

New Mexico Taxation and Revenue Department

Annual Statement of Pass-Through Entity Withholding

Tax Year	Pass-through entity's federal employer identification number (FEIN)
Pass-through entity's name, street address, city, state, ZIP code, and phone number Mark box if address outside the U.S. ☐	Pass-through entity's CRS identification number (optional)
	Owner's federal identification number Mark one ☐ FEIN box ☐ SSN
Owner's name, street address, city, state, and ZIP code Mark box if address outside the U.S. ☐	New Mexico net income of the owner from the pass-through entity
	New Mexico state tax withheld

Owners must attach this form to the New Mexico state income tax return to claim the amount of tax withheld against personal income or corporate income tax due.

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Annual Statement of Pass-Through Entity Withholding Instructions

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About This Form. Pass-through entities (PTEs) that are subject to report and withhold New Mexico tax from each owner's share of net income allocable to New Mexico, according to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-9 NMSA 1978), are required to annually submit RPD-41359, *Annual Statement of Pass-Through Entity Withholding*, Form 1099-MISC, or *pro forma* Form 1099-MISC (the PTE may use any of these three forms) to owners.

Owners (including partners, members, and beneficiaries, which are all considered owners) must attach the forms received from PTEs to their New Mexico state income tax returns to claim the amount of income and tax withheld against their personal income or corporate income tax due.

IMPORTANT: If no owners received net income from the PTE for a calendar year, no filings are required for that year.

An estate or trust that distributes New Mexico net income that is taxable to its recipients is a PTE and subject to withholding pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-9 NMSA 1978). As a PTE, the trust or estate is also required to withhold from the non-resident recipient's share of the trust or estates taxable New Mexico net income.

An entity that has had tax withheld cannot pass a withholding statement directly to another taxpayer. Generally, the recipient of the withholding statement must file and report the tax withheld on its New Mexico income tax return.

For Help. To get help with this form and corporate income taxes, in Santa Fe call (505) 827-0825, call toll free (866) 809-2335 and select option 4, or send email to cit.taxreturn-help@state.nm.us.

INSTRUCTIONS FOR PASS-THROUGH ENTITIES

This section is for PTEs. If you are an owner, see page 2, *Instructions for Owners*.

What to File. To report the New Mexico net income and the state tax withheld for each owner, you are required to file RPD-41367 with the New Mexico Taxation and Revenue Department and one of these forms to owners (any of these forms is acceptable):

- New Mexico Form RPD-41359
- Form 1099-MISC
- *A pro forma* Form 1099-MISC

If the net income you paid on Form 1099-MISC is a combination of income from multiple states, separately state the

income from New Mexico and the amount of New Mexico tax withheld.

Other Reporting Requirements. PTEs are required to provide sufficient information to enable owners to comply with the provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act, with respect to an owner's share of the net New Mexico income. A PTE that uses a Schedule K-1, or equivalent form to report to owners their share of the net income, must also provide one of the following to report to owners the allocable net income and the New Mexico tax withheld:

- New Mexico Form RPD-41359
- Form 1099-MISC
- *A pro forma* Form 1099-MISC

Due Date to Send Forms to Owners. Send the forms (RPD-41359, Form 1099-MISC, or *pro forma* Form 1099-MISC) to owners by February 15 of the year following the year for which you withheld New Mexico state tax from their net income. If February 15 falls on a Saturday, Sunday, or a state or national legal holiday, the return is timely if the postmark bears the date of the next business day.

How to Complete RPD-41359

Column 1

Year and Contact Information

1. Enter the tax year.
2. Enter your PTE name, address, and phone number. If the address is outside the U.S., mark the box.
3. Enter the owner's name and address. If the address is outside the U.S., mark the box.

Column 2

Identification Numbers, Net Income, and State Tax Withheld

1. Enter your PTE federal employer identification number (FEIN) using hyphens in XX-XXXXXXX format.
2. If applicable, enter the owner's Combined Reporting System (CRS) identification number using hyphens in XX-XXXXXX-XXX format.
3. Enter the owner's federal identification number using hyphens. If the number is an FEIN, enter it in XX-XXXXXXX format and mark the FEIN box. If the number is a social security number, enter it in XXX-XX-XXXX format and mark the SSN box.
4. Enter the New Mexico net income the PTE allocated to the owner.
5. Enter the New Mexico state tax withheld.

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Send Each Owner a Copy. After completing RPD-41359 (or Form 1099-MISC or *pro forma* Form 1099-MISC) for all owners, send each owner a copy of the form by February 15 or the next business day, if February 15 falls on a Saturday, Sunday, or a state or national legal holiday.

For More Information. See FYI-330, *Income and Withholding Returns and Electronic Filing*.

INSTRUCTIONS FOR OWNERS

This section is for owners. If you are a PTE, see page 1, *Instructions for Pass-Through Entities*.

Due Date to File with the State. You are required to file the RPD-41359, Form 1099-MISC, or *pro forma* Form

1099-MISC that you received from the PTE with your New Mexico income tax return. The due date is the same date your New Mexico income tax return is due.

How to File. Attach RPD-41359, Form 1099-MISC, or *pro forma* Form 1099-MISC to and file it with your New Mexico income tax return when claiming the New Mexico income and the amount of tax withheld against your personal or corporate income tax due.

IMPORTANT: Unless you are listed as the owner or the recipient of the income, do not attach these forms to your income tax return. When filing your return, you cannot use an income and withholding statement that is issued to someone else.