

### Due Dates

Corporate income and franchise tax is due on or before the due date of the corporation's federal corporate income tax return for the taxable year. **The due date is extended for taxpayers who e-file and e-pay** using electronic media approved by the New Mexico Taxation & Revenue Department. The extended due date is the last day of the month the corporation's federal corporate income tax return is originally due for the taxable year.

### Privacy Notification and Confidentiality

The New Mexico Taxation and Revenue Department requires each taxpayer to furnish a federal employer identification number (FEIN) for taxpayer identification. The Department protects all information supplied electronically by taxpayers using encryption and fire walls. Taxpayer information on returns is protected in accordance with the confidentiality provisions of the Tax Administration Act, Section 7-1-8 NMSA 1978.

**IMPORTANT:** If a taxpayer furnishes a truncated FEIN, such as XX-XXX1234, the return is incomplete and the Department sends it back to the taxpayer to refile.

### Contact Information

You can contact the Department by mail, email, or phone.

New Mexico Taxation and Revenue Department  
Corporate Income and Franchise Tax  
P. O. Box 25127  
Santa Fe, NM 87504-5127

[CIT.TaxReturnHelp@state.nm.us](mailto:CIT.TaxReturnHelp@state.nm.us)

(505) 827-0825 in Santa Fe or toll free (866) 809-2335

### Forms Covered in These Instructions

- CIT-1, *NM Corporate Income and Franchise Tax Return*
  - ◆ CIT-A, *NM Apportioned Income for Multistate Corporations*
  - ◆ CIT-B, *NM Allocation of Non-Business Income*
  - ◆ CIT-C, *Calculation of New Mexico Percentage*
  - ◆ CIT-D, *NM Foreign Dividend Deduction*
- Form CIT-PV, Regular Tax Payment Voucher
- Form CIT-ES, Estimated Tax Payment Voucher
- Form CIT-EXT, Extension Tax Payment Voucher

### FYI-106

Publication FYI-106, *Claiming Tax Credits for CRS Taxes and Business-Related Income*, provides information about the various non-refundable and refundable tax credits to claim on CIT-CR. Click [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx), then **Publications, FYIs, and 100 Series-General Information**.

### E-File and E-Pay Services

You can use Taxpayer Access Point (TAP) or third-party software through Federal/State filing to e-file tax returns.

#### Using TAP

E-file the 2018 CIT-1, *New Mexico Corporate Income and Franchise Tax Return*, and make payments using TAP by following these steps:

1. Click <https://tap.state.nm.us>.
2. Add access to a CIT account by following the steps in the **Adding Access to Accounts** video.

#### Using Federal/State Filing

E-file the following business income tax returns through the Federal/State filing program using third-party software:

- Corporate Income and Franchise Tax
- Sub-Chapter S Corporate Income and Franchise Tax
- Pass-Through Entity Information Report
- Form RPD-41367, *Pass-Through Entity Withholding Detail (PTW-D) Report*

### FYI-350

Publication FYI-350, *Corporate Income Tax and Corporate Franchise Tax*, details various aspects of the New Mexico corporate income and franchise tax program. For a copy, click [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx), then click **Publications, FYIs, and 300 Series-Income Taxes**.

### 2018 Legislative Summary

For information about New Mexico tax law changes enacted during 2018, see **2018-B-100.31, Legislative Summary**. A summary is available each year to describe new legislation passed during the year that affects the Department.

For a summary, go to [www.tax.newmexico.gov](http://www.tax.newmexico.gov), click **FORMS & PUBLICATIONS**, then click **Publications** followed by **Bulletins**, and then **100 Series-General Information**.

## Contact Our Local Offices

Local tax and revenue offices can provide full service and information about New Mexico (NM) taxes, programs, and forms and specific information about your filing situation. If you have questions or require additional information, contact your local Taxation and Revenue Department Office.

