessed.

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## SCHEDULE CIT-CR AVAILABLE CREDITS

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**Corporate-Supported Child Care Tax Credit:** Corporations providing or paying for licensed childcare services for employees' children under 12 years of age may deduct 30% of eligible expenses from their corporate income tax liability for the tax year in which the expenses occur, not to exceed \$30,000. An amount exceeding the tax liability will not be refunded, but may be carried forward for three consecutive years.

To claim the credit, complete Form CIT-3, *Corporate Child Care Credit*, and **enter on line 1 of Schedule CIT-CR the amount claimed.** Both forms must be submitted with Form CIT-1.

**Cultural Property Preservation Credit:** The credit for preservation of cultural property is 50% of the costs of a project for the restoration, rehabilitation or preservation of cultural property listed on the official New Mexico Register of Cultural Properties, not to exceed \$25,000. Beginning in 2009, if the property is also located in an arts and cultural district certified by the state or a municipality pursuant to the Arts

and Cultural District Act, a maximum of \$50,000 credit will be allowed.

The Cultural Properties Review Committee must approve the project plan before the restoration begins and certify that the completed project conforms to the plan.

To claim this credit, complete Form CIT-4, *New Mexico Preservation of Cultural Properties Credit*, and attach it to your Form CIT-1 along with a copy of the Part 2 approval from the New Mexico Cultural Properties Review Committee. **Enter the amount claimed on line 2 of Schedule CIT-CR.**

**Business Facility Rehabilitation Credit:** Credit is available for some pre-approved costs of restoration, rehabilitation or renovation of a qualified business facility located in a New Mexico enterprise zone. The facility must be suitable for use and put into service in the manufacturing, distribution or service industry immediately following the restoration, rehabilitation or renovation project. This credit is for 50% of the pre-approved costs and it may not exceed \$50,000.

Contact the State Enterprise Zone Program Officer to obtain the Economic Development Department's advance approval and certification for your project.

Once certification is received from the New Mexico Enterprise Zone Program Officer, attach a completed Form CIT-5, *Qualified Business Facility Rehabilitation*, Schedule CIT-CR, and the certificate of completion issued by the New Mexico Enterprise Zone Program Officer to your Form CIT-1. **Enter on line 3 of Schedule CIT-CR the amount claimed.**

**Intergovernmental Business Tax Credit:** A corporation engaged in growing, processing or manufacturing may receive a credit for up to 50% of all taxes imposed by an Indian nation, tribe or pueblo located wholly or partly in New Mexico on income from new business activity on Indian land. *Exception:* A tax eligible for credit under Section 7-29C-1 NMSA 1978, or any other intergovernmental business tax credit that provides

a similar credit may not be counted for intergovernmental business tax credit. Such taxes are oil and gas severance tax, oil and gas conservation tax, oil and gas emergency school tax, oil and gas ad valorem production tax on products severed from Indian tribal land, or a tax imposed on the privilege of severing products from tribal land. The law limits the credit to income from a new business established on tribal land after July 1, 1997. A new business is a manufacturer or processor occupying a new business facility, or a grower who begins operations in New Mexico after July 1, 1997.

To claim the credit, attach a statement establishing your entitlement to this credit with proof of payment of the tax on which the credit is based to your Form CIT-1 along with Schedule CIT-CR and mail to address on the return. **Enter on line 4 of Schedule CIT-CR the amount claimed.**

**Credit for Welfare-to-Work Program:** Prior to January 1, 2008, certain businesses, located mostly in rural counties, that qualified for the federal Welfare-to-Work credit provided by Section 26 U.S.C § 51A, may also have been eligible for the New Mexico Welfare-to-Work credit. Beginning January 1, 2008, Section 26 U.S.C § 51A was repealed and a new federal work opportunity credit was established. Employers who qualify for the new federal work opportunity credit will no longer qualify for the New Mexico Welfare-to-Work credit.

Employers who qualified and were approved for New Mexico Welfare-to-Work credit under the laws existing prior to January 1, 2008 may continue to carry forward any balance on an approved credit for three consecutive tax years after the tax year for which the credit was approved.

To claim the credit, submit your Form CIT-1 for the year the eligible wages were incurred along with Schedule CIT-CR and a copy of the New Mexico Department of Workforce Solutions' certification. **Enter on line 5 of Schedule CIT-CR the amount claimed.**

**Rural Job Tax Credit:** A Rural Job Tax Credit is available for employers in

rural areas of New Mexico who qualify for Job Training Incentive Program assistance. Eligible employers may earn the rural job tax credit for each qualifying job created after July 1, 2000. The employer must certify the wages paid to each eligible employee. See Form RPD-41247, *Certificate of Eligibility for the Rural Job Tax Credit*, on the TRD website, [www.tax.newmexico.gov](http://www.tax.newmexico.gov). Pre-approval is required.

