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# FYI-404

New Mexico  
Taxation and Revenue Department

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## FOR YOUR INFORMATION

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

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### MANAGED AUDITS FOR TAXPAYERS

In an effort to make tax administration more user friendly, New Mexico law allows qualifying taxpayers to conduct managed audits, or “self-audits”, under prescribed circumstances for one or more tax programs subject to the Tax Administration Act. Included among those tax programs are gross receipts, compensating, corporate income, withholding and personal income taxes.

Taxpayers may also offset overpayments against underpayments in managed or Department audits.

For more detailed information please consult the resources listed in *For Further Assistance* on page 6.

*Taxpayers should be aware that subsequent legislation, regulations, court decisions, revenue rulings, notices and announcements may affect the accuracy of this publication's contents. Please contact the district tax office nearest you (see the last page of this publication) or check the Department's web site at [www.tax.newmexico.gov](http://www.tax.newmexico.gov). Click on “Publications” on the “Forms and Publications” menu.*

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## WHAT IS A MANAGED AUDIT?

A managed audit is a variation on a traditional field audit by the New Mexico Taxation and Revenue Department (NMTRD). A managed audit allows taxpayers to conduct an audit on themselves as specified in a signed managed audit agreement between the Secretary or the Secretary's delegate ("the Secretary") and the taxpayer or the taxpayer's authorized representative ("the taxpayer").

The taxpayer is to choose one of the following options in which the managed audit will be conducted:

Option A – The taxpayer will prepare the audit work papers with minimum guidance from the Department. The taxpayer will be issued a written statement from the Department stating that the Taxpayer may remain subject to audit by the Department for the Audit Period.

Option B – The taxpayer will work with an assigned auditor to develop an audit plan, have work papers reviewed by the assigned auditor through the audit process and, after completion and acceptance of the audit, will be issued a written statement from the Department stating that the specific issue(s) in the Audit Period covered by the agreement are closed to further audit by the Department.

Using the managed audit system may be the only way for certain taxpayers to avoid paying both penalty and interest, provided the assessment is paid within 180 days from the assessment date. If it is not paid within that time, interest will accrue from the time that tax was originally due.

## MANAGED AUDIT ELIGIBILITY

After written application by the taxpayer, the decision to enter into a managed audit agreement rests solely with the Secretary. The Secretary is not required to enter into a managed audit if the taxpayer's application is inadequate. The Department uses the following criteria, as a guideline, to determine managed audit eligibility:

- the Department has not already selected the taxpayer for audit;
- the Department is not currently pursuing collections on the taxpayer;
- the taxpayer demonstrates a willingness and ability to comply with New Mexico's tax laws;
- the taxpayer demonstrates a system of internal controls and business records that are acceptable to the Department;
- the taxpayer has not been the subject of a criminal investigation;
- the taxpayer's resources are available to conduct the managed audit;
- the taxpayer is not already in a legal dispute with the Department over the taxability of the transactions that are the subject of the managed audit;
- the taxpayer's assessed outstanding liability was paid in full prior to requesting a managed audit agreement;
- the taxpayer has not entered into and completed a managed audit for the same tax issue previously;
- the managed audit does not apply to established finalized liabilities as recorded by the Department on the date of the managed audit application;
- the managed audit does not apply to any previously paid liabilities; and
- the managed audit does not include transactions that are subject to a tribal gross receipts tax that the Department administers on behalf of any tribe pursuant to a Gross Receipts Tax Tribal Cooperative Agreement.

## **THE APPLICATION PROCESS**

The taxpayer must submit a written application on a form prescribed by the Secretary outlining the nature of the audit issues. The written application must identify the taxpayer. Prior to submitting the application, however, the taxpayer may approach the Department anonymously to ask if a certain situation meets general rules for a managed audit. Call (505) 841-6216 to request a copy of the application.

## **THE MANAGED AUDIT AGREEMENT**

The following criteria must be met before any managed audit agreement is effective. The managed audit agreement must:

- bear the signatures of the taxpayer and the Secretary;
- contain the taxpayer's declaration that all statements in the application and in the agreement are true and correct;
- specify the report period(s) under audit;
- indicate option A or B in the audit plan;
- specify the type of receipts or transactions and tax program(s) under audit;
- specify the audit issues;
- specify the procedures and records used in performing the managed audit;
- specify the managed audit's beginning date;
- specify the date when the taxpayer will present the managed audit results to the Department; and
- include the taxpayer's waiver of limitations on assessments for the report period(s) under audit, provided that the Department's standard audit procedures require a waiver.

After the taxpayer's disclosure of all relevant facts, the Secretary has sole discretion to accept, modify, or terminate the managed audit agreement. The Secretary may terminate the agreement at any time during the process when deadlines are not met.