### Albuquerque

Taxation & Revenue Department  
Bank of the West Building  
5301 Central Ave., NE  
P.O. Box 8485  
Albuquerque, NM 87198-8485  
**(505) 841-6200**

### Farmington

Taxation & Revenue Department  
3501 E. Main Street, Suite N  
P.O. Box 479  
Farmington, NM 87499-0479  
**(505) 325-5049**

### Las Cruces

Taxation & Revenue Department  
2540 S. El Paseo, Building #2  
P.O. Box 607  
Las Cruces, NM 88004-0607  
**(575) 524-6225**

### Roswell

Taxation & Revenue Department  
400 North Pennsylvania, Suite 200  
P.O. Box 1557  
Roswell, NM 88202-1557  
**(575) 624-6065**

### Santa Fe

Taxation & Revenue Department  
1200 South St. Francis Drive  
P.O. Box 5374  
Santa Fe, NM 87502-5374  
**(505) 827-0951 or toll free (866) 285-2996**

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## Use Our Online Services

<http://www.tax.newmexico.gov/Online-Services/default.aspx>

### ◆ Ask a question.

For questions about state tax policies, legislation, regulations, and rulings, email [policy.office@state.nm.us](mailto:policy.office@state.nm.us). For questions about the CIT-1 return, email [CIT.TaxReturnHelp@state.nm.us](mailto:CIT.TaxReturnHelp@state.nm.us).

### ◆ E-file and e-pay taxes with TAP using a credit card or an electronic check.

Taxpayer Access Point (TAP), our secure resource at <https://tap.state.nm.us>, lets you e-file certain returns\* and e-pay taxes.

A convenience fee will be calculated on credit card transaction amounts. It covers costs companies bill us when you use this payment option. Or e-pay by electronic check at no charge. An electronic check authorizes us to debit the checking account in the amount and on the date you specify.

\* For a list of tax programs TAP handles, on the TAP page under **GENERAL TASKS**, click **Make a Payment**, and then click **Business**. The drop-down box in **Account Type** shows all tax programs and other selections available in TAP.

### ◆ Check the status of an account and more with TAP.

With TAP you can also check the status of tax accounts, register a business, change an address, and manage tax account history.

### ◆ Save time with a directly deposited refund.

To request direct deposit of a refund, fill in the **Refund Express** section at the bottom of CIT-1, page 1.

### ◆ Download forms and publications.

For the latest and prior year forms and publications, go to [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx).

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## Basic Guidelines

- Round up to the next dollar.
- References to federal form line numbers correspond to the most recent federal forms available. If they're incorrect, use the line numbers from the actual form.
- Use approved, high-quality original state forms and vouchers. TRD only accepts prescribed forms.
- Separately pay tax due and estimated taxes.
- Do not staple or tape the return or any attachments.
- Keep copies of the return and all attachments.

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## Due Dates

The due dates of the CIT-1 return for the taxable year conform to the due dates instituted at the federal level. See the next table.

C Corporation Filing Period	Due Date
Calendar year Federal Form 1120	April 15, 2019
Fiscal year end other than December 31 or June 30	15th day of 4th month after year end
June 30 fiscal year Federal Form 1120	September 16, 2019

## Timely Returns

A CIT-1 and payment are timely if the USPS postmark on the envelope bears a date on or before the due date. If the due date 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. Delivery through a private delivery service is timely if the date recorded or marked by the private delivery service is on or before the due date.

# General Instructions

## Who is Required to File CIT-1 Return

Every corporation with income from activities or sources in New Mexico and required to file a federal Form 1120, *U.S. Corporation Income Tax Return* or equivalent return, must file a CIT-1, *New Mexico Corporate Income and Franchise Tax Return* to the New Mexico Taxation and Revenue Department (the Department). This includes:

- All corporations organized under the laws of the State of New Mexico, whether they have New Mexico income or not
- Out-of-state corporations that derive income from business transactions, property, or employment in New Mexico
- Corporations, exempt from federal income tax under the Internal Revenue Code (IRC), that have unrelated business income
- All other business entities that are required or elect to file a federal Form 1120, including partnerships and limited liability companies (LLCs) treated as corporations by the Internal Revenue Service (IRS)

### Exceptions

The following are exempt and not required to file a CIT-1 return:

- Insurance companies and reciprocal or interinsurance exchanges that pay a premium tax to New Mexico
- Rural electric cooperatives established under the Rural Electric Cooperative Act, Section 62-15-28 NMSA 1978

