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# FYI-400

## FOR YOUR INFORMATION

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

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### TAX AUDITS AND PROTEST PROCEDURES YOUR RIGHTS AS A TAXPAYER

As a New Mexico taxpayer you enjoy an extensive bill of rights covering everything from guarantees of privacy and confidentiality to a thorough protest procedure should you and the Taxation and Revenue Department disagree. These rights are preserved in the Tax Administration Act and in rules and regulations adopted by the Secretary the Department. This publication gives you a brief summary of those rights, and it lists the steps open to you when you and the Department differ.

The remainder of this FYI discusses what to expect if the Department selects you for a desk audit or field audit, if you receive an assessment of tax due, or in the case of state income taxes, a tax return adjustment notice. A tax return adjustment notice tells you whether your income tax refund is denied, less than expected, or more than expected. The Department mails a refund denial letter when it denies a claim for refund of CRS taxes.

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## **ELIMINATING PROBLEMS AT THE OUTSET**

The Taxation and Revenue Department (Department) is the state government agency responsible for compliance with the revenue laws so New Mexico has adequate financial resources to provide services for you and your fellow citizens. When there is a problem, it is to your advantage and ours to solve it before it grows to an unmanageable size. Good communication from the beginning can avoid a number of difficulties.

As always, you have the right to receive information and prompt, courteous, and accurate responses to questions and requests for tax assistance. If we don't know the answer, we will either find it or direct you to a person who can help with your individual account. Information on how to reach the appropriate bureaus to answer your questions is available on the Taxation and Revenue Department web site at [www.tax.newmexico.gov](http://www.tax.newmexico.gov), on the tax form or publication that you received in the mail, or at your local New Mexico tax office. Telephone numbers giving direct contact with the Department district offices are listed on page 11 of this booklet. We answer calls Mondays through Fridays from 8 a.m. to 5 p.m. mountain time. The Department's call center answers telephones Monday through Thursday 8 a.m. to 5:45 p.m. and Fridays 8 a.m. to 4:45 p.m. Mountain Time. Please note, confidentiality laws prevent the Department from discussing an account with anyone but the taxpayer or the taxpayer's authorized representative.

Free publications are available on the web site ([www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx)) or through your local tax office. The Department offers free workshops on gross receipts, compensating and withholding taxes in each local tax office. You can find the workshop schedules by going to our web site at <http://www.tax.newmexico.gov/workshop-schedule.aspx>.

## **YOUR RIGHTS**

Most tax transactions occur without problems. Sometimes, though, troubles arise through misunderstanding, mathematical error, missed deadlines, lost papers, high volume of transactions, and many other situations. Changes in the law may make earlier information outdated. Over the years the Legislature and the Department have created ways to handle difficulties according to the state tax code. Following are some of your rights as outlined in Section 7-1-4.2 through 7-1-4.3 NMSA 1978.

- ◆ The right to available public information and prompt, courteous tax assistance;
- ◆ The right to representation by counsel or other qualified representative at any time during your contacts with us according to Section 7-1-24 NMSA 1978 or with the Administrative Hearings Office according to the Administrative Hearings Office Act;
- ◆ The right to have audits, inspections of records and meetings take place at a reasonable time and place (Section 7-1-11 NMSA 1978);
- ◆ The right to have the Department conduct its audits in a timely and efficient manner and be entitled to the correct calculation of interest as provided in the Tax Administration Act under Section 7-1-67 and 7-1-68 NMSA 1978;
- ◆ The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest, appeals and collection proceedings under the Tax Administration Act;
- ◆ The right to an explanation of audit results and the basis for audits, assessments or denials of refund that identify tax, interest or penalty due;
- ◆ The right to seek review, through formal or informal proceedings, of findings or unfavorable decisions that occur during audit or protest procedures (Section 7-1-24 NMSA 1978 and the Administrative Hearings Office Act);
- ◆ The right for your tax information to remain confidential unless otherwise specified by law in Sections 7-1-8 through 7-1-8.11 NMSA 1978;
- ◆ The right to abatement (forgiveness) of an assessment of taxes that has been incorrectly, erroneously or illegally made (Section 7-1-28 NMSA 1978) and a right to seek a compromise of a stated tax liability. When the Secretary of Taxation and Revenue in good faith doubts that you owe us the amount we claim, you have the right to seek compromise if a way exists in your particular case according to Section 7-1-20 NMSA 1978;

