

NEW MEXICO BULLETIN



New Mexico
Taxation and Revenue Department

Withholding Tax on Oil and Gas Proceeds

The 2012 New Mexico Legislature has passed and the Governor has signed legislation that changes the withholding requirements for oil and gas proceeds paid after January 1, 2012. Remitters, who are required to withhold, continue to use Form RPD-41284, *Quarterly Oil and Gas Proceeds Withholding Tax Return*, when remitting the withholding tax to the Department, or by filing and paying the tax online. Go to <https://efile.state.nm.us>, to file online. However, some of the remitters (payers) reporting and withholding requirements have changed. Below is a summary of those revised reporting and withholding requirements.

To establish that a remittee is a New Mexico resident or maintains a principal place of business in New Mexico and that the remitter thus has reasonable cause not to withhold, a remitter may rely on a remitees New Mexico address on Form 1099Misc, pro forma 1099Misc or RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*. If the 1099Misc, 1099Misc or RPD-41285 does not have a New Mexico address for the remittee, the remitter may have the remittee sign Form RPD-41354, *Declaration of Principal Place of Business or Residence in New Mexico*. See the instructions to Form RPD-41284, *Quarterly Oil and Gas Proceeds Withholding Tax Return*, for a complete listing of acceptable documentation to show cause for not withholding.

Remitees can enter into an agreement with the remitter to pay the tax required to be withheld by the remitter. The agreement may be made by completing Form RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding On Behalf of a Pass-Through Entity or Remitter*. Form RPD-41353 must be completed and on file with the remitter at the time it files its annual reports for the tax year to which the agreement pertains. The remittee remits the tax required to be withheld using Form RPD-41357, *Oil and Gas Proceeds Remittee's Quarterly Tax Payment*, or by making estimated payments and filing a New Mexico income tax return and paying the tax due. If the Department notifies the remitter that the remittee has failed to remit the required payment the agreement is no longer acceptable by the Department as reasonable cause for failure to withhold. *The remitter is not responsible for withholding on oil and gas proceeds paid to the remittee prior to the Department's notification.*

Remitters must submit annual statements of withholding for each remittee to the Department. The annual statements of withholding must be filed in an electronic format prescribed by the Department, by the last day of February of the year following that for which the statement is made. Remitters are also required to file an electronic report of the remitees who have entered into an agreement with the remitter to pay the New Mexico tax required on the oil and gas proceeds. Rules are to be established by the Department to allow paper filing of the statements of withholding when the remitter cannot file electronically.

Remitters must continue to provide each remittee annual statements of withholding before February 15th of the year following the year for which the statement is made.

New Mexico Taxation and Revenue Department
P.O. Box 630
Santa Fe, NM 87504-0630

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Visit the Department's web site at <http://www.tax.newmexico.gov/Forms-and-Publications/Pages/Home.aspx> for all of the forms and instructions mentioned in this bulletin. For more information about the oil and gas proceeds withholding tax, please contact (505) 827-0825 or one of the local tax offices listed below.

ALBUQUERQUE (505) 841-6200
Taxation and Revenue Department
5301 Central NE
P.O. Box 8485
Albuquerque, NM 87198-8485

LAS CRUCES (575) 524-6225
Taxation and Revenue Department
2540 S. El Paseo Bldg. #2
P.O. Box 607
Las Cruces, NM 88004-0607

SANTA FE (505) 827-0951
Taxation and Revenue Department
*Visitors go to 2968 Rodeo Park Drive West**
1200 S. St. Francis Dr.
P.O. Box 5374
Santa Fe, NM 87502-5374

ROSWELL (575) 624-6065
Taxation and Revenue Department
400 Pennsylvania Ave., Suite 200
P.O. Box 1557
Roswell, NM 88202-1557

FARMINGTON (505) 325-5049
Taxation and Revenue Department
3501 E. Main St., Suite N
P.O. Box 479
Farmington, NM 87499-0479

Main Switchboard: (505) 827-0700 (Santa Fe)

* The physical office location in Santa Fe has relocated during a renovation of the existing building. While the renovation is in progress, special delivery packages shipped through Fed Ex and UPS should continue to be sent to the 1200 South St. Francis Drive address and mailing through USPS should be sent to the P.O. Box 5374 address.

General Information. FYIs and Bulletins present general information with a minimum of technical language. All FYIs and Bulletins may be obtained without charge from all local tax offices, the Tax Information and Policy Office in Santa Fe and the Department's Internet site.

This information is as accurate as possible at time of publication. Subsequent legislation, new state regulations and case law may affect its accuracy. For the latest information please check the Taxation and Revenue Department's web site at www.tax.newmexico.gov.

This publication provides instructions or general information to the taxpayer. It does not constitute a regulation or ruling as defined under Section 7-1-60, *New Mexico Statutes Annotated*, 1978. 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 Bulletin.