## Who is Required to Pay Franchise Tax

All corporations engaging in business in New Mexico and every domestic or foreign corporation having or exercising its corporate franchise in this state, **whether actively engaged in business or not**, must file a CIT-1 and pay the \$50 franchise tax, even if no income tax is due. This

includes disregarded corporations doing business in New Mexico and the following:

- Corporations with unrelated business income that are exempt from federal income tax, such as homeowner's associations and 501(c)(3) organizations
- A corporation that is a member of a combination of unitary corporations or a member of a consolidated group  
**NOTE:** If you file using a combined unitary or consolidated group method, make sure the total on line 15 equals the amount on CIT-1, page 1, line I, column 4.
- Limited liability companies that are required or elect to file as a corporation for federal income tax purposes and exercise its franchise in New Mexico
- Corporations with no nexus in New Mexico pursuant to P.L. 86-272 (not immune from paying franchise tax)

### Exceptions

The following entities are exempt and not required to file a New Mexico Corporate Income and Franchise Tax Return:

- Corporations exempt from federal income tax under the IRC that have no unrelated business income
- Insurance companies and reciprocal or interinsurance exchanges that pay a premium tax to New Mexico
- Rural electric cooperatives established under the Rural Electric Cooperative Act

## Which Return to File

Fiscal-year and short-year filers use the CIT-1 return for the tax year when the fiscal year or short year begins. For example, if the tax year begins June 30, 2018, use the 2018 CIT-1 return, even though the ending date of the tax year is 2019.

In general, the federal return you are required to or elect to file determines the New Mexico income tax return you file, as shown in the next table.

If you file federal form		You must file New Mexico form	
1065	U.S. Return of Partnership Income	PTE	Information Return for Pass-Through Entities
1120	U.S. Corporation Income Tax Return	CIT-1	Corporate Income and Franchise Tax Return
1120-REIT	U.S. Income Tax Return for Real Estate Investment Trusts	S-Corp	Sub-Chapter S Corporate Income and Franchise Tax Return
1120S	U.S. Income Tax Return for an S Corporation	S-Corp	Sub-Chapter S Corporate Income and Franchise Tax Return
1040	U.S. Individual Income Tax Return	PIT-1	Personal Income Tax Return
1041	U.S. Income Tax Return for Estates and Trusts	FID-1	Fiduciary Income Tax Return

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# General Instructions

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## Assembling the Return

For faster processing, please submit forms in the following top to bottom order:

- CIT-1, pages 1 and 2
- For all multistate filers:
  - ◆ CIT-A
  - ◆ CIT-B
  - ◆ CIT-C
  - ◆ CIT-D
  - ◆ CIT-CR, tax credits and required attachments
- Federal Form 1120, pages 1 through 5 only \*
- Any other required forms and attachments (see **Other Forms to File**)

\* Corporations filing under separate corporate entity or combined filing methods must attach a pro forma federal Form 1120, pages 1 through 5.

**NOTE:** If you include with the CIT-1 a pro forma federal return, write **pro forma** across the top of the federal return. If you include a copy of a state form as backup for an amended return, write **Do Not Process** across the top of the return.

**IMPORTANT:** If any required forms or attachments are missing, the New Mexico return is not complete and the Department cannot process it.

**Fully completed** means a return that complies with all the instructions for the return and contains all attachments required by those instructions.

## Other Documents That May Be Required

This section describes the other forms and statements that may be required.

### RPD-41096, *Extension of Time to File*

If a copy of the automatic or approved federal extension form accompanies the CIT-1 when you file, the Department accepts the extended time the IRS granted and you do not need to file a New Mexico extension.

If the corporation has not received a federal extension and needs an extension of time to file CIT-1, or if the corporation needs additional time to file CIT-1 beyond the federal extension date, request an extension from the Department. New Mexico requires the request by letter or by filing RPD-41096, *Extension of Time to File*, on or before the due date of the return.