Calculate the Rural Job Tax Credit at 6-1/4% of the first \$16,000 in wages paid for each qualifying job for no more than four qualifying periods in a Tier 1 area, and no more than two qualifying periods in a Tier 2 area. A rural area excludes Albuquerque, Los Ranchos, Corrales, Rio Rancho, Tijeras, Santa Fe and Las Cruces and a ten-mile zone around these municipalities. Tier 2 areas are limited to Roswell, Clovis, Carlsbad, Hobbs, Gallup, Alamogordo and Farmington. Tier 1 is any rural area not part of a Tier 2 area. A qualifying period is 12 months.

The holder of the Rural Job Tax Credit document may apply all or part of the credit against the holder's combined state gross receipts, compensating and withholding taxes, or personal or corporate income tax.

To apply for this credit, complete Form RPD-41238, *Application for Rural Job Tax Credit*, attach a notarized completed Form RPD-41247, *Certificate of Eligibility for the Rural Job Tax Credit*, for each qualified job you claim in the eligible period, and send it to the address on the form.

Once approval is received from TRD, complete Form RPD-41243, *Rural Job Tax Credit Claim Form*, and submit it with your Form CIT-1 along with Schedule CIT-CR. **Enter on line 6 of Schedule CIT-CR the amount claimed.**

**Technology Jobs (Additional) Tax Credit:** The Technology Jobs Tax Credit is 4% of qualified expenditures for conducting research and development. An additional 4% credit is available if the taxpayer increases its annual payroll by at least \$75,000 for every \$1 million in qualified expenditures it claims in a tax year. The basic and ad-

ditional credits double for businesses in rural areas.

The taxpayer must make the eligible expenditures for research and development at a qualified facility. For a list of qualified expenditures, see the instructions for Form RPD-41239, *Application for Technology Jobs Tax Credit*.

The holder of the Technology Jobs Tax Credit document may apply all or part of "basic" credits against the holder's combined state gross receipts, compensating and withholding taxes. If you have earned "additional" credits, you may claim that amount on personal or corporate income taxes.

To apply for the basic and additional credit, complete Form RPD-41239, *Application for Technology Jobs Tax Credit*, and send it along with documentation of the expenditures and payroll increase to the address on the form.

To claim an approved technology jobs tax credit, complete Form RPD-41244, *Technology Jobs Tax Credit Claim Form*, and submit it with your Form CIT-1 and Schedule CIT-CR. **Enter on line 7 of Schedule CIT-CR the amount claimed.**

Only "additional" credits may be applied towards corporate income tax due on Form CIT-1.

NOTE: Taxpayers who claim the research and development small business tax credit are ineligible to claim the investment tax credit or the technology jobs tax credit for the same reporting period.

**Electronic-Card Reading Equipment Tax Credit:** New Mexico has a one-time income tax credit for businesses that purchase electronic identification card-readers for age verification. A business may claim this credit on a New Mexico personal income tax return or corporate income and franchise tax return if:

- The business is licensed to sell cigarettes, tobacco products or alcoholic beverages, *and*
- The business has purchased, and is using, equipment that electronically

reads identification cards to verify age.

The credit amount is \$300 for each business *location* using electronic identification card-readers. A partnership or other business association of which the taxpayer is a member may claim a credit in proportion to the taxpayer's interest in the partnership or association. The total credit claimed by all members of the partnership or association may not exceed \$300 for each business location.

Claim this non-refundable credit in the tax year the equipment was purchased and put into use. You cannot carry excess amounts forward or back into another tax year.

To claim the credit, complete and have notarized Form RPD-41246, *Income Tax Credit for Electronic Identification Card Reader, Purchase and Use Statement*. Enter the amount of credit on Schedule CIT-CR. Submit the statement and the CIT-CR with your CIT-1 return. When the credit (\$300) is split among spouses, owners, partners, or other business associations, each claimant must show the division of the total credit (\$300 per business location) on page 2 of Form RPD-41246. **Enter on line 8 of Schedule CIT-CR the amount claimed.**

**Job Mentorship Tax Credit:** A taxpayer owning a New Mexico business may claim a Job Mentorship Tax Credit for employing qualified students who take part in a career preparation education program. The credit equals 50% of gross wages paid to a maximum of ten qualified students. The business must employ the students for up to 320 hours each during the tax year. A taxpayer may not claim a credit for one qualified individual for more than three tax years. The maximum credit for one tax year is \$12,000.

