INFORMATION FOR NON-PROFIT ORGANIZATIONS

This FYI describes how to determine which federal and New Mexico tax reporting obligations are attached to various "tax-exempt" organizations and activities.

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

Gross Receipts Tax (GRT) is a privilege tax levied on persons engaged in business in New Mexico for the privilege of doing business in New Mexico.

CRS is an abbreviation for Combined Reporting System. This is a tax reporting system that consists of state and local gross receipts taxes, withholding tax and compensating tax.

Exemptions are those receipts which are not taxable and do not have to be reported. If all the receipts of an organization are exempt, the organization is not required to register with the department unless it is required to register for another tax program.

Deductions are receipts that are not subject to tax but must be reported to the department. An organization with deductible receipts is required to register with the department and maintain proof of any deductions taken.

Nonprofit Organization is an organization which has been granted nonprofit status under Section 501(c) of the United States Internal Revenue Code (IRC). The organization is classified as educational or social. Any income that the IRS views as "unrelated business income" is subject to federal and New Mexico taxes.

"Educational" means religious, educational, charitable, scientific, literary organizations and organizations to foster national amateur sports competition, or to prevent cruelty to children or animals.

"Social" means social, recreational, booster clubs, civic and business leagues, social welfare, fraternal society, political, trade, labor, professional and similar organizations.

REGISTRATION REQUIREMENTS

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

Any organization engaged in business in the state of New Mexico is required to register with the department. Depending on the nature of the nonprofit organization and its activities, this registration requirement may not apply. An exempt entity that has no tax liabilities is not required to register, but may do so to obtain Nontaxable Transaction Certificates (NTTCs).

NEW MEXICO SECRETARY OF STATE

Certain nonprofit organizations that wish to incorporate in the state of New Mexico are required to register with the Secretary of State (SOS). The SOS also requires biannual reports.

NEW MEXICO ATTORNEY GENERAL

All charitable organizations, as defined by statute, which exist, operate or solicit contributions in the state of New Mexico are required to register with the Attorney General on their electronic registration system (https://secure.nmag.gov/coros/) and electronically file annual financial reports. “Religious organizations” and “educational institutions,” as defined by the Charitable Solicitations Act Section 57-22-1 et seq. NMSA 1978, are not required to register. Professional fund raisers who solicit contributions on behalf of charitable organizations and have custody and control of contributions as defined by statute, are required to register with the Attorney General’s Office before conducting the solicitation campaign, to be bonded and to file annual reports.
INTERNAL REVENUE SERVICE

Any organization wishing to obtain nonprofit status must apply with the Internal Revenue Service (IRS) using federal forms 1023 (Educational) or 1024 (Social). Once the appropriate paperwork has been processed, the IRS will notify the organization whether the status has been approved. A nonprofit organization may have federal income tax liabilities and reporting requirements to the IRS.

INCORPORATED vs. UNINCORPORATED

Once a group has been organized, it must decide whether it wishes to incorporate in the state of New Mexico. This decision determines much of the organization's tax responsibility. To determine the benefits or consequences of incorporating, contact the Public Regulation Commission (see FOR FURTHER ASSISTANCE on page 8).

NONPROFIT ORGANIZATION TAX AND REPORTING GUIDE

If you have incorporated, you will follow either the "educational" or "social" decision line under "YES." Unincorporated organizations will follow either the "educational" or "social" decision line under "NO. Please pay particular attention to the NOTES (on page 4) associated with several of the steps because they supply additional information you will need to select the right line to follow. After you have worked through the proper YES/NO series for your particular organization, you reach a circled letter that corresponds to the circled letters on the table on page 5 of this publication. Following down the column for the appropriate circled letter will give you more detailed information on your obligations to the Internal Revenue Service, the Public Regulation Commission, and the Taxation and Revenue Department.
NOTES

NOTE 1: Any group conducting raffles or bingo (or similar gaming activities) should contact the Alcohol and Gaming Division of the Regulation and Licensing Department for information on registration and taxes related to those activities. The IRS considers gross income from these sources to be unrelated business income. Unrelated income is subject to the federal income tax (and thus New Mexico income tax), and, if the gross income exceeds 33% of the organization's total gross receipts, could result in the denial or withdrawal of federal tax-exempt status.