### Annual Withholding Statements

If you report amounts withheld on CIT-1, lines 20 or 21, include a copy of all annual information returns and withholding statements issued to the corporation that

show income and New Mexico income tax withheld. These are annual information returns and statements:

- RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*
- RPD-41359, *Annual Statement of Pass-Through Entity Withholding*
- Form 1099-MISC or equivalent

**IMPORTANT:** To receive proper credit for withholding, you must attach all annual statements to the CIT-1. A Schedule K-1 or its equivalent is not sufficient evidence of New Mexico income tax withheld.

### RPD-41379, *New Mexico Net Operating Loss Carryforward Schedule for Corporate Income Tax*

If you calculate New Mexico taxable income using a net operating loss carryforward, include RPD-41379, *New Mexico Net Operating Loss Carryforward Schedule for Corporate Income Tax*, with the CIT-1. On the form, show the year:

- Each net operating loss occurred
- When the loss(es) was carried forward

### RPD-41287, *2018 Calculation of Penalty and Interest on Underpayment of Estimated Tax*

If the corporation has seasonal or annualized income and wants to reduce penalty and interest on underpayment of estimated tax, complete and file RPD-41287, *2018 Calculation of Penalty and Interest on Underpayment of Estimated Tax*.

### Schedule CIT-CR, *New Mexico Tax Credit Schedule*

To claim any non-refundable or refundable credits, complete and file Schedule CIT-CR with any required backup documents. For information about credits, see FYI-106, *Claiming Tax Credits for CRS Taxes and Business-Related Income*. To find FYI-106, click [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx), then click **Publications**, **FYIs**, and **100 Series-General Information**.

### RPD-41367, *Pass-Through Entity Withholding Detail (PTW-D) Report*

If you are a personal services business required to withhold on payments for certain services, file RPD-41367. A *personal services business* is a business organization that receives payments for the services of a performing artist for purposes of the film production tax credit.

## Amended Returns

To amend a CIT-1 return, follow these steps:

1. Use the CIT-1 return for the year amended.
2. Indicate the type of amended return (RAR, Capital Loss, or Other, described in the next sections) by

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marking checkbox 4b, 4c, or 4d at the top of CIT-1, page 1.

3. Attach all schedules previously filed with the original return.
4. If you want the Department to compute penalty and interest, leave CIT-1, page 2, lines 24 and 25 blank.
5. If additional tax is due, include payment for the full amount and, unless you left lines 24 and 25 blank in step 4, include interest calculated from the date the original return was due and any applicable penalty.

**NOTE:** Do not attach a copy of the originally filed CIT-1 as backup for the amended return.

## Amended–RAR

Report changes resulting from an IRS audit and their Revenue Agent's Report (RAR) within 180 days of the date federal adjustments are final. Attach a copy of the RAR including spreadsheets that detail the federal adjustments by company name.

## Amended–Capital Loss

You may carry back a federal capital loss as allowed by the IRC only if it does not increase or create a net operating loss in the tax year to which it is carried back. For the Department to process the amended CIT-1 to carry back a capital loss, always include the following:

- A schedule showing the application of the capital loss for each carryback and carryover year
- A copy of federal Form 1139 or 1120X filed with the IRS

A taxpayer's capital loss may not be carried back or forward to any other taxpayer. A member's capital losses may not be carried back to offset any other group's or corporation's taxable income. If in a prior year the members of a consolidated or combined group filed a CIT-1, only the capital losses of the members of that particular consolidated or combined group may be carried back to its own prior year's CIT-1 returns.

## Amended–Other

If the amended CIT-1 reports changes other than RAR or capital loss that result from filing an amended federal return, attach copies of all applicable federal forms or schedules. If you are amending the CIT-1 for any other reason, attach an explanation for all changes.

## Payment Guidelines and Information

Taxpayer Access Point (TAP), our secure resource at <https://tap.state.nm.us>, lets you e-file and e-pay taxes.

**NOTE:** For more information about TAP, see pages 2 and 3 of these instructions.

## When to Use a Payment Voucher

Use a payment voucher when you send a payment by mail. In the envelope, please include a check or money order with the payment voucher.