Obtain a Form RPD-41280, *Job Mentorship Tax Credit Certificate*, from the secondary school operating the career preparation education program for each qualified student you employ.

To claim this credit, complete Form RPD-41281, *Job Mentorship Tax Credit*

*Claim Form*, and attach it to your Form CIT-1 with Schedule CIT-CR. Also, attach a *Job Mentorship Tax Credit Certificate* for each qualified student employed during the tax year. You may carry unused credit forward for three consecutive years. **Enter on line 9 of Schedule CIT-CR the amount claimed.**

A partnership or other business association of which the taxpayer is a member may claim a credit in proportion to the taxpayer's interest in the partnership or association.

**Land Conservation Incentives Credit:** Corporations who donate land, or interest in land, to private or public conservation agencies for conservation purposes may claim a credit from personal or corporate income tax, equal to 50% of the fair market value of the land transferred up to \$100,000 for donations made prior to January 1, 2008, and \$250,000 for donations made after January 1, 2008. Additionally for a donation made after January 1, 2008, the credit may be sold, exchanged or transferred in increments of \$10,000 or more. Only one credit may be claimed in a tax year.

To apply for this credit, contact the Energy, Minerals and Natural Resources Department (EMNRD) who certifies the eligibility of the donation.

Once the certificate of eligibility is received from EMNRD, complete Form RPD-41335, *Land Conservation Incentives Tax Credit Application*, and submit to TRD with a copy of the certificate of eligibility.

Once approval is received from TRD, claim this credit, by completing Form RPD-41282, *Land Conservation Incentives Credit Claim Form*, and attach it to your Form CIT-1 with Schedule CIT-CR. **Enter on line 10 of Schedule CIT-CR the amount claimed.** Also, attach the letter received from EMNRD certifying treatment as a qualified donation. Unused credit may be carried forward for up to 20 consecutive years following the year in which the qualified donation occurred.

**Affordable Housing Tax Credit:**

Beginning January 1, 2006, the Mortgage Finance Authority (MFA) issues vouchers to persons who have invested in affordable housing projects. The vouchers, good for up to 50% of the investment, may be sold or transferred, provided the MFA is notified of the transfer, and a voucher has been re-issued to the transferee. "Affordable housing" covers land acquisition, construction, building acquisition, remodeling, improvement, rehabilitation, conversion or weatherization for single-family residences approved by MFA and multi-family residential housing located in a county of fewer than 100,000 persons.

To apply for the credit, contact the Mortgage Finance Authority for approval of the project and issuance of the vouchers.

After receiving the vouchers from MFA, the taxpayer may apply them as a credit against gross receipts, compensating, withholding, personal income or corporate income tax liabilities and carry unused credits forward for five years.

To claim the credit, complete Form RPD-41301, *Affordable Housing Tax Credit Claim Form*. Attach it to your Form CIT-1 with Schedule CIT-CR. **Enter on line 11 of Schedule CIT-CR the amount claimed.**

**Blended Biodiesel Fuel Tax Credit:**

Beginning January 1, 2007, but not after December 31, 2012, a rack operator or supplier who is required to pay the special fuel excise tax and who files a New Mexico personal or corporate income tax return may claim a credit against the tax due on the return for each gallon of blended biodiesel fuel on which that person paid, or would have paid, the special fuel excise tax in the tax year, but for certain deductions allowed for special fuel sold or the treaty exemption for North Atlantic Treaty Organization use.

To qualify for the credit, a taxpayer must be a registered New Mexico supplier who files Form RPD-41306, *Combined Fuel Tax Report*, reporting qualifying biodiesel fuel receipts.

To apply for the credit, complete CIT-1

Form RPD-41322, *Blended Biodiesel Fuel Tax Credit Application*, to report qualifying biodiesel fuel receipts and establish eligibility for the credit, and submit to TRD.

Once approval is granted for eligibility, to claim the credit, complete Form RPD-41340, *Blended Biodiesel Fuel Tax Credit Claim Form*, and attach it to your Form CIT-1 with Schedule CIT-CR. **Enter on line 12 of Schedule CIT-CR the amount claimed.**

**Sustainable Building Tax Credit.** A credit is available for the construction in New Mexico of a sustainable building or for the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building after January 1, 2007. The building may be for residential or commercial use, but is not available for a building owned by an entity that does not file a New Mexico corporate or personal income tax return. The credit is available for residential and commercial buildings, after the construction, installation or renovation of the sustainable building is complete. To qualify for the tax credit, the building must have achieved a silver or higher certification level in the LEED green building rating system or the build green New Mexico rating system.