## **THE MANAGED AUDIT PROCESS**

After the Department and the taxpayer have accepted and signed the agreement, a Department representative will be assigned to assist the managed audit process. The representative's functions include (but are not limited to):

- issuance of a letter (Section 7-9-43 NMSA 1978) allowing the taxpayer 60 days to obtain evidence of the deductibility of transactions, if applicable;
- assistance in designing and formatting audit work papers acceptable to the Department; and
- assistance in designing a sampling methodology for the managed audit if needed.

## **CONCLUSION OF THE MANAGED AUDIT PROCESS**

When the taxpayer has completed and submitted the managed audit, the Department representative will review the work. The procedures detailed in the managed audit agreement determine the extent of the review. The review may require the taxpayer to provide source documents, non-taxable transaction certificates, tax returns, or other accounting records for a sufficient audit review. Depending on the volume of transactions and the issues involved, the

Department representative may choose either a detailed review or random-sample review of transactions.

When the managed audit does not conform to the agreement, the Department representative may return it to the taxpayer for revision. Any intentional misrepresentation of facts nullifies the agreement.

A managed audit that conforms to the managed audit agreement will likely produce an assessment. No interest (Section 7-1-67 NMSA 1978), or penalty (Section 7-1-69 NMSA 1978) is due if the managed audit concludes on or before the date specified in the agreement, and if the taxpayer pays the assessment in full within 180 days of the date on which the Secretary has mailed or delivered it. If the assessment is not paid within 180 days, interest will be assessed from the time that tax was originally due.

## TAXPAYER INFORMATION

**General Information.** FYIs and Bulletins present general information with minimum technical language. All FYIs and Bulletins are free of charge and available through all local tax offices and on the Taxation and Revenue Department's website at <http://www.tax.newmexico.gov/forms-publications.aspx>

**Regulations.** The Department establishes regulations to interpret and exemplify the various tax acts it administers. Current statutes with regulations can be located on the Department's website for free at <http://www.tax.newmexico.gov/statutes-with-regulations.aspx>. Specific regulations are also available at the State Records Center and Archives or on its web page at <http://www.srca.nm.gov/>

The Taxation and Revenue Department regulation book is available for purchase from the New Mexico Compilation Commission. Order regulation books directly from the New Mexico Compilation Commission at <https://www.nmcompcomm.us/>

**Rulings.** Rulings signed by the Secretary and approved by the Attorney General are written statements that apply to one or a small number of taxpayers. A taxpayer may request a ruling (at no charge) to clarify its tax liability or responsibility under specific circumstances. The Department will not issue a ruling to a taxpayer who is undergoing an audit, who has an outstanding assessment, or who is involved in a protest or litigation with the Department over the subject matter of the request. The Department's rulings are compiled and available on free of charge at <http://www.tax.newmexico.gov/rulings.aspx>.

The request for a ruling must be in writing, include accurate taxpayer identification and the details about the taxpayer's situation, and be addressed to the Secretary of the Taxation and Revenue Department at P.O. Box 630, Santa Fe, NM 87504-0630. The taxpayer's representative, such as an accountant or attorney, may request a ruling on behalf of the taxpayer but must disclose the name of the taxpayer. While the Department is not required to issue a ruling when requested to do so, every request is carefully considered.

The Secretary may modify or withdraw any previously issued ruling and is required to withdraw or modify any ruling when subsequent legislation, regulations, final court decisions or other rulings invalidate a ruling or portions of a ruling.

**Public Decisions & Orders.** All public decisions and orders issued since July 1994 are compiled and available on the Department's web page free of charge at <http://www.tax.newmexico.gov/tax-decisions-orders.aspx>.

*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 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.*

## FOR FURTHER ASSISTANCE

Tax District Field Offices and the Department's call center can provide full service and general information about the Department's taxes, taxpayer access point, programs, classes, and forms. Information specific to your filing situation, payment plans and delinquent accounts.

### TAX DISTRICT FIELD OFFICES

#### ALBUQUERQUE

10500 Copper Pointe Avenue NE  
Albuquerque, NM 87123

#### SANTA FE

Manuel Lujan Sr. Bldg.  
1200 S. St. Francis Dr.  
Santa Fe, NM 87504

#### FARMINGTON

3501 E. Main St., Suite N  
Farmington, NM 87499

#### LAS CRUCES

2540 S. El Paseo Bldg. #2  
Las Cruces, NM 88004

#### ROSWELL

400 Pennsylvania Ave., Suite 200  
Roswell, NM 8820

For forms and instructions visit the Department's web site at <http://www.tax.newmexico.gov>

#### Call Center Number:

**1-866-285-2996**

**If faxing something to a tax district field office, please fax to:**

#### Call Center Fax Number:

**1-505-841-6327**

**If mailing information to a tax district field office, please mail to:**

Taxation and Revenue Department  
P.O. Box 8485  
Albuquerque, NM 87198-8485

For additional contact information please visit the Department's website at

<http://www.tax.newmexico.gov/contact-us.aspx>

*This information is as accurate as possible as of the date specified on the 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](http://www.tax.newmexico.gov).*

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