## Vouchers that Work in Our System

To make sure the Department can properly process the payment voucher, follow these rules:

- Use the original voucher, not a photocopy.
- Cut on the dotted line for correct sizing.
- If the voucher has a scanline, do not write on or near it.

**NOTE:** For details about completing CIT-PV, CIT-ES, and CIT-EXT vouchers, see **Completing Vouchers And Payments** near the end of these instructions.

## Paying Taxes

You can use the following to make payments:

- Check or money order
- Electronic check
- Credit card

When you provide a check as payment, you authorize the Department to use information from the check to make a one-time electronic fund transfer from the account. When we use information from the check to make an electronic fund transfer, funds may be withdrawn from the account as soon as the same day you make the payment.

## Corporations Required to Make Estimated Payments

A corporation is required to pay estimated corporate income tax payments if all the following are true:

- The corporation is subject to corporate income tax.
- Its tax after applicable credits is \$5,000 or more in the current tax year.

## When to Make an Extension Payment

Make an extension payment when you receive either a federal automatic extension or a New Mexico extension. An extension payment towards the tax liability avoids accrual of interest.

**IMPORTANT:** An extension of time to file the CIT-1 does not extend the time to pay. If tax is due, interest continues to accrue. See the next section for details.

## What Makes a Payment on Time

Tax payments are timely if the envelope's postmark bears a date on or before the due date. If the due date is on a Saturday or a Sunday, or on a state or national legal holiday, the payment is timely if the postmark bears the date of the next business day. Delivery through a private delivery service is timely if the date recorded or marked by the service is on or before the due date.

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## Interest and Penalties

This section gives you general instructions and information about interest and penalties.

### Interest On Taxes Underpaid Or Not Paid And IRC Rates

Interest accrues on tax, including estimated tax, underpaid or not paid on or before the due date of the CIT-1, 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 IRC. The IRC rate, which changes quarterly, is announced by the IRS in the last month of the previous quarter. The annual and daily interest rates for each quarter are posted on our website at <http://www.tax.newmexico.gov/Individuals/penalty-interest-rates.aspx>.

### Negligence Penalty for Late Filing or Late Payment

The Department imposes a penalty when a return is not filed or paid timely. The penalty is 2% of the tax due for each month, or partial month, from the date the return was due, not to exceed 20% of tax due. The penalty does not apply if the entity has an extension of time to file and the tax is paid by the extended due date.

### Underpayment Penalty and Interest for Estimated Tax

The penalty is 2% of the tax due for each month, or partial month, from the date the return was due. Interest is calculated on a daily basis at the rate established for individual income tax purposes by the IRC.

**NOTE:** For more information about estimated tax calculations, in the **Completing Vouchers and Payments** section near the end of these instructions, go to **CIT-ES** and see **Calculating a Quarterly Estimated Payment**.

### When Penalty and Interest Stop Accruing

After the principal tax liability is paid, penalty and interest stop accruing.

### Penalty on a Check Not Paid

A check not paid by the financial institution on which it is drawn does not constitute payment. The Department assesses the corporation a minimum penalty of \$20 in addition to other applicable penalties and interest.

### A Refund and Possible Interest on the Refund

If the return shows an overpayment and you requested a refund of all or part of the overpayment, please allow at least 12 weeks for processing before contacting the Department. Processing time varies according to when you file the return.

You may be entitled to interest on an overpayment under certain conditions. The interest rate is the same charged for underpayments.

The Department shall pay no interest in any of these situations:

- If the interest is less than \$1.00
- If the refund is approved within 55 days of the date of the claim for refund for current tax year
- If the refund is approved within 120 days of the date of the claim for refund for prior tax years
- If the Department cannot process the CIT-1 due to missing information
- If the interest is for a refund of any credits claimed for the Investment Credit Act, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act, Rural Job Tax Credit, or High wage Job Tax Credit.

To process a CIT-1, the return must be fully completed. This means the return complies with all instructions for the return and contains all attachments required by those instructions. The Department pays any refund interest due when a return is complete.

**NOTE:** For a list of required forms, see **Assembling The Return** earlier in these instructions.

### Collection of Debts from a Refund

If the corporation owes other taxes to the Department, we keep all or part of an overpayment. The Department applies the amount due to the liability and notifies you.