Effective June 19, 2009, owners of qualified multifamily residential buildings may apply for a portion of the sustainable building tax credits allocated for sustainable commercial buildings. Tax credits allocated for sustainable commercial buildings can be used for multifamily residential buildings when the entire amount of the \$5 million in sustainable building tax credits available for residential buildings has been allocated, and if any portion of the \$5 million in sustainable building tax credits available for commercial buildings remains.

To apply for this credit, you must first obtain a certificate of eligibility by contacting the Energy, Minerals and Natural Resources Department.

Once the certificate of eligibility is is-

sued, you must promptly complete and submit Form RPD-41327, *Sustainable Building Tax Credit Approval*, along with a copy of the certificate of eligibility, to the Taxation and Revenue Department before claiming the credit on your New Mexico income tax return.

To claim this credit against corporate income tax, complete Form RPD-41329, *Sustainable Building Tax Credit Claim Form*, and attach it to your Form CIT-1 with Schedule CIT-CR. **Enter on line 13 of Schedule CIT-CR the amount claimed.**

**Agricultural Water Conservation Tax Credit.**

A taxpayer may claim a credit against the taxpayer's personal or corporate tax liability for expenses incurred by the taxpayer for eligible improvements in irrigation systems or water management methods. Eligible improvement means an improvement that is:

- made on or after January 1, 2008;
- consistent and complies with a water conservation plan approved by the local soil and water conservation district in which the improvement is located; and
- primarily designed to substantially conserve water on land in New Mexico that is owned or leased by the taxpayer and used by the taxpayer or the taxpayer's lessee to produce agricultural products, harvest or grow trees, or sustain livestock.

The amount of the credit is 35% of eligible expenses incurred in calendar year 2008 and 50% of eligible expenses incurred in subsequent years through December 31, 2012. The total credit allowed in a tax year may not exceed \$10,000.

To claim the agricultural water conservation tax credit, you must first obtain a certificate of eligibility from the local Soil and Water Conservation Commission within the district which encompasses the land upon which the improvement is or will be located. To find your local Soil and Water Conservation Commission district, visit [www.nmda.nmsu.edu/natural-resources/soil-and-water-conservation-program](http://www.nmda.nmsu.edu/natural-resources/soil-and-water-conservation-program), or call (575) 646-2642.

To apply for the credit, complete Form RPD-41319, *Agricultural Water Conservation Tax Credit Claim Form*, and attach it to your Form CIT-1 with Schedule CIT-CR. **Enter on line 14 of Schedule CIT-CR the amount claimed.**

**NOTE:** These agricultural water conservation tax credit provisions are repealed effective January 1, 2013.

**Advanced Energy Tax Credit.** A qualified electricity generating facility located in New Mexico may be eligible to apply for and claim the advanced energy tax credit (advanced energy income tax credit, advanced energy corporate income tax credit and the advanced energy combined reporting tax credit). The amount of the credit is 6% of the eligible generation plant costs. The aggregate amount of tax credit that may be claimed with respect to a qualified generating facility is limited to \$60,000,000.

The electric generating facility and the claimant must apply for a certificate of eligibility from the New Mexico Environment Department.

To obtain approval, submit a completed Form RPD-41333, *Advanced Energy Tax Credit Application*, a certificate of eligibility and other information TRD requires to determine the amount of tax credit allowed. The application must be submitted within one year following the end of the calendar year in which the eligible generation plant costs are incurred. The right to claim the credit may be allocated to other taxpayers who are interest owners in the qualified generating facility. The *Notice of Allocation of Right to Claim Advanced Energy Tax Credits* is required to be attached to Form RPD-41333 to allocate the credit to interest owners.

Once approved, you may claim this credit by completing Form RPD-41334, *Advanced Energy Tax Credit Claim Form*, and attaching it to your Form CIT-1 with Schedule CIT-CR and a copy of the certificate of eligibility. **Enter on line 15 of Schedule CIT-CR the amount claimed.**

**Geothermal Ground-Coupled Heat Pump Tax Credit.** A credit is available for a taxpayer who has purchased and installed a geothermal ground-coupled heat pump after January 1, 2010, but before December 31, 2020. To qualify for the tax credit, the taxpayer must install the pump in a residence, business or agricultural enterprise in New Mexico owned by that taxpayer or by a partnership or other business association of which the taxpayer is a member. Unused credit may be carried forward for a maximum of ten consecutive years following the tax year for which the credit was approved.

