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# FYI-108

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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### **ELECTRONIC FILING MANDATE For Certain Business Tax Programs**

New Mexico requires certain taxpayers to file returns electronically. This FYI identifies who must electronically file (e-file), how to e-file returns, and consequences for failure to comply with the e-file requirement. The publication also provides guidance on where to go to get help.

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*This information is as accurate as possible at time of publication. Subsequent legislation, new state regulations or court decisions may affect its accuracy. For the latest information please check the Taxation and Revenue Department's web site at <https://www.tax.newmexico.gov/>.*

## GENERAL OVERVIEW

Certain taxpayers who file taxes with the Taxation and Revenue Department are required to file their returns electronically. E-filing is fast, easy and secure. The Department recognizes that some taxpayers may be reluctant to make the transition to e-filing and offers assistance and resources through various support contacts to facilitate the transition. This publication discusses the e-file requirements for all tax programs that have e-file mandates and describes how you may get help from the Department.

E-filings and payments are processed more quickly, help to minimize manual errors by both taxpayers and the Department, and allow for quicker resolution when problems do arise.

**Not all filers may be required to e-file their returns.** Each tax program that mandates e-filing has its own requirements and some taxpayers may not be required to e-file. Review the requirements for each tax program that applies to your business to determine if the e-filing requirement applies.

Even if you are not required to e-file your return, you are encouraged to do so by visiting our website. You may also take advantage of the e-file help the Department has to offer.

This publication provides an overview of the e-file requirements for certain frequently filed business taxes. The requirements for other tax programs may be found on the Department's website. The mandates are available in E-File and E-Pay mandates folder on the Forms & Publications page of the Department's website found here: <https://www.tax.newmexico.gov/forms-publications/>.

### Tax programs subject to e-file mandates:

**Gross Receipts Tax.** A tax imposed on anyone doing business in New Mexico, on their gross receipts from selling property in New Mexico, leasing or licensing property employed in New Mexico, granting a right to use a franchise employed in New Mexico, selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico.

**Compensating Tax.** A tax imposed on anyone using tangible property, services, or a license or a franchise in New Mexico on which tax has not been paid to New Mexico. This includes anyone making taxable use of tangible personal property in New Mexico manufactured by the person using the property in the state or acquired in a transaction for which the seller's receipts were not subject to the gross receipts tax.

**Withholding Tax.** Similar to federal withholding tax and calculated based on an estimate of an employee or individual's New Mexico income tax liability that is then credited against the employee or individual's income tax liability on that person's New Mexico personal income tax return. It is filed on the wage withholding return or the non-wage withholding return.

**Leased Vehicle Gross Receipts and Surcharge.** Leased Vehicle Gross Receipts tax is imposed on the gross receipts from anyone leasing vehicles and leased vehicle surcharge is imposed on each day each vehicle is leased.

**Interstate Telecommunication.** An excise tax on the any person engaging in the interstate telecommunications business in New Mexico on their interstate telecommunications gross receipts.

**Corporate Income Tax.** New Mexico imposes corporate income tax on the taxable income of a corporation or group of corporations, in whatever jurisdiction organized or incorporated, that is engaged in the transaction of business in, into, or from this state, or which derives income from property or employment within this state.

**Weight Distance Taxes.** Motor vehicle weight distance tax paid for miles traveled over New Mexico highways by heavy motor vehicles (having a declared gross weight or gross vehicle weight in excess of 26,000 pounds).

**Insurance Premium Tax.** Taxes due under Insurance Premium Casualty; Property, and Insurance Premium Life and Health quarterly and annual tax returns; Insurance Premium Surplus Lines tax, Self- Insured tax and Self Procured tax.

**Health Care Quality Surcharge.** A surcharge imposed on each health care facility. The surcharge is per day for each non-Medicare bed day.

**Cannabis Excise Tax.** An excise tax imposed on a cannabis retailer that sells cannabis products in this state.

**Cigarette Tax.** An excise tax on each cigarette sold, given or consumed in this state.

**Tobacco Products Tax.** An excise tax imposed on tobacco products for the manufacture or acquisition of tobacco products in New Mexico to be distributed in the ordinary course of business and for the consumption in the state.

**Liquor Excise Tax.** An excise tax imposed on a wholesaler who sells alcoholic beverages on alcoholic beverages sold.

**Oil and Gas Production Taxes.** Production taxes due under Oil and Gas Severance tax and Natural Gas Processors tax.

**Note:** The information in this publication is limited to frequently filed business tax programs from the list above. To find information on the mandate for e-filing personal income tax returns, see Bulletin B-300.9, *New Mexico Requires Tax Practitioners to File Electronically* available on our web site or at your local district tax office.

