

## ***Attention Railroad Car Company Filers:***

Please be advised that pursuant to the provisions of Section 7-11-3 NMSA 1978 of the Railroad Car Company Tax Act, railroad car companies will no longer report to the Property Tax Division of the New Mexico Taxation & Revenue Department.

In lieu of all property taxes on railway cars owned by an organization, a tax of one and one-half percent is imposed on the gross earnings of each organization. An annual report and payment shall be remitted to the Revenue Processing Division of the New Mexico Taxation & Revenue Department on or before March 1<sup>st</sup>.

To review the provisions set forth and to obtain reporting & payment instructions, see form RPD-41191 "Annual Report of Payments to Railroad Car Companies" on pages 2 & 3 below.

Please direct all questions & inquiries to the Revenue Processing Division, Railroad Car Company Tax at (505) 827-0763 or contact the division toll free at (866) 809-2335.

<https://www.tax.newmexico.gov/businesses/2020/10/21/railroad-car-company-tax/>



STATE OF NEW MEXICO

RAILROAD CAR COMPANY TAX

RAILROAD CAR COMPANY TAX ACT

**7-11-1. SHORT TITLE.** -- "Railroad Car Company Tax Act"

**7-11-2. DEFINITIONS.** -- As used in the Railroad Car Company Tax Act:

A. "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "gross earnings" means the total income received from all sources by an organization from the use or operation of railway cars within the state;

C. "organization" means every foreign or domestic car or car line company, every foreign or domestic joint-stock company, every foreign or domestic mercantile company every foreign or domestic corporation of any other class, every foreign organization classed as a New England, Massachusetts or business trust, every association for profit, every partnership and every individual who owns one or more railway cars other than a railroad company operating its own or leased lines; and

D. "railway car" means any passenger, sleeping, parlor, refrigerator, tank, observation, dining, freight or coal car.

**7-11-3. IMPOSITION OF TAX; TAX RATE; TAX IN LIEU OF PROPERTY TAXES.** --

A. There is imposed on the gross earnings of each organization for the 1996 and subsequent calendar years a tax of one and one-half percent.

B. The tax imposed in Subsection A of this section is in lieu of all property taxes on railway cars owned by an organization.

**7-11-4. SITUS OF RAILWAY CARS; GROSS EARNINGS --**

A. For the purposes of taxation, any railway car owned by an organization and used exclusively within this state or used partially within and partially without this state has situs within this state.

B. The term "gross earnings" shall be construed to mean all earnings on business beginning and ending within this state and on a proportion, based on the division of mileage in this state by the entire mileage over which business is done, of all interstate business passing through, into or out of this state.

**7-11-5. WITHHOLDING AND PAYMENT OF TAX; DUTY OF RAILROADS USING OR LEASING CARS TO MAKE REPORTS.** --

Every railroad company using or leasing the cars of any organization, upon making

payment to such organization for the use or lease of such cars, shall withhold from such payment . . . [one and one-half] percent of its gross earnings. On or before March 1 of each year, such railroad company shall report to the division on a form prescribed by the division the amounts of such payments and the amounts withheld for the preceding calendar year. The amounts withheld shall be remitted with the report.

**7-11-6. LIABILITY OF ORGANIZATIONS.** --

Every organization is liable for any difference between an amount equal to . . . [one and one-half] percent of its gross earnings and the sum of withheld taxes remitted for that organization by one or more railroad companies for that year.

PENALTY AND INTEREST

**Penalty and interest is imposed for failure to pay timely or to file timely. Compute penalty and interest using the instructions below and include the amount with your report. If you owe penalty or interest and have not included the penalty or interest with your report, the Department will issue an assessment.**

**PENALTY (7-1-69 NMSA 1978)**

Penalty is imposed for failure to pay timely or file timely. Penalty is computed at 2% per month or partial month (any fraction of a month is considered a full month) the payment is late, up to 20% of the tax due or a minimum of \$5.00, whichever is greater. The minimum penalty also is imposed for failure to file this report, even if no tax is due.

**INTEREST (7-1-67 NMSA 1978)**

Interest is imposed for failure to timely pay the tax due. Interest is computed on a daily basis, at the rate established by the U.S. Internal Revenue Code (IRC), on the unpaid tax for each day the payment is late. The formula for calculating daily interest is:

$$\text{Tax Due} \times \text{the Daily Interest Rate for the Quarter} \times \text{Number of Days Late} = \text{Interest Due}$$

If the interest due at the time payment is made is less than one dollar (\$1.00), then no interest shall be due.

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