
FYI-406

New Mexico
Taxation and Revenue Department

FOR YOUR INFORMATION

Tax Information/Policy Office ♦ P.O. Box 630 ♦ Santa Fe, New Mexico 87504-0630

YOUR RIGHTS UNDER THE TAX LAWS

This publication describes what happens when you report or pay tax in an amount different from the amount the Taxation and Revenue Department (Department) calculates is due. There are three types of notices you may receive when there is a difference between the amount you report or pay and the amount the Department calculates is due: a tax return adjustment notice showing additional tax due, a tax return adjustment notice which reduces or eliminates an income tax refund, and a notice of assessment of taxes and demand for payment.

Please note: You must take action whenever you disagree with the Department's notice, *even when you receive a refund that is larger than you expect. You may be held liable if you keep a refund to which you are not entitled!*

The Tax Administration Act governs how tax programs are administered. The law gives you specific rights and responsibilities to exercise within certain time limits. For a full explanation of those rights, see publication FYI-402, *Taxpayer Remedies*. You may obtain a copy from any of our district offices or from our web site at www.tax.newmexico.gov. Select "Forms and Publications" and then "FYI Publications."

Sometimes you can correct a problem more quickly by amending a return. **Send general correspondence, amended returns and refund applications to the New Mexico Taxation and Revenue Department, Administrative Resolution and Services Bureau, P.O. Box 630, Santa Fe, NM 87504-0630.** Do not send official protest actions to that address. For personal income tax questions call 505/827-0827; for questions about all other tax programs call 505/827-0832.

IF YOU HAVE RECEIVED A TAX RETURN ADJUSTMENT NOTICE FOR ADDITIONAL TAX DUE:

A tax return adjustment notice for additional tax due means you should **contact your district tax office if you disagree with the notice**. The list below shows the office nearest you. A tax return adjustment notice for additional tax due is not an assessment, so you cannot submit a protest in response to a tax return adjustment notice. If, however, you do not pay the tax or resolve the liability, you will receive a notice of assessment. You may protest the notice of assessment. The procedure for filing a protest of an assessment is described on the reverse side under the section titled "Notice of Assessment of Taxes and Demand for Payment."

New Mexico Taxation and Revenue Department district offices and telephone numbers:

Albuquerque:

5301 Central Ave. NE
P.O. Box 8485
Albuquerque, NM 87198-8485
505/841-6200

Farmington:

3501 E. Main St.
P.O. Box 479
Farmington, NM 87499-0479
505/325-5049

Santa Fe:

1200 S. St. Francis Dr.
P.O. Box 5374
Santa Fe, NM 87504-5374
505/827-0951

Roswell:

400 N. Pennsylvania, Ste. 200
P.O. Box 1557
Roswell, NM 88202-1557
575/624-6065

Las Cruces:

2540 El Paseo, Bldg. #2
P.O. Box 607
Las Cruces, NM 88004-0607
575/524-6225

PLEASE SEE REVERSE FOR INFORMATION ON OTHER TYPES OF NOTICES.

Taxation & Revenue Department

IF YOU RECEIVED A NEW MEXICO TAX RETURN ADJUSTMENT NOTICE – REFUND DENIED:

If you have received a tax return adjustment notice or a Department letter that denies in whole or part a claim for refund, you may either file a protest with the Department, or you may file suit in Santa Fe District Court. Choosing one alternative means you unconditionally waive your right to pursue the other. Whichever route you take, you must file your protest or lawsuit within 90 days of the mailing of the tax return adjustment notice. If you fail to file a protest or bring suit within 90 days of the denial of your refund, you may not re-file the same claim for refund.

To protest a tax return adjustment notice or a denial of a tax refund, write to the Taxation and Revenue Department, Protest Office, P.O. Box 1671, Santa Fe, NM 87504-1671. The street address is 1100 S. St. Francis Drive, Suite 1100, Santa Fe, NM 87505, if using a private delivery service. The protest must state the name and identifying number (Social Security Number for individuals; New Mexico CRS number or Federal Employer Identification Number for businesses), letter identification number if applicable, the amount and kind of tax you are protesting, grounds for protest, a summary statement of the evidence you expect to produce to support each ground asserted, and the affirmative relief you seek.

Please note: Should this notice tell you that a part of your overpayment (refund) is intercepted for an agency other than the Taxation and Revenue Department, contact that agency directly. Contact information is on the notice.

IF YOU RECEIVED A NOTICE OF ASSESSMENT OF TAXES AND DEMAND FOR PAYMENT:

A notice of assessment of taxes is a determination by the Department that you owe additional tax. If you receive such a notice, you may wish to call or write your local district office to obtain additional information regarding the assessment. The addresses of the local district offices appear on page 1 of this publication. You may also view your return information on the Taxpayer Access Point at <https://tap.state.nm.us/>.

If you disagree with the assessment and desire an administrative hearing, you may file a written protest with the Department, or you can pay the tax and claim a refund. If you choose to file a protest with the Department, you do not need to pay the tax until your protest is resolved. Interest (and penalty, if applicable), however, will continue to accrue on the tax during the protest period. Alternatively, you may pay the tax and file a claim for refund. In the event the Department denies your claim for refund, you may file a protest with the Department or file suit in Santa Fe District Court contesting the Department's denial of your claim. The procedure is described in the above paragraph, "If You Received a New Mexico Tax Return Adjustment Notice – Refund Denied."

To protest an assessment, file a written protest within **30 days** of the date of the assessment. Mail your protest to: New Mexico Department of Taxation and Revenue, Protest Office, P.O. Box 1671, Santa Fe, NM 87504-1671. If using a private carrier, the street address is 1100 S. St. Francis Drive, Suite 1100, Santa Fe, NM 87505. The protest must state the taxpayer's name and identifying number (Social Security Number for individuals; New Mexico CRS number or Federal Employer Identification Number for businesses), letter identification number if applicable, the amount and kind of tax you are protesting, grounds for protest, a summary statement of the evidence you expect to produce to support each ground asserted, and the affirmative relief you want.

If needed, you may request an extension of up to 60 days to file the protest. You must submit your request for an extension within 30 days of the assessment date. The Secretary of Taxation and Revenue may grant a retroactive extension of not more than 60 days, provided that you demonstrate to the Secretary's satisfaction that you were not able to file a timely protest or to request an extension before the deadline. The Secretary will not consider any protest submitted more than 90 days after the date the assessment was mailed.

The Department's Protest Office will review a protest filed within 30 days of the assessment date or within an approved extension period. If the Department disagrees with your position, it schedules a formal hearing before a hearing officer to settle the issues in the protest. See FYI-400, *Tax Audits and Protest Procedures* for details on hearings.

This publication provides general information. It does not constitute a regulation, ruling, or decision issued by the Secretary of the New Mexico Taxation and Revenue Department. The Department is legally bound only by a regulation or a ruling [7-1-60, *New Mexico Statutes Annotated, 1978*]. In the event of a conflict between FYI and statute, regulation, case law or policy, the information in FYIs is overridden by applicable statutes, regulations and case law. Taxpayers and preparers are responsible for being aware of New Mexico tax laws and rules. Consult the Department directly if you have questions or concerns about information provided in this FYI.