To qualify for this credit, you must first obtain a certificate of eligibility from the New Mexico Energy, Minerals and Natural Resources Department.

To claim this credit against any corporate, personal, or fiduciary income tax due, complete and attach RPD-41346, *Geothermal Ground-Coupled Heat Pump Tax Credit Claim Form*, to Form CIT-1 with Schedule CIT-CR. **Enter the amount claimed on line 16 of Schedule CIT-CR.**

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#### CIT-A INSTRUCTIONS

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

Complete lines 5 through 9 of CIT-A before completing lines 1 through 4 of CIT-A. If applicable, complete Schedule CIT-B before completing Schedule CIT-A.

Round each percentage to four decimal places (example, 26.9658%).

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

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

to be processed.

On lines 5 through 9, columns 1 and 2, all entries must be either a positive number or a zero. Negatives are not allowed. For 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.

**“Apportionable income” means income arising from transactions and activities in the regular course of a corporation’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 corporation’s regular trade or business. It includes investment income related to or used in the corporation’s overall business operations. The following sources of income are apportionable and must be included:**

- Dividend income from the investment of working capital or dividend income from an investment that is functionally connected to the corporation’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 that is functionally connected to the corporation’s trade or business.
- Royalty income and fees from patents, copyrights, franchises, trademarks and licenses developed in the regular course of the corporation’s trade or business, or royalty income and fees from a product or mineral interest used in the regular course of the corporation’s trade or business.
- Rental or sub-rental income from property purchased, leased or used in the regular course of the corporation’s trade or business.
- Gains or losses from the sale of assets used in the regular course of the corporation’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.

Construction contractors, railroads, airlines, trucking companies and financial institutions are subject to special apportionment rules. Taxpayers electing the combined or consolidated methods of reporting must apply these apportionment rules to each qualifying entity included on the return.

**Line 5. 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 the taxpayer and adjusted by subsequent capital additions, improvements and partial dispositions.

Value property 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 sub-rental of the same property. If property owned by others is used by the corporation at no charge or rented by the corporation 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 6. 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 includable 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 attributable to business operations subject to apportionment is included in the payroll factor. Compensation of an 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 7. 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.

"Gross receipts" means all income from transactions and activities in the regular course of business including

income from licensing of intangible personal property.

Sales of tangible personal property are New Mexico sales if:

- the property is delivered or shipped to a purchaser other than the United States government within New Mexico regardless of the F.O.B. point or other conditions of the sale, or
- the property is shipped from an office, store, warehouse, factory or other place of storage in this state and:
  1. the purchaser is the United States government, or
  2. the taxpayer is not taxable in the state of the purchaser.

Sales other than sales of tangible personal property are New Mexico sales if:

- the income-producing activity was performed in New Mexico; or
- the income-producing activity was performed both inside and outside New Mexico, but a greater proportion was performed within New Mexico than in any other single state (the proportion shall be determined by the cost of performance in each state); or
- the gross receipts were from the rental, lease, licensing or any other use of either real or tangible personal property during the time the property was in New Mexico; or
- the gross receipts were from the performance of personal services in New Mexico.

**Lines 8 and 9. Total Factors.** New Mexico uses an evenly weighted three-factor formula for all taxpayers except manufacturers. Taxpayers whose principal activity is manufacturing may use a four-factor formula (sales x 2, plus property plus payroll) for tax years beginning on or after January 1, 1995 and before January 1, 2020. The manufacturer must continue to use the four-factor method for a total of three consecutive tax years covering at least 36 calendar months.

"Manufacturing" means for the purposes of electing the four-factor

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## CIT-B INSTRUCTIONS

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apportionment method, combining or processing components or materials to increase their value for sale in the ordinary course of business. Manufacturing does not include construction, farming, processing natural resources and most power generation. Taxpayers filing a combined or consolidated return may elect to use the four-factor formula for each corporation principally engaged in manufacturing and included on the return. A taxpayer may not use this option unless: (a) its tax liability is greater than it would have been for the previous year if the same apportionment method was used, or (b) the taxpayer has increased its combined property and payroll factor percentages in the state over its 1991 levels.

The election to use the four-factor method must be made in writing no later than the filing date of the first return to which the election will apply. Statutory authority for this elective method is in Section 7-4-10 NMSA 1978.