## E-FILE REQUIREMENTS FOR FREQUENTLY FILED BUSINESS TAXES

The following tax programs all have the same e-file requirement: **gross receipts tax**, **governmental gross receipts tax**, **compensating tax**, **wage withholding tax**, and **non-wage withholding tax**. Tax returns for these tax programs shall be e-filed, and payment remitted electronically, if the taxpayer's average monthly tax liability for each tax during the preceding calendar year equaled or exceeded one thousand dollars (\$1,000). Taxpayers may determine if they meet this requirement by totaling their tax liability in the previous calendar for that tax program and dividing by twelve. This determination is made always based the previous calendar year and is made again at the start of a new calendar year. Once the requirement to e-file the return for that tax program is met, the taxpayer must continue to e-file unless a waiver or an exception described later in this publication is obtained. Returns are required to be e-filed on or before the 25<sup>th</sup> day of the month following the month in which the taxable event occurs. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

If you are required to e-file for one of these tax programs, you may choose your method of electronic payment:

- You may pay electronically at the time of filing your return, or schedule payment for a later date, using the Department's electronic filing system Taxpayer Access Point (TAP) located here: <https://tap.state.nm.us/Tap/>.
- If you prefer to pay by Automated Clearing House (ACH) or Fedwire, you must indicate your preference in the TAP system when filing your return. Then go to your fiscal agent to make your payment. See FYI-401, *Special Payment Methods* available on our web site or at our local district tax offices, for details.

## INTERSTATE TELECOMMUNICATIONS GROSS RECEIPTS TAX

All interstate telecommunications gross receipts tax returns are required to be e-filed and paid electronically, unless a waiver or an exception is obtained. Returns are required to be e-filed on or before the 25<sup>th</sup> day of the month following the month in which the taxable event occurs. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

## CORPORATE INCOME TAX

Beginning with tax year 2022, all corporate income tax returns are required to be e-filed and paid electronically, unless a waiver or an exception is obtained.

## CANNABIS EXCISE TAX

All cannabis excise tax returns are required to be e-filed and paid electronically, unless a waiver or an exception is obtained. Returns are required to be e-filed on or before the 25<sup>th</sup> day of the month following the month in which taxable sales occur. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

## **INSURANCE PREMIUM TAX**

All insurance premium tax returns are required to be e-filed and paid electronically, unless a waiver or an exception described later in this publication is obtained. Returns are required to be e-filed on or before the quarterly deadlines of April 15, July 15, October 15 and the following January 15, and the final annual return on or before April 15. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

## **HEALTH CARE QUALITY SURCHARGE**

All health care quality surcharge returns are required to be e-filed and paid electronically, unless a waiver or an exception is obtained. Returns are required to be e-filed by the 25th day of the month subsequent to the end of each calendar quarter. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

## **LIQUOR EXCISE TAX**

All liquor excise tax returns are required to be e-filed and paid electronically, unless a waiver or an exception is obtained. Returns are required to be e-filed on or before the 25th day of the month following the month in which taxable event occurs. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

## **TOBACCO PRODUCTS TAX**

All tobacco products tax returns are required to be e-filed and paid electronically, unless a waiver or an exception is obtained. Returns are required to be e-filed on or before the 25th day of the month following the month in which taxable event occurs. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

## **WEIGHT DISTANCE TAX**

Weight distance tax returns are required to be e-filed and paid electronically when filing for two or more trucks. Returns are required to be e-filed on the last day of the month following the end of each quarter. If the date falls on a weekend, a legal, state or national holiday, the return and payment due date will be extended to the next business day.

## **HOW TO REQUEST AN E-FILE EXCEPTION (For a Calendar Year)**

A taxpayer may request an exception of the e-file requirement, by filing Form RPD-41350, *E-file and E-Pay Exception Request Form*. The request form must be received by the Department at least 30 days before the taxpayer's electronic return is originally due and is valid for one calendar year.

An exception may be granted for the following reasons:

- 1) if the taxpayer shows a hardship including but not limited to no reasonable access to internet in the taxpayer's community;
- 2) if the taxpayer does not have reasonable access to a computer or technology required to electronically file;
- 3) if the taxpayer does not have the knowledge or expertise to file a return electronically; or
- 4) if the taxpayer is unable to utilize technology or the internet for religious reasons. On the request form, the taxpayer should provide a clear statement of the hardship that exists, the reason that the taxpayer feels there is no reasonable Internet access in their community, and the good faith efforts taken to comply.

