

Filing Changes for Pass-through Entities

House Bill 368, signed into law after the 2023 legislative session, provided that beginning with tax year 2023 owners of pass-through entities electing to file and pay entity-level tax may claim a credit on the owner's personal or corporate income tax return for the amount of tax paid on their behalf by the entity. The credit for entity-level tax replaces the exemption on income subject to entity-level tax that was in place for tax year 2022. Owners of pass-through entities may include partners, members, shareholders of sub-chapter S corporations, and beneficiaries of fiduciaries.

An entity electing to file and pay entity-level tax will issue its owners the revised reporting document RPD-41359, *Annual Statement of Pass-through Withholding*, to support the owner's share of credit for entity-level tax paid. This statement is the only document that an owner may use to support the credit for entity-level tax on owner's income tax return. Those owners electing to have an entity file composite income tax on their behalf will also support this credit using the RPD-41359 issued to them by the entity paying the tax.

Starting with tax year 2023, the revised returns PTE, *New Mexico Pass-through Entities Tax Return*, S-Corp-1, *Sub-Chapter S Corporate Income and Franchise Tax Return*, and FID-1, *Fiduciary Income Tax Return*, all allow for the reporting and paying of withholding tax, entity-level tax, and composite income tax. In previous years, the RPD-41367, *PTW-D Pass-through Entity Withholding Detail Report*, was used to report withholding tax, but this form has been retired for 2023. All of these returns incorporate the 2023 legislative changes made to Section 7-3A-10 NMSA 1978 that determine the income subject to entity-level tax and how the tax is calculated, allowing the entity to properly calculate each owner's share of credit.

The requirement to make estimated payments for 2023 for pass-through entity withholding tax and entity-level tax remains the same as it was for 2022. This means that, under Section 7-3A-6(B) NMSA 1978, the requirement to make estimated payments is met by paying the amount owed by the due date of the required federal return. **An entity is not required for tax year 2023 to make separate estimated tax payments quarterly.** The Taxation and Revenue Department (the Department) only requires entities who owe pass-through entity withholding tax or entity-level tax to make payment of the amount owed when the tax return is due.

Entities wishing to make estimated payments before the due date of the 2023 return, however, may make a payment by mail using the payment voucher for the applicable tax program, PTE-ES, S-Corp-ES, or FID-ES, or by making an estimated payment electronically. Any payment that was made for the PTW-D will be applied to the appropriate tax program for that entity and may be claimed on the return the entity is required to file. Anyone wishing to make an electronic payment for PTE, S-Corp-1, or FID-1 may do so by using the Department's online filing system Taxpayer Access Point (TAP) found here: <https://tap.state.nm.us/TAP>.

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
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Santa Fe, NM 87505

FARMINGTON

3501 E. Main St., Suite N
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2540 El Paseo Rd., 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 8485
Albuquerque, NM 87198-8485

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

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/>.

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 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.