Qualified manufacturers electing the four-factor method should complete question B on CIT-A and make the following adjustments when calculating the New Mexico apportionment percentage on the Schedule CIT-A:

- Line 7, Sales Factor. Divide column 2 by column 1 and multiply the result by 200, not 100.
- Line 9, Average Percent. Divide the total factors on line 8 by 4.

### Elimination of Factor(s)

If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may without prior approval or the Department may require - if reasonable - the exclusion of any one or more of the factors (property, payroll or sales). This would include removal of one or more of the factors whose factor is insignificant. A factor is insignificant if the denominator (column 1) is from between 0% and 3% of net income. Use the number of significant factors included to compute the average. If you include an insignificant factor, attach an explanation.

CIT-B must be used by corporations to allocate **income not connected to the corporation'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 corporation's books and records. If the corporation's books and records do not reflect proper amounts for deduction, the corporation may rely on other reasonable methods.

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

**Line 1. Allocated Non-business Dividends.** Column 4: Total amount in column 3 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. Allocated Non-business Interest.** Column 4: Total amount in column 3 is allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

### Lines 3 and 4. Allocated Non-business Rents and Royalties.

Column 4: The following net rent and royalty income is allocated to New Mexico if it is non-business income:

1. income from real property in New Mexico;
2. income from all tangible personal property if the taxpayer's commercial domicile is in New Mexico and the corporation is not organized under the laws of or taxable in the state where the property is used;
3. income from tangible personal property 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. Allocated Net Profit or Loss on the Sale or Exchange of Non-business Assets.

Column 4: The net gain or loss from the sale or exchange of the following is allocated to New Mexico if it is non-business income:

1. real property 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 corporation'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
4. intangible personal property if the corporation's commercial domicile is in New Mexico.

### Line 6. Allocated Non-business Partnership Income.

Column 4: Non-business partnership income is allocated to New Mexico to the extent the partnership conducts business in this state.

**Line 7. Other Allocated Non-business Income.** A schedule must be attached to identify all other allocated income.

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## CIT-C INSTRUCTIONS

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Complete lines 1 through 4.

**Line 5.** Divide the amount on line 4 by the amount on line 1, multiply by 100 and enter the New Mexico percentage here and on line 11 of CIT-1, page 2. If the percentage is negative, enter zero. Round the percentage to four decimal places (example, 26.9658%). This percentage cannot be less than

zero or more than 100%.

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**CIT-D INSTRUCTIONS**

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All corporate taxpayers may deduct foreign dividend gross-up amounts. Only taxpayers electing the separate corporate entity filing method may deduct foreign-source dividend payments on lines 2 through 4 on the CIT-D Schedule. *Combined and consolidated filers may elect to adjust their apportionment percentages by inclusion of the factors of their foreign-source dividend payers.* Please call 505-827-0825 for further information on this election.

**Line 1.** Enter foreign dividend gross-up from federal Form 1120, Schedule C, line 15, net of any applicable expenses.

**Separate Corporate Entity Filers Only**

**Line 2.** Enter 70% of dividends listed on federal Form 1120, Schedule C, lines 13 and 14, received from less-than 20% owned foreign corporations. Do this only if those dividends would have been subject to a 70% deduction under IRC Section 243(a)(1) had the dividend payers been domestic corporations.

**Line 3.** Enter 80% of dividends listed on federal Form 1120, Schedule C, lines 13 and 14, received from 20% to 80% owned foreign corporations, but do so only to the extent those dividends would have been subject to an 80% deduction under IRC Section 243(c)

had the dividend payers been domestic corporations.

**Line 4.** Enter 100% of dividends listed on federal Form 1120, Schedule C, lines 13 and 14, received from more than 80% owned foreign corporations, but do so only to the extent those dividends would have been subject to a 100% deduction under IRC 243(a)(3) had the dividend payers been domestic corporations.

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**CONSISTENCY IN REPORTING**

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A corporation 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.

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**PETITION PROCEDURE OPEN TO TAXPAYER**

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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 part of the taxpayer's income.