- ◆ The right to clear information about penalties if a tax assessment is not paid, secured, protested or otherwise provided for according to Section 7-1-16 NMSA 1978. If you become a delinquent taxpayer, upon notice of delinquency you have the right to timely notice of collection actions that require sale or seizure of your property under the Tax Administration Act, and
- ◆ The right to ask to pay your tax obligations by installment agreements according to Section 7-1-21 NMSA 1978.

## **BASIC AUDIT INFORMATION**

The Department's goal is for every taxpayer to pay the correct amount of tax due under state law. Two ways to reach this goal are by checking the calculations on individual tax returns claiming refunds and by auditing taxpayers' books and records. Audits verify the accuracy of tax returns whether or not a refund is expected.

Audits also allow the Department to learn about modifications in business practice and advances in technology that may lead to changes in tax liabilities and simpler reporting requirements. For example, rapid transition in the printing and telecommunications industries has prompted the Department to amend and update its regulations on the taxability of the sale or lease of information.

Our audit and protest procedures are designed to take your rights into account.

### ***Two Types of Audit***

There are two general types of audit. What most people think of when they hear the word "audit" is the **field audit** characterized by the Department's going to the taxpayer's place of business (or home, or other agreed-upon place) to inspect records. The second and more common type is the **desk audit**. The desk audit takes place in the Department. The auditor checks your return or report for internal consistency, proper supporting documentation, and information that the Department may have received from other taxpayers about their transactions with you. Such information may be about sales you have made to others through your business, or what the federal government has told us about your federal Schedule C business income. (See "desk audits" beginning on page 3 for a discussion of the federal/state tape match program).

### ***Selection***

There are various reasons why the Department selects a taxpayer for an audit. The most common are random selection, frequent or consistent errors or insufficient information on tax returns, or a request by one of the Department's district offices. Selection for audit is not an accusation of dishonesty. An audit in no way suggests that you are intentionally withholding information or taxes from the Department.

### ***Confidentiality***

All information provided to the Department during an audit is confidential, and the Department is required to actively protect the confidentiality of this information (Section 7-1-8 NMSA 1978). If a lien or lawsuit is filed against you, however, certain aspects of your tax case will become public knowledge. The Decision and Order issued by the hearing officer after a formal hearing is public knowledge.

### ***Notification***

Although New Mexico's laws do not mandate prior notification, the Department usually informs you by mailing a first notice of a pending audit. This notification generally allows sufficient time to gather your business records. In most cases, your second notice is from a Department auditor who notifies you by mail or telephone of the assignment to audit your books and records. The audit officially begins either with the second notice or when the auditor has actually started an examination of records with reasonably prompt notice to the taxpayer or representative.

### **Location**

The audit can take place at your home, your place of business, or the office of your accountant or attorney, depending on the complexity of the audit or records. The Department tries to select the place most convenient for you. If the location is inconvenient, we try to find a more suitable place.

Wherever the audit is conducted, you have the right to have someone represent you or accompany you: an attorney or certified public accountant, for example. If you cannot attend the audit, you may select an authorized representative like an attorney or accountant to represent you in your absence (see below).

### **Authorized Representative**

To have someone other than an attorney or accountant licensed to practice in New Mexico, or for income tax purposes only, an enrolled agent, represent you requires your written authorization (Regulation 3.1.3.13 NMAC). Your authorization must contain sufficient information so the Department can identify both you and the representative. It must bear your signature. At that point, the Department may reveal information to your representative about you or your return. If you have an authorized representative you will need to submit **Form ACD-31102, Tax Information Authorization** to the Department. This form will be active and in place for a year after it is executed. If an authorized representative should no longer have access to your account before that time make sure to notify the Department.