NOTE 2: Any group with employees will also have to register and report federal and state withholding, federal and state unemployment (FUTA/SUTA), and the New Mexico Worker’s Compensation Assessment Fee. See TRD brochure Employee or Independent Contractor? available on our web site at www.tax.newmexico.gov. Click on “Forms and Publications.”

NOTE 3: Reports may be required more frequently if withholding or compensating tax is due.

NOTE 4: Gross receipts test is applied annually.

NOTE 5: National or regional organizations together with their local affiliates, may be granted tax-exempt status by the IRS.

NOTE 6: "1023" (educational) and "1024" (social) are IRS forms to apply for tax-exempt status. Check www.irs.gov.

www.tax.newmexico.gov
## REGISTRATION/TAX OBLIGATION CHARTS

<table>
<thead>
<tr>
<th></th>
<th>A 501(c)(3) Charitable Organizations</th>
<th>B 501(c)(4) Social Organizations</th>
<th>C Other 501(c) Organizations</th>
<th>D Non 501(c) Organizations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INTERNAL REVENUE SERVICE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal income tax on related income</td>
<td>None</td>
<td>None</td>
<td>All taxable</td>
<td>All taxable</td>
</tr>
<tr>
<td>Federal income tax on all other income</td>
<td>Income tax on unrelated income (bingo receipts are unrelated)</td>
<td>Income tax on unrelated income (bingo receipts are unrelated)</td>
<td>All taxable</td>
<td>All taxable</td>
</tr>
<tr>
<td>Reporting requirement</td>
<td>990 required if receipts &gt; $25,000</td>
<td>990 required if receipts &gt; $25,000</td>
<td>Taxed as joint venture - members report pro-rate on 1040</td>
<td>Taxed as joint venture - members report pro-rate on 1040</td>
</tr>
<tr>
<td>Reporting requirement</td>
<td>Disclosure of tax status required on solicitation</td>
<td>Disclosure of tax status required on solicitation</td>
<td>Disclosure of non-deductibility of contributions/ deductions required</td>
<td>Disclosure of non-deductibility of contributions/ deductions required</td>
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<td><strong>NM SECRETARY OF STATE</strong></td>
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<tr>
<td>Registration requirement</td>
<td>Yes, with incorporation</td>
<td>Yes, with incorporation</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Reporting requirement</td>
<td>Bi-annual report required</td>
<td>Bi-annual report required</td>
<td>None</td>
<td>None</td>
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<tr>
<td><strong>NM ATTORNEY GENERAL'S OFFICE</strong></td>
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<tr>
<td>Registration and reporting requirements</td>
<td>Yes, unless exempt as &quot;religious organization&quot; or &quot;educational institution&quot;</td>
<td>Yes IF; the organization holds itself out as having a charitable purpose or supports law enforcement, firefighters or other public safety groups</td>
<td>Yes IF; the organization holds itself out as having a charitable purpose or supports law enforcement, firefighters or other public safety groups</td>
<td>Yes IF; the organization holds itself out as having a charitable purpose or supports law enforcement, firefighters or other public safety groups</td>
</tr>
<tr>
<td>Audit Requirement</td>
<td>If required to register/report and has gross annual revenue of $500,000</td>
<td>If required to register/report and has gross annual revenue of $500,000</td>
<td>If required to register/report and has gross annual revenue of $500,000</td>
<td>If required to register/report and has gross annual revenue of $500,000</td>
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<tr>
<td></td>
<td>501(c)(3) Organizations</td>
<td>Other 501(c) Organizations</td>
<td>Non 501(c) Organization</td>
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<tr>
<td><strong>TAXATION and REVENUE DEPARTMENT</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Registration requirement</td>
<td>CRS registration required to report withholding and compensating tax and gross receipts tax on receipts from unrelated trade or business</td>
<td>CRS registration required</td>
<td>CRS registration required</td>
<td></td>
</tr>
<tr>
<td>Receipts from donations</td>
<td>No GRT due on donations</td>
<td>No GRT due on donations provided the 501 (c) performs no service and does not sell or lease property for the donation</td>
<td>No GRT due on donations provided the organization is a nonprofit and performs no service and does not sell or lease property for the donation</td>
<td></td>
</tr>
<tr>
<td>Receipts from dues &amp; registration fees</td>
<td>No GRT on dues &amp; registration fees</td>
<td>No GRT on dues and registration fees paid to nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues</td>
<td>No GRT on dues and registration fees paid to nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues</td>
<td></td>
</tr>
<tr>
<td>Receipts from fundraisers</td>
<td>No GRT on fundraisers</td>
<td>Can deduct receipts from 2 fundraisers annually</td>
<td>GRT due on receipts from fundraisers</td>
<td></td>
</tr>
<tr>
<td>All other receipts</td>
<td>No GRT on all other receipts EXCEPT receipts derived from unrelated trade or business, receipts of a hospital licensed by the Department of Health, and receipts derived from operating a national laboratory.</td>
<td>GRT due on all other receipts</td>
<td>GRT due on all other receipts</td>
<td></td>
</tr>
<tr>
<td>Purchase of tangibles for direct use in activity</td>
<td>No pass through GRT if Type 9 NTTC is provided to the seller</td>
<td>Vendor may pass through GRT - no NTTC available</td>
<td>Vendor may pass through GRT - no NTTC available</td>
<td></td>
</tr>
<tr>
<td>Purchase of tangibles for resale</td>
<td>No pass through GRT if Type 9 NTTC is provided to the seller</td>
<td>No pass through GRT if Type 2 NTTC is provided to the seller</td>
<td>No pass through GRT if Type 2 NTTC is provided to the seller</td>
<td></td>
</tr>
<tr>
<td>Purchase of services for use in activity</td>
<td>Vendor may pass through GRT - no NTTC available</td>
<td>Vendor may pass through GRT - no NTTC available</td>
<td>Vendor may pass through GRT - no NTTC available</td>
<td></td>
</tr>
<tr>
<td>Reporting requirement - Gross Receipts Tax</td>
<td>CRS-1 required to report gross receipts tax on receipts from unrelated trade or business</td>
<td>CRS-1 required</td>
<td>CRS-1 required</td>
<td></td>
</tr>
<tr>
<td>Reporting requirement - income &amp; franchise tax</td>
<td>CIT-1 required only for unrelated income</td>
<td>CIT-1 required only for unrelated income</td>
<td>PIT-1, CIT-1 and pass through entity filing as appropriate</td>
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</tbody>
</table>
When you are in compliance, you reduce the risk of being assessed for late taxes, interest and penalties if you are selected for audit. In addition, lack of compliance with some of the federal reporting requirements can subject you personally, or your organization, to substantial daily penalties and could result in the loss of your federally granted income tax exempt status.