The request form must be signed by the taxpayer. If approved, the Department will notify the taxpayer. If a taxpayer is granted an exception, the taxpayer may file paper returns by the due date of the return (or extension due date if an extension has been obtained) without civil penalty. Penalty and interest will continue to accrue past the original due date of the return, even if an exception (or extension) is granted.

## **HOW TO REQUEST AN E-FILE WAIVER (For a Single Return)**

A taxpayer may request a waiver of the e-file requirement for a single return by filing Form RPD-41351, *E-file and E-Pay Waiver Request Form*. The request form must be received by the Department on or before the due date of the return. The request for a waiver must include the tax program and the report period to which the waiver, if granted, will apply. A clear statement of the reasons for the waiver and the signature of the taxpayer are required. If denied, the Department will notify you in writing.

A waiver of the e-file requirement may be requested for a single return for the following reasons:

- 1) if the taxpayer is temporarily disabled because of injury or prolonged illness and the taxpayer can show that the taxpayer is unable to procure the services of a person to complete and file the taxpayer's return electronically or make the necessary payment electronically.
- (2) if the conduct of the taxpayer's business has been substantially impaired due to the disability of a principal officer of the taxpayer, physical damage to the taxpayer's business or other similar impairments to the conduct of the taxpayer's business causing the taxpayer an inability to electronically file or pay;
- (3) if the taxpayer's accountant, agent, or employee who routinely electronically files for taxpayer has suddenly died, has become disabled, or sick and is unable to perform services for the taxpayer and the taxpayer can show that the taxpayer is unable either to electronically file the return, electronically pay the tax due or to procure the services of a person to electronically file the return or make the electronic payment before the due date; or
- (4) if the taxpayer's accountant, agent, or employee who routinely electronically files for taxpayer is no longer employed with the taxpayer and the taxpayer has been unable to gain access to their method of electronically filing and making payment of tax due in time to file electronically before the due date.

**Note:** Computer system failure or a break in Internet coverage is not an acceptable reason for failure to comply with the e-file requirement.

If a taxpayer is granted a waiver, the taxpayer may file a paper return by the due date of the return (or extension due date if an extension has been obtained) without civil penalty. Penalty and interest will continue to accrue past the original due date of the return, even if an exception (or extension) is granted.

Complete Form RPD-41096, *Application for Extension of Time to File*, to request an extension of time to file your return.

## ABOUT INTEREST

For purposes of the requirement to e-file your return, interest is computed in the same manner as before. Interest accrues on tax that is not paid on or before the due date of your return even if you receive an extension of time to file. Interest is a charge for the use of money and by law cannot be waived. Interest is calculated on a daily basis at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC).

The IRC rate is subject to change quarterly and is announced by the Internal Revenue Service in the last month of the previous quarter. For historic and current quarterly and daily rates visit our web site at <https://www.tax.newmexico.gov/forms-publications/>.

## FILING RETURNS AND PAYING TAXES ONLINE

To e-file your return on the Internet, access the Taxation and Revenue Department's web page at <https://www.tax.newmexico.gov/> and select "Online Services."

First-time users will be required to sign up for a TAP account at <http://tap.state.nm.us> and click the "Sign up now" link. After signing up for a TAP account, log into TAP using the TAP logon, password, and authorization code that was sent when signing up. Taxpayers should click on the tax program they wish to file for, then click the "File Now" link to file their return. After submitting the return, taxpayers should click to the "Make a Payment" button at the bottom of the page to pay their tax due.

If you are required to e-file for one of these tax programs, you may choose your method of electronic payment:

- You may pay electronically at the time of filing your return, or schedule payment for a later date, using the Department's electronic filing system Taxpayer Access Point (TAP) located here: <https://tap.state.nm.us/Tap/>. If you prefer to pay by Automated Clearing House (ACH) or Fedwire, you must indicate your preference in the TAP system when filing your return. Then go to your fiscal agent to make your payment. See FYI-401, *Special Payment Methods* available on our web site or at our local district tax offices, for details.

After you e-file e-pay – or pay your tax, you will receive an online confirmation.

Bulk filing is also available and satisfies the e-file requirement. To get information for bulk filing, visit the TAP website at <https://tap.state.nm.us>; click on the "I Have a Question" link and then click on the "Bulk" tab.

## **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 <https://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/>.

*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 Ave. 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., Ste N  
Farmington, NM 87402

#### **LAS CRUCES**

2540 El Paseo Bldg. 2  
Las Cruces, NM 88001

#### **ROSWELL**

400 N. Pennsylvania Ave., Ste 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/>

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