## **AUDIT FINDINGS**

### **Desk Audits:**

Most desk audits leave the taxpayer's account unchanged. Some result in an assessment of tax due, especially if a taxpayer has reported Schedule C business income on a federal 1040 or 1040A but has not reported matching gross receipts for New Mexico for the same period. The state of New Mexico and the federal government share a tape-match program which flags imbalances after the federal return is filed.

A desk audit of your income taxes may produce a *tax return adjustment notice*, which is a notice of adjustment in your refund amount. Among the common reasons for changes are incorrect arithmetic and failure to include all documents that support a refund claim.

When you disagree with the tax return adjustment notice, the procedures are similar to disagreement with audit findings. Please see "Remedies" beginning on page 5 and "Denial of a Claim for Refund," on page 7 of this publication. See also "Interception of Refunds," page 8.

### **Field Audits:**

Upon completion of a field audit, the auditor will give you or your authorized representative a copy of the audit work papers and explain findings that affect your tax liability. The auditor also will explain why you may owe additional tax or be entitled to a refund. Most audits are agreed to and closed at this level, but if you do not agree with the audit findings, you have the right to protest any resulting assessment.

### **If You Agree With the Audit Findings**

After a final review, the Audit Technical Support Services (ATSS) provides you with a copy of the audit report. You are generally allowed ten days for review, but an extension may be granted if needed. If you do not contact ATSS by the end of the ten days, the audit will be assessed without changes. The audit work papers and the report go to Department headquarters for final review and processing at the end of the ten day period. If you are assessed additional tax, you have 90 days from the date of mailing of the assessment to pay or take the action outlined in this FYI (Section 7-1-24 NMSA 1978). If you agree with only part of the assessment, pay the portion you agree with. For the contested portion, see "Remedies" on page 5. **Note:** if the Department assesses interest and penalty on unpaid taxes Section 7-1-67 NMSA 1978 sets the rate to match the quarterly rate set by the

United States Internal Revenue Code. The rate for the first two quarters of 2019 is 6% per year, which is computed at the rate of 0.016438356% per day from the due date of the tax. *To determine the interest rate for the current quarter, please be sure to consult the rate information posted on the Department web site at: <http://www.tax.newmexico.gov/Individuals/penalty-interest-rates.aspx>.*

The penalty is a maximum of 20% of the outstanding tax liability. When the auditor discusses the results with you, you may ask for a preliminary estimate of the uncontested tax due if you agree with all or part of the findings. Paying the **undisputed** amount prevents interest accrual on that amount while the audit is finalized.

<b>Audit Results</b>	
1.	No Change. The audit confirms the accuracy of your reports. No further action is necessary.
2.	Refund. The audit shows you have overpaid, and you are advised of your right to file a claim for refund.
3.	Assessment. The audit shows underreported tax. This generates an assessment for additional tax due plus applicable penalty and interest.
4.	Tax Return Adjustment Notice. This is an adjustment of an income tax refund.

**If You Disagree With the Audit Findings**

If you disagree with the audit findings, review the copy of the work papers provided to you and thoroughly discusses the results with the ten day contact the Department provided you. You may request a conference with ATSS to explain your position and present any evidence that supports it. The conference request is granted unless there are unusual circumstances.

If ATSS agrees with the auditor's findings, the audit report proceeds to assessment. You may pursue one of two remedies explained below should you remain dissatisfied with the auditor's findings after receiving the final audit report and assessment.

**REMEDIES**

There are two remedies when you disagree with the audit:

- Remedy 1 is a written protest;
- Remedy 2 is a claim for refund.

**When you choose one remedy, you automatically waive your right to pursue the other.**

**Note: An assessment becomes final if you:**

- ◆ do not file a timely protest; *or*
- ◆ fail to appear at a formal hearing, *or*
- ◆ fail to appeal an adverse Decision and Order of the hearing officer.

**REMEDY 1: Written Protest**

You must file a written protest:

- within 90 days of the mailing date on the notice of assessment of tax, *or*
- within 90 days of the date the Department receives your return showing a liability for tax.

If notice has been mailed previously to you, but you refused acceptance, hand-delivery does not give you an additional 90 days to protest. Time elapses from the actual mailing date to the last known address.