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**AFTER YOU FILE YOUR RETURN**

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If your return shows an overpayment and you have requested that all or a portion of the overpayment be refunded to you, please allow at least 12 weeks for processing before contacting the Department. Processing time varies according to when you file your return. Occasionally, computation errors in a tax return delay processing or result in adjustments to your refund or the amount you owe. If you disagree with any adjustment made by the Department, you should follow the procedures in Publication FYI-400, *Tax Audits and Protest Procedures - Your Rights as a Taxpayer.*

At any time after filing your return, the return 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-400, *Tax Audits and Protest Procedures - Your Rights as a Taxpayer,* describes in detail how to dispute an adjustment or assessment

**ESTIMATED TAX PAYMENT CHART**

If your tax year ends in:	Your estimated tax payments for this tax year are due on the 15th of:			
	1st Period	2nd Period	3rd Period	4th Period
December	April	June	September	December
January	May	July	October	January
February	June	August	November	February
March	July	September	December	March
April	August	October	January	April
May	September	November	February	May
June	October	December	March	June
July	November	January	April	July
August	December	February	May	August
September	January	March	June	September
October	February	April	July	October
November	March	May	August	November

made by the Department through either the claim-for-refund procedure or the protest procedure. Publication FYI-400 is available by contacting your local district tax office or by downloading from the Department website at [www.tax.newmexico.gov](http://www.tax.newmexico.gov). Click on "Forms and Publications".

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## ESTIMATED CORPORATE INCOME TAX, FORM CIT-ES

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**WHO MUST FILE - Every corporation subject to the corporate income tax may be required to pay estimated corporate income tax if its tax after applicable credits is \$5,000 or more in the current tax year. If the tax liability for the tax year is less than \$5,000, estimated quarterly payments are not required.**

Estimated penalty and interest are assessed on the difference between the estimated payments and the amount of estimated tax due, computed using the lower of method 1, 2, 3 or 4. The Department automatically computes estimated payments using the lower of methods 1, 2 or 3. To use method 4, you must attach a completed Form RPD-41287, *2010 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment*, and mark the checkbox under line 19 on page 2 of Form CIT-1.

**How to determine the amount of your quarterly estimated tax payment:** To avoid penalty and interest for underpayment of estimated tax, calculate the estimated tax by one of the following methods: **METHOD 1** -- 80% of the current year's estimated tax liability; **METHOD 2** -- 100% of the previous year's tax liability if a full 12-month year; **METHOD 3** -- 110% of the liability for the year immediately preceding the previous tax year if it was a full 12-month tax year and the return for the previous tax year has not been filed, and the extended due date for filing the return for the previous tax year has not occurred at the time the first estimated payment installment of the current tax year is due, or **METHOD 4** -- 80% of the estimated tax liability for each quarter of the

current tax year, calculated on a period-by-period basis, not accumulative.

When using methods 1, 2 or 3, estimated tax must be paid in four installments equal to 25% of the estimated tax. Method 4 requires an installment of 100% of the estimated tax payment calculated *for the quarter*.

Use the corporate income tax rates on page 4 to estimate your income tax liability.

### Restrictions on methods of computing the installment payment due.

**Method 2** can only be used: (a) if a corporate tax return was filed for the immediate prior year, and (b) such prior year was a full 12-month or a 52/53-week year. **Method 3** may be used only if the tax year immediately preceding the previous tax year was a full 12-month year, the return for the previous tax year has not been filed, and the extended due date for filing that return has not occurred at the time the first installment is due.

Taxpayers whose corporate income tax less credits for the current tax year is \$5,000 or greater and whose income is seasonal or varied throughout the year may use **method 4** to adjust required payments due for each fiscal quarter based on actual income received. If you owe penalty and interest on underpayment of estimated corporate income tax using the lowest of methods 1, 2 or 3, and method 4 applies, you may further lower the amount of penalty and interest you owe by using method 4. To use method 4, complete Form RPD-41287, *2010 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment*, and attach it to your Form CIT-1. You must also mark the box under line 19 indicating that you qualify for the special underpayment penalty and interest calculation method. You must both mark the box under line 19 and attach Form RPD-41287 to be allowed any adjustment to your underpayment penalty or interest due to method 4. Do not submit Form RPD-41287 if you do not qualify.

**Computing penalty and interest on underpayment or non-payment of estimated tax.** Underpayment or non-

payment of estimated tax is subject to penalty and interest. Penalty and interest accumulates from the due date of the estimated tax payment until the earlier of the date the payment is made, or the due date of the return. Penalty is calculated at a rate of 2% per month or partial month on the unpaid balance, and interest is computed on a daily basis, at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC). The IRC rate changes quarterly. See the instructions for lines 27 and 28, Form CIT-1 for a complete explanation of computing penalty and interest.

