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# FYI-330

## 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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## INCOME AND WITHHOLDING INFORMATION RETURNS AND FILING METHODS

**Please Note:** In tax year 2019, the Taxation and Revenue Department (Department) began requiring electronic filing of annual income and withholding statements for employers who have 25 or more employees. Electronic submissions not filed through the Combined Federal/State Filing Program can be filed through TAP at <https://tap.state.nm.us>.

This publication discusses New Mexico's requirements for filing annual income and withholding statements electronically through the Department's Taxpayer Access Point (TAP) or the Combined Federal/State Filing Program, or by a paper filing. It addresses obligations of employers, payers, remitters of oil and gas proceeds, pass-through entities, and gambling establishment operators.

Businesses that are required to withhold New Mexico income tax for individuals must file annual income and withholding statements for each individual. The withholding statements for employee wages, pensions and annuities, and gambling winnings are due the last day of January following the tax year of the statement. The due dates for the withholding statements for oil and gas proceeds and pass-through entities are described later in this publication.

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Taxpayers should be aware that subsequent legislation, regulations, court decisions, revenue rulings, notices and announcements might 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 <https://www.tax.newmexico.gov/>.

## WHEN AND WHERE TO FILE

For all types of withholding tax filers listed below, electronic filing is available and encouraged. Employers who have **25 or more employees** are required to file electronically. Electronic requirements for other types of filers are shown below. The due date for each type of statement is also shown. Corrected statements can be submitted at any time.

**The Department's approved electronic medium includes:**

- The Department's Taxpayer Access Point (TAP) <https://tap.state.nm.us>
- Combined Federal/State Filing

### WAGE, GAMBLING AND RETIREMENT INCOME FILERS

- Forms W-2, W-2G, and 1099-R must be submitted for each employee or payee.
- Due to the Department by the last day of January following the year the tax was withheld.
- Send statements to withholders and payees on or before January 31 of the following year.
- **Annual Summary** (reconciliation) Form RPD-41072 must be completed and kept in your records. You do not need to submit the reconciliation form to the Department unless some or all the income and withholding statements are not provided to the Department through electronic medium.
- Forms 1099-NEC and 1099-MISC that report New Mexico withholding that was reported using TRD-41409, *Non-Wage Withholding Return*, are not required by statute to be filed with the Department, but taxpayers may do so if they wish.

### OIL AND GAS PROCEEDS FILERS

- Forms 1099-Misc, *pro forma* 1099-Misc or New Mexico Form RPD-41285 for oil and gas proceeds withholding are required to be submitted for a well located in New Mexico.
- Due to the Department by the last day of February following the year the tax was withheld.
- Send statements to recipients by February 15th following the year the tax was withheld.
- **Annual Summary** (reconciliation) Form RPD-41283 must be completed and kept in your records. You do not need to submit the reconciliation form to the Department.
- Remitters who have more than 50 payees that receive New Mexico oil and gas proceeds are required to file using one of the Department's approved electronic methods.

### PASS-THROUGH ENTITY WITHHOLDING FILERS

- An entity's requirement to report each owner's share of allocable net income and any state tax withheld is met by filing the required tax return for the entity, either: PTE, *New Mexico Pass-through Entities Tax Return*, S-Corp, *New Mexico Sub-Chapter S Corporate Income and Franchise Tax Return*, or FID-1, *New Mexico Fiduciary Income Tax Return*.
- Due to the Department on or before the due date of the entity's federal return for the taxable year, or, if not required to file a federal income tax return for the taxable year, the entity must file the New Mexico tax return with the Department no later than 105 days after the end of its taxable year.
- Send Forms 1099-Misc, *pro forma* 1099-Misc, or RPD-41359 to the owners by February 15th of the year following the year that New Mexico tax was withheld.

## DEPARTMENT APPROVED ELECTRONIC MEDIA

### Taxpayer Access Point (TAP)

To file online, go to the Department's TAP web site at: <https://tap.state.nm.us>. You must then create a login name and a password to access the online services that are available through TAP.

### Combined Federal/State Filing Program

New Mexico participates in the Combined Federal/State Filing Program for information returns through electronic transfer. Information returns that may be submitted using this program include: Forms 1099-DIV, 1099-G, 1099-INT, 1099-Misc, 1099-NEC, 1099-OID, 1099-PATR, 1099-R, W-2, and W-2G.

The Internal Revenue Service (IRS) transfers properly coded filings to participating states for approved filers. Specifications and requirements adhere to those in IRS Publication 1220. To learn more about the IRS specifications for filing 1099 information returns electronically go to [www.irs.gov](http://www.irs.gov) and search for Publication 1220.