The written protest to the Secretary must include the taxpayer's name and identification number (social security number for individuals; New Mexico Identification number/combined reporting system number or

federal employee identification number for a business), the tax, credit, rebate, property, or provision of the Tax Administration Act involved (if it is based on an assessment or correspondence from the Department, include the assessment number or identification number), a summary statement of the grounds of the protest, the evidence supporting those grounds, and the affirmative relief being requested. Form **ACD-31094**, *Formal Protest Form* outlines the requirements for a written protest.

**Mail all protests to:** New Mexico Taxation and Revenue Department, Protest Office, P.O. Box 1671, Santa Fe, NM 87504-1671. **The street address for private carrier delivery is:** 1100 St. Francis Drive, Suite 1100, Santa Fe, NM 87505.

To change the legal theory or facts supporting your protest, you may supplement the statement of grounds for the protest no later than ten days before the hearing date. **Note:** To expedite the protest, include documentation supporting your position. Documentation may be invoices, canceled checks, prior-year tax returns, contracts, etc.

Upon receipt of a valid formal protest, the Protest Office sends a letter acknowledging your protest. This confirmation includes the name and telephone number of the person who will handle your protest. At this point the protest may be resolved by mail and telephone, but you or the Department may request an informal conference. The informal conference must be requested within 60 days of the protest confirmation. Although most differences are settled informally, a formal hearing can be scheduled by the taxpayer or the Department (no earlier than 60 days after the date of the protest but within 180 days of filing the protest) if earlier communication reaches no conclusion.. The formal hearing provides you an opportunity to explain why you feel the tax is not due and to present evidence to support your position. You may represent yourself at the administrative hearing or may be represented by a bona fide employee, an attorney, or a certified or registered public accountant.

At the formal hearing a hearing officer with the Administrative Hearings Office, who has no prior knowledge of the case, evaluates the situation and issues a written opinion called a "Decision and Order." A Decision and Order includes the facts of the case and the order of the hearing officer granting or denying the taxpayer's protest.

There are two possible outcomes of a formal hearing:

1. If the hearing officer's Decision and Order is to your satisfaction, your protest is resolved and there is no further action required on your part.
2. If the Decision and Order favors the Department, and tax, penalty and interest are due and payable, you may either appeal the decision or pay the tax, penalty and interest. You become a delinquent taxpayer if you do not appeal *and* do not pay the tax, penalty and interest.

Either you or the Department may appeal the Decision and Order to the New Mexico Court of Appeals and then to other appellate courts if the protest is not settled to your or the Department's satisfaction. The Court of Appeals rule on the basis of the record made at the formal hearing and accepts no additional evidence or information. For that reason, it is important that you advance all of your arguments during the formal hearing.

In the event the Department appeals the hearing officer's decision and the courts uphold the decision in whole or in part, the courts award reasonable attorney fees to the taxpayer.

**NOTE:** After you have filed a protest that has been acknowledged by the Protest Office, the Department allows you to avoid further accrual of interest by placing into escrow an amount equal to the disputed amount of tax.

Ask Your Auditor

We believe it is important that you understand the reason for any additional tax due or for any refund.  
The Department encourages you to question anything that is not clear to you.

### ***Transactions on Tribal Land***

If you are engaged in business on tribal land and your transactions are subject to a tribal gross receipts tax that the Department administers on behalf of the tribe pursuant to a Gross Receipts Tax Cooperative Agreement, the protest process can be somewhat different. **For Class 1 receipts** (sales to a tribe or tribal member by a non-tribal business), the Department will process the protest and will make a recommendation to the tribe but the final decision is left up to the Tribe or Pueblo. **For Class 2 receipts** (sales to tribal non-members by a non-tribal business), the tribe has authority over the tribe's portion of the tax and the Department has authority over the state portion of the tax and will issue a decision as is done in the other protests described above. To determine whether the Tribe, Pueblo, or Nation on whose land you conduct business is a party to a cooperative agreement, please consult the current gross receipts tax rate schedule. On the rate schedule, the Tribes, Pueblos and Nations who have cooperative agreements are listed under the counties in which they are located and will have either a "(1)" or "(2)" immediately following the name.