If the corporation owes amounts due under the Unemployment Compensation Law or the Workers' Compensation Administration Act, the law also requires the Department to transfer all or part of an overpayment to those accounts. The Department refunds any amount over the liability and debt.

### After You File the Return

The return may be subject to further review, verification, or correction any time after you file the return. New Mexico, pursuant to reciprocal information exchange agreements, exchanges information with the IRS, other state agencies, and taxing authorities in other states.

Occasionally, calculation errors in a tax return delay processing or result in adjustments to a refund or the amount you owe. If the Department adjusts the tax return or issues an assessment of additional tax, the Department provides you a description of your rights as a taxpayer.

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If you disagree with any adjustment the Department makes, follow the procedures in Publication FYI-406, *Your Rights Under the Tax Law*. FYI-406 describes how to dispute the Department's adjustment or assessment through either the claim-for-refund procedure or the protest procedure.

You can get a copy of Publication FYI-406 at [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx). Then click **Publications, FYIs, and 400 Series-Tax Administration**.



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## Line Instructions to Complete the CIT-1 Return and Schedules

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### CIT-1, Page 1

#### Line 1a through Line 6d

Type or print the corporation's information at the top of the CIT-1 return as described here.

**Line 1a.** Corporation's registered name.

**Line 2a.** Number and street name of the corporation's mailing address.

**Line 3a.** City, state, and postal or ZIP code of the corporation's mailing address. Verify that the entire mailing address is correct.

**Line 3b.** If the corporation's address is a foreign address, enter the country's full name. Follow the country's practice to enter the foreign province and/or state.

**Box 4a.** If this is an original return, mark box 4a.

**Boxes 4b, 4c, or 4d.** Is this an amended return? If no, go to line 5a. Otherwise, mark one of these boxes:

- **4b** to report changes resulting from an IRS audit and their Revenue Agent's Report (RAR)
- **4c** to carry back a federal capital loss allowed by the IRC
- **4d** to report changes, other than RAR or capital loss, resulting from filing an amended federal return

**NOTE:** For more information about amended returns, see **Amended Returns** in the **General Instructions** section.

**Line 5a.** The corporation's FEIN is required.

**IMPORTANT:** The Department cannot process a return without the FEIN. Failure to provide the FEIN results in processing delays and may cause rejection of the return.

**Line 5b.** New Mexico 11-digit CRS identification number. The corporation uses this number to report and pay state and local option gross receipts tax and New Mexico withholding and compensating tax under the Combined Reporting System (CRS). If the corporation has no gross receipts, withholding, or compensating tax reporting requirements, leave blank.

**NOTE:** If not applicable, a CRS number is not required.

**Line 5c.** This is the identification number the New Mexico Secretary of State issued to the corporation when the corporation formed or registered to do business in New Mexico.

**Line 6a and 6b.** Fiscal year or short-year filers enter tax year start and end dates (the dates the corporation's books open and close for the tax year) from their federal return.

**Line 6c.** If the due date was extended, enter the date and include a copy of the extension with the CIT-1.

**Line 6d.** Enter the best contact phone number for the corporation.

#### Line A through Line L

Complete all information in Lines A through L, and mark all relevant boxes.

**Line A and A1.** The state where and the date when the corporation was incorporated.

**Line B.** Date the corporation began business in New Mexico.

**Line B1.** The state where the corporation's commercial domicile is located.

**Line C.** Name and New Mexico address of a domestic corporation or individual resident responsible for receiving all official documents on the corporation's behalf during normal business hours, and forwarding them to the corporation.

**Line D.** The corporation's 5- or 6-digit NAICS code. This is the North America Industry Classification System business activity code reported for New Mexico and federal filing purposes. If you do not know the NAICS code, see the instructions for federal returns at <https://www.irs.gov>.