The IRS forwards all properly coded records to New Mexico. The State records must be included and must include the correct code for forwarding to New Mexico. **New Mexico's program code is 35.**

New Mexico requires the addition of the New Mexico Business Tax Identification Number (NMBTIN) that was used to pay the withholding tax to the Department. The payer's NMBTIN should be included in the electronic file as follows:

### In the Payee "B" Record

Field Position	Field Title	Length	State Defined Specifications
663-722	Special Data Entries	60 available. utilize only the first 11 spaces.	Enter the payer's 11-digit NMBTIN. All numeric, no spaces, special characters or dashes.

New Mexico requires notification that the payer is filing information returns through the Combined Federal/State Filing Program. Submit a letter of intent to the New Mexico Taxation and Revenue Department, Personal Income Tax Unit, P.O. Box 25122, Santa Fe, New Mexico 87504-5122

## INCOME AND WITHHOLDING RETURNS

New Mexico requires the reporting of income and withholding information:

### From W-2, W-2G, and 1099-R Filers:

This category includes those who withhold from **wages, compensation, gambling winnings** and **pensions and annuities** when there is a corresponding requirement to withhold for federal purposes.

- An employer who is required to file Form ES-903A\*, *Quarterly Wage and Contribution Report*, to the New Mexico Department of Workforce Solutions **OR** Form TRD-31109, *Quarterly Wage, Income, Withholding, and Workers' Compensation Fee Report*, to the Department **are still required** to submit Forms W-2 to the Department.
- The Department requires information from the federal information returns W-2G and 1099-R to be provided when New Mexico tax is withheld.
- **NOTE: Employers with 25 or more employees must file using one of the Department's approved electronic filing methods.**

- Employers who have 24 or fewer employees are encouraged to file using one of the Department's approved electronic filing methods but can also file a paper income and withholding statement by mailing it to:  
New Mexico Taxation and Revenue Department  
P.O. Box 25128  
Santa Fe, NM 87504-5128
- Due dates:
  - These types of Income and withholding statements must be provided to the Department by the last day of January following the year the tax was withheld.
  - Income and withholding statements must be provided to the employees, payees and wagers, on or before January 31<sup>st</sup> of the year following the year the tax was withheld.

**From Remitters of Oil and Gas Proceeds:**

If you are required to file federal Form 1099-MISC, *Miscellaneous Income Information Return*, you must report only the amount of rent and royalties paid from New Mexico Properties to the Department. To satisfy the requirements to report a remitter may file a 1099-MISC, *pro-forma* 1099-MISC, or New Mexico Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds* using one of the Department's approved electronic media or paper.

- Remitters of oil and gas proceeds and payers of oil and gas rents and royalties who are not required to file federal Form 1099-MISC should submit Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*, 1099-MISC or a *pro forma* 1099-MISC.
- Remitters who have more than 50 payees that receive New Mexico oil and gas proceeds are required to file using one of the Department's approved electronic methods.
- Remitters who have fewer than 50 payees are encouraged to file using one of the Department's approved electronic filing methods but can also file a paper submittal by mailing it to:  
New Mexico Taxation and Revenue Department  
P.O. Box 5779  
Santa Fe, New Mexico 87502-5779
- Additional Report Required: The remitter must also complete Form RPD-41374, *Annual Report of Non-Resident Remittees Holding an Agreement to Pay Tax on Oil and Gas Proceeds (OGP-D)*, to report the distribution of oil and gas proceeds to each non-resident remittee who entered into an agreement to pay the tax on oil and gas proceeds pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act.
- To obtain help filing a return through TAP, call (505) 827-0825 in Santa Fe or toll free (866) 809-2335. You may also contact us via email at [cit.taxreturnhelp@tax.nm.gov](mailto:cit.taxreturnhelp@tax.nm.gov).
- Due Dates:
  - The remitters must file an annual income and withholding information return according to New Mexico's Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act.
  - RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*; or a *pro forma* Form 1099-Misc. Income and withholding return information, including Form RPD-41374, *Annual Report of Non-Resident Remittees Holding an Agreement to Pay Tax on Oil and Gas Proceeds*, must be provided to the Department on or before the last day of February following the close of the calendar year for which the form is filed.

- Send a copy of the income and withholding return to the remittee (recipient) by February 15, following the close of the calendar year for which the statement is made.
- If filing 1099-Misc forms electronically through the Federal/State program, your income and withholding information returns are considered filed timely if you comply with the due dates set by the IRS for electronic filing.

**From Pass-Through Entities:**

Separate statements of income and withholding such as the 1099-MISC or RPD-41359, *Annual Statement of Pass-through Entity Withholding*, are not required to be submitted to the Department because this information is already included in the annual returns that pass-through entities (PTEs) are required to file.