### **REMEDY 2: Claim for Refund**

Rather than protest an assessment, or if the time to protest has passed, you may pay the assessment and file a claim for refund for any part of the payment that you do not believe was due. **You may file a claim for refund any time within three years from the end of the calendar year in which you made an overpayment as the result of an assessment of tax by the Department.**

To claim a refund of income taxes (e.g., corporate income tax, personal income tax, estate tax) and oil and gas taxes, submit an amended tax return for the year or period involved. Use the appropriate tax return form for the year being amended, and if there is a box for an "amended return," make sure that it is checked. To each amended return, attach a statement supporting your claim. The statement should contain the reason each item of income, deduction, or credit on which you based your claim was amended. Include such items as canceled checks (front and back), prior-year tax returns, and anything else that explains the reason for the refund claim.

To claim a refund for all other taxes (e.g., gross receipts tax, withholding tax, gasoline tax) submit a **Form RPD-41071, *Application for Tax Refund*** with each amended return for the specific tax program. Attach any other schedules or supporting documents proving your claim. Examples of supporting documentation are non-taxable transaction certificates, evidence of a tax rate change in a particular municipality or county, or proof that a Form CRS-1 was filed and the tax paid twice.

### ***Limitations for Filing Claims for Refund***

In general, you must file your claim within three years of the end of the calendar year in which:

- 1) the payment was due, or an assessment by the Department resulted in an overpayment (Section 7-1-17 NMSA 1978), whichever is later, **OR**
- 2) a levy was placed on the property (Section 7-1-26 NMSA 1978).

### ***Processing Claims for Refund***

A claim for refund may be accepted as filed or be subject to examination. If additional information is requested by the Department the claim for refund will not be considered complete until the requested documents have been provided for review. After review, the Department may allow or deny all or part of the claim.

### ***Denial of Claim for Refund***

You have a choice when the Department denies the refund claim or has failed to grant or deny a complete claim for refund within 180 days to elect to treat the claim as denied: you may either protest that denial under the procedures for a written protest as outlined above, or you may take your case to District Court.

The choice to protest means you must do so within 90 days from the mailing of the denial. After the Department receives your protest, within 60 days you can request in writing an informal hearing with the Department and the Department must hold the informal conference within 30 days of your request. If no resolution is reached and if circumstances dictate, the Department or you may schedule a formal hearing not before 60 days of your protest request but within 180 days of your request.

If you choose to take your denial of claim for refund directly to District Court, you may *at your own expense* begin a civil action suit for the refund within 90 days after your claim is denied, or after the expiration of 180 days after you file a claim which the Department has failed to grant or deny and you have elected to treat the claim as denied. (**Note:** This is the only avenue for obtaining a hearing in District Court. An unpaid assessment may not be heard as a case in District Court).

You or the Department may go to the New Mexico Court of Appeals to appeal the decision issued by the District Court or the hearing officer. You must appeal within 30 days of either the date of mailing or delivery to you of the hearing officer's Decision and Order on your protest, or the date of the District Court's decision. Should you or the Department fail to appeal by the deadline, the decision of the hearing officer or the District Court is final. You may be entitled to claim reasonable administrative costs connected to the action if you are successful in an administrative or court proceeding brought by you or against you under the Tax Administration Act.

**Tax Return Adjustment Notices:** The procedure above is also the course to follow for contested income tax return adjustment notices involving denials of refund over which the Department has jurisdiction.

### ***Transactions on Tribal Land***

If you are engaged in business on tribal land and your transactions are subject to a tribal gross receipts tax that the Department administers pursuant to a Gross Receipts Tax Cooperative Agreement, the protest or refund processes are different. **For Class 1 receipts** (sales to a tribe or tribal member by a non-tribal business that are exempt from state tax), the Department is not authorized to process a protest related to Class 1 receipts and will refer the protest to the appropriate Tribe, Pueblo or Nation for a final decision. **For Class 2 receipts** (sales to tribal non-members by a non-tribal business that are subject to both tribal and state tax), the Tribe, Pueblo or Nation, has authority over the tribal portion of the tax and the Department has authority over the state portion of the tax. The Department will process the protest related to the state tax and will proceed in the manner described in the protest and refund sections of the Tax Administration Act. The Department will make a recommendation to the Tribe, Pueblo Nation for the tribal tax portion of the protest, but the final decision is left up to the Tribe, Pueblo, or Nation. The Tribes, Pueblos and Nations who have cooperative agreements are listed on the gross receipts tax rate schedule under the counties in which they are located and will have either a "(1)" or "(2)" immediately following the name.