**TAXPAYER INFORMATION**

The Department offers a variety of taxpayer information. Some information is free and other information must be purchased.

**General Information.** FYIs and Bulletins present general information with a minimum of technical language. All FYIs and Bulletins are free and available through all local tax offices, the Tax Information and Policy Office, and on the Internet. The Taxation and Revenue Department’s Internet address is:

http://www.tax.newmexico.gov

**Regulations.** The Department establishes regulations to interpret and exemplify the various tax acts it administers. The Taxation and Revenue Department regulation book is available from the New Mexico Compilation Commission on a prepaid basis. The Compilation Commission also has a compact disk of all statutes and regulations. Specific regulations are also available at the State Records Center or on its web page at www.nmcp.state.nm.us/nmac.

Order regulation books directly from:

New Mexico Compilation Commission
http://www.nmcompcomm.us/index.html

**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 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 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 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. Taxation and Revenue Department rulings are compiled and available on the department’s web page free of charge at http://www.tax.newmexico.gov/rulings.aspx.

**Public Decisions & Orders.** All public decisions and orders issued by the hearing officers 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.
Local tax offices can provide full service and information about the department's taxes, programs, and forms as well as specific information about your filing situation.

**ALBUQUERQUE**
Taxation and Revenue Department
5301 Central NE
P.O. Box 8485
Albuquerque, NM 87198-8485

**SANTA FE**
Taxation and Revenue Department
1200 S. St. Francis Dr.
P.O. Box 5374
Santa Fe, NM 87502-5374

**FARMINGTON**
Taxation and Revenue Department
3501 E. Main St., Suite N
P.O. Box 479
Farmington, NM 87499-0479

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

**ROSSWELL**
Taxation and Revenue Department
400 Pennsylvania Ave., Suite 200
P.O. Box 1557
Roswell, NM 88202-1557

Call Center: 1-866-285-2996

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.