- PTEs are required to withhold from the net income of certain owners, members, partners, shareholders and beneficiaries. This withholding is reported and remitted to the Department annually using the required tax return for the entity, either the PTE, *New Mexico Pass-through Entities Tax Return*, the S-Corp, *New Mexico Sub-Chapter S Corporate Income and Franchise Tax Return*, or the FID-1, *New Mexico Fiduciary Income Tax Return*.
  - **If the PTE has more than 50 payees who receive New Mexico net income, the PTE is required to file these returns electronically.** Returns may be filed using the Department's website at <https://tap.state.nm.us> or third-party software through Federal/State filing.
  - Remitters who have fewer than 50 payees are encouraged to file using one of the Department's approved electronic filing methods but may file a paper return by mailing it to:

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

- To obtain help filing a return through TAP, call (505) 827-0825 in Santa Fe or toll free (866) 809-2335. Questions about filing pass-through entity returns may also be submitted by email to [cit.taxreturnhelp@tax.nm.gov](mailto:cit.taxreturnhelp@tax.nm.gov).
- Due Dates:
  - The PTE return, S-Corp return, or FID-1 return, is due on or before the due date of the entity's federal return for the tax year. If an entity is not required to file a federal income tax return for the taxable year, the entity must file one of these New Mexico returns with the Department no later than 105 days after the end of its taxable year.
  - The PTE is not required to submit statements of income and withholding, Forms 1099-Misc and RPD-41359, to the Department.
  - Send a copy of the statements of income and withholding to the owner, member, partner, shareholder or beneficiary by February 15, following the close of the calendar year for which the statement is made.

**ANNUAL SUMMARIES (YEARLY RECONCILIATION FORMS)**

The annual summary reconciles withholding tax paid to the Department to the totals withheld from payments and reported on income and withholding information returns. The department has two annual summaries:

**Form RPD-41072 *Annual Summary of Withholding Tax***

Complete this form for income and withholding information related to payroll, retirement income, gambling winnings, and all other withholding paid on a TRD-41409, *Non-wage Withholding Tax Return* or TRD-41414, *Wage Withholding Tax Return*. This form should be completed on or before the last day of January of the year following the calendar year in which the tax was withheld, but it is only required to be submitted to the Department under limited circumstances.

**If you have or will be submitting the income and withholding statements to the Department through an approved electronic medium, you do not need to submit this form.**

If you are submitting a paper submittal to the Department, make sure to include the Forms W-2, W-2G, or 1099-R that show New Mexico withholding and were not provided to the Department otherwise. These can be mailed it to:

New Mexico Taxation and Revenue Department  
P.O. Box 25128  
Santa Fe, NM 87504-5128

**Form RPD-41283, *Annual Summary of Withholding of Oil and Gas Proceeds***

Complete this form for income and withholding related to the oil and gas proceeds withholding, which is reconciled with withholding paid on Form RPD-41284, *Quarterly Oil and Gas Proceeds Withholding Tax return*.

This form should be completed on or before the last day of February of the year following the calendar year in which the tax was withheld but is not required to be submitted to the Department.

**Amending Returns and Making Payments or Requesting Refunds**

If you find that you have underreported or over reported withholding when you are completing the annual summary, you will have to file amended Form TRD-41409, TRD-41414 or Form RPD-41284 for every period effected. If you have discovered an overpayment that is due back to you, you will have to complete the Form RPD-41071, *Application for Tax Refund*. If additional tax is due, make sure to submit payment with the amended submission of Form RPD-41284.

## 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 <https://www.tax.newmexico.gov/forms-publications/>.

**Regulations.** The Department establishes regulations to interpret and exemplify the various tax acts it administers. Current statutes with regulations can be located on the Departments website for free at <https://www.tax.newmexico.gov/all-nm-taxes/statutes-with-regulations/>.. 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 <https://www.tax.newmexico.gov/all-nm-taxes/rulings/>.

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 <https://www.tax.newmexico.gov/all-nm-taxes/tax-decisions-orders/>.



## 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 Avenue NE, Suite C  
Albuquerque, NM 87123

#### SANTA FE

Manuel Lujan Senior Building  
1200 S. Saint Francis Dr  
Santa Fe, NM 87505

#### FARMINGTON

3501 E. Main St., Suite N  
Farmington, NM 87402

#### LAS CRUCES

2540 S. El Paseo Bldg. 2  
Las Cruces, NM 88001

#### ROSWELL

400 Pennsylvania Ave., Suite 200  
Roswell, NM 88201

For forms and instructions visit the Department's web site at <https://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 50130  
Albuquerque, NM 87198-0130

For additional contact information please visit the Department's website at <https://www.tax.newmexico.gov/contact-us/>.

*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 <https://www.tax.newmexico.gov>.*

*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.*