## **INTERCEPTION OF REFUNDS**

The Department may grant the refund you request but then apply some, or all, of the amount to debts you owe the Department or other state agencies. Your refund is applied to the debt, and the balance, if any, is returned to you. If this is the case, you will receive a tax return adjustment notice with the information of the agency that your refund was intercepted by. If the refund was intercepted by the Taxation and Revenue Department and you disagree with the tax return adjustment notice, the procedures are similar to disagreement with audit findings. See "Remedies," beginning on page 5, and "Denial of a Claim for Refund," on page 7.

The Tax Refund Intercept Program requires the Department to intercept all or part of your refund when specific agencies request it. The alleged debt may involve child support payments, an unpaid traffic citation, failure to repay a student loan, excess unemployment insurance payments or other issues. If so, the notice should tell you which agency has intercepted your refund and the reason for the interception. *You should contact that agency directly.*



**NOTE:** Section 7-2C-9 NMSA 1978 (Tax Refund Intercept Program) places jurisdiction for notice and opportunity for hearing on the agency making the claim. The law exempts the Taxation and Revenue Department from the obligation to grant a hearing to any debtor or spouse about actions taken or issues arising under the Tax Refund Intercept Program unless the Taxation and Revenue Department is the agency requesting the interception.

## **CONFERENCES AND HEARINGS**

Depending on whether you are satisfied with decisions made throughout the protest procedure, you may encounter a variety of opportunities to meet in conferences or hearings with representatives from the Department. Following is a summary of the different conferences and hearing levels:

◆ A **district conference** is usually conducted by the district tax bureau chief with the auditor and the taxpayer or taxpayer's authorized representative present. It is held after the auditor makes his/her findings but before those audit findings are finalized and an assessment is made. At this level you may introduce any additional information that may affect the final results, including records or documentation that may not have been available at the time of the audit.

◆ An **informal conference** may be conducted by a representative of the Department, the auditor and the taxpayer or taxpayer's representative after the taxpayer has filed a timely, written protest. At an informal conference you may present facts and arguments in addition to those you've included in your written protest. Although the proceedings may be recorded as a convenience, the recording may not be used as evidence in subsequent proceedings.

◆ A **formal hearing** is conducted by a hearing officer appointed by the Administrative Hearings Office. The hearing officer *chosen has no prior knowledge of the case and listens to both sides of the protest* before preparing a Decision and Order. We suggest that the taxpayer at this level be represented by someone familiar with the proceedings because the taped hearing will become part of the only record upon which any appeal to the Court of Appeals will be based. Taxpayers may be represented by a bona fide employee, an attorney or a certified or registered public accountant.

◆ **Appellate procedures** involve judicial bodies outside the Department. Decisions of the Court of Appeals may be reviewed by the New Mexico Supreme Court at the Supreme Court's discretion upon appeal by either the taxpayer or the Department. In turn, New Mexico Supreme Court decisions may be appealed to the U.S. Supreme Court if constitutional issues are raised.

## **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:

[www.tax.newmexico.gov](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.nmcpr.state.nm.us/nmac](http://www.nmcpr.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 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>.

## **FOR FURTHER ASSISTANCE**

Local tax offices can provide full service and information about the Department's taxes, programs and forms and specific information about your filing situation.

### **ALBUQUERQUE**

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

### **LAS CRUCES**

Taxation and Revenue Department  
2540 S. El Paseo Building #2  
P.O. Box 607  
Las Cruces, NM 88001-0607

### **SANTA FE**

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

### **ROSWELL**

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

### **FARMINGTON**

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

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 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.*