**When to pay estimated tax.** The estimated tax shall be paid in installments as follows: the estimated tax for the first, second, third, and fourth quarter of the year is due on or before the 15th day of the fourth, sixth, ninth and twelfth month of the tax year. Calendar year taxpayers' estimated installment payment due dates are April 15, June 15, September 15, and December 15. See the chart on page 16.

Estimated income tax payments are timely if the United States Post Office postmark on the envelope bears a date on or before the due date. If the due date falls on a Saturday, Sunday, 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 private delivery service is on or before the due date.

**How to make an estimated quarterly payment.** Complete Form CIT-ES and submit the form with your payment to:

Taxation and Revenue Department  
P.O. Box 25127  
Santa Fe, New Mexico 87504-5127

Write the tax year and CIT-ES on your check or money order. When completing Form CIT-ES, enter the corporation's name, address and federal employer identification number (FEIN). Enter the quarter and the amount of the estimated payment. Enter the last day of the tax year of the return which you are applying the payment. For calendar

year returns, enter December 31 of the year of the return, or "12/31/2010". If filing a fiscal year return, enter the last day of the fiscal year. For example, if filing a return for July 1, 2010 through June 30, 2011, enter "06/30/2011". If the corporation making the estimated tax payment joins other corporations in filing the 2010 Form CIT-1, enter the name, address and FEIN of the corporation that will be responsible for filing the Form CIT-1.

If you submit one or more payments to the Department under an incorrect FEIN, you must submit a schedule of payments with your Form CIT-1. Provide the company name and FEIN as originally submitted on the CIT-ES, CIT-EXT or CIT-PV. Include the check number, date and amount of each payment.

The amount of tax deducted and withheld under the Withholding Tax Act or the Oil and Gas Proceeds Withholding Tax Act shall be deemed a payment

of estimated tax. An equal amount of withheld tax shall be deemed paid on each due date for the applicable tax year unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts withheld shall be deemed payments of estimated tax on the dates on which the amounts were actually withheld. The taxpayer may apply this rule separately to amounts withheld under the Withholding Tax Act or the Oil and Gas Proceeds Withholding Tax Act.

**Reminder:**  
**Write your correct federal employer identification number (FEIN) on ALL forms, schedules, payments and correspondence.**

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## New Mexico Taxpayer Bill of Rights

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Most tax transactions happen without incident. In an imperfect world, however, occasional disagreements occur through misunderstanding, mathematical error, missed deadlines, misplaced papers, high volume of transactions and many other situations. Over the years the Legislature and the Department have established ways to handle difficulties according to the provisions of the state tax code. Following are some of your rights. Should you wish to consult the law itself, you will find it in Sections 7-1-4.1 through 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 us according to provisions of Section 7-1-24 NMSA 1978;
- The right to have audits, inspections of records and meetings conducted at a reasonable time and place according to Sec. 7-1-11 NMSA

- 1978;
- The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest 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 Sec. 7-1-24 NMSA 1978;
- The right to have your tax information kept confidential unless otherwise specified by law in Sec. 7-1-8 NMSA 1978;
- The right to an abatement of an assessment of taxes incorrectly, erroneously or illegally made (Sec. 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 (Sec. 7-1-20 NMSA 1978);
- The right to clear information of the consequences if a tax assessment is not paid, secured, protested or otherwise provided for according to Sec. 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 pay your tax obligations by installment payment agreements according to the provisions of Sec. 7-1-21 NMSA 1978.

### **Confidentiality Provisions:**

Statutes regulating the confidentiality of your taxes continue to be strict. Sec. 7-1-8 NMSA 1978 requires the department to answer questions about whether a taxpayer is registered to do business in this state or is registered for other tax programs, but it does not allow employees to reveal

whether you have filed a return. A hearing officer's written ruling on questions of evidence or procedure according to Sec. 7-1-24 NMSA 1978 may be made public, but not the name and identification number of the taxpayer requesting the ruling. Now included in public record are 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 payer of the tax. 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 make known to the Gaming Control Board the tax returns of license applicants and their affiliates.

**Audit Provisions:**

We 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 department hearing officer may not engage as an employee in enforcing or formulating general tax policy other than to conduct hearings. You may request the Secretary to determine if a hearing officer's activities have affected his or her impartiality, and the Secretary may assign the case to another hearing officer. Hearing officers may not communicate unilaterally about a matter you have protested while that matter is still pending. The Secretary 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 180 days from the filing date to approve or deny a statutory tax credit. If it does not act, the credit is approved. 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 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 will receive 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 Sec. 7-1-53 the department may enjoin a taxpayer from continuing in business after a hearing and until the delinquency is cleared.