**Line D1.** The NAICS category for the principal business activity associated with the NAICS code.

**Line E.** Mark one of the three boxes to show the New Mexico tax reporting method:

- Separate corporate entity (1st rank)
- Combination of unitary domestic corporations, which includes all unitary corporations incorporated in the U.S. and all unitary foreign corporations doing business in the U.S. (2nd rank)
- Federal consolidated group (3rd rank)

A corporation may change its reporting method subject to the following limitations:

- A corporation may change its method of reporting without prior permission from the Department if the new reporting method has a higher rank than the previous reporting method.
- If a corporation wants to change to a reporting method with a lower rank, for example, from **Federal consolidated group** to **Separate corporate entity**, it

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# CIT-1, Page 1

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must obtain written permission before the start of the tax year. The Department grants permission only if evidence is provided of a substantial change resulting in a new federal consolidated group, or after the entity demonstrates the prior method would materially misrepresent the corporation's income in New Mexico.

- Retroactive election of a different reporting method is not permitted.

**NOTE:** For more information about allowable New Mexico reporting methods, see Publication FYI-350, *Corporate Income and Corporate Franchise Tax*. To get a copy, click [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx), then **Publications, FYIs, and 300 Series-Income Taxes**.

**Line F boxes and F1.** New Mexico requires a corporation to use the same accounting method for New Mexico and federal corporate income tax purposes.

Mark one of these boxes to show the method of accounting:

- **Cash**
- **Accrual**
- **Other**, such as **completed contract** and **percentage of completion**. If you mark this box, enter the accounting method in **F1**.

**Line G boxes and G1.** Is this is the final return? If no, go to line H. Otherwise, mark one of these boxes to show the causative action and in **G1**, enter the date of the action:

- **Dissolved**
- **Merged or reorganized**
- **Withdrawn**

**Line H boxes.** Mark **YES** or **NO** to answer the question about any change in the corporation's federal income tax liability in any year due to one of the following:

- IRS audit
- Filing of amended federal return not yet reported to New Mexico

If you mark **YES**, submit to the Department a copy of the amended federal return or RAR, if applicable.

**Line I and Its 4 Columns.** Is this CIT-1 a consolidated or combined return? If no, go to line J. Otherwise, enter this information for each corporation in the consolidated or combined group and attach a schedule if you need more space:

- **Column 1:** The corporation's name
- **Column 2:** The corporation's FEIN
- **Column 3:** Amount of payments to apply to this return (This column's total equals CIT-1, page, 2, line 19.)
- **Column 4:** Enter \$50 for each corporation that pays franchise tax or leave blank (This column's total

equals CIT-1, page, 2, line 15.)

**Line J boxes and J1.** Is the corporation a combined filer? If no, go to line K. Otherwise, mark **YES** or **NO** to answer the question about whether the combination is the same combination as last year. If you mark **NO**, on **J1** do the following:

- List each corporation added or removed and its FEIN.
- If you need more space, attach a schedule.

**Line K.** Is the legal status of the entity filing the return a corporation? If yes, continue to line L. Otherwise, enter the legal type of entity, such as **LLC** and **partnership**. For example, a New Mexico partnership that elects to or is required to file federal Form 1120 enters **partnership** here.

**Line L box.** Mark this box if New Mexico activities were immune from New Mexico corporate income tax under P.L. 86-272 (the corporation had no nexus) for the 2018 tax year. You must also do the following:

- On CIT-1, page 2, line 9, enter zero.
- On CIT-A, line 1, enter zero.
- Complete and include CIT-A with the CIT-1.

## Refund Express

If you want a refund of overpaid tax and any refundable credit (CIT-1, page 2, line 29) directly deposited into a checking or savings account, complete the **Refund Express** section. Failure to complete all lines and boxes in this section results in the Department denying the request and mailing a paper check to you.

**NOTE:** The Department is not responsible if a financial institution refuses a direct deposit, or if misapplication of a direct deposit refund was caused by a taxpayer's error, negligence, or malfeasance.

## Requirements for Refund Express

- Lines 1 and 2 and boxes 3 and 4 are complete in the **Refund Express** section of CIT-1.
- The account must be located in the territorial jurisdiction of the U.S.
- Direct deposits are only allowable to the taxpayer's account. The Department denies any request to deposit funds into another payee's account.
- The financial institution accepts direct deposits payable to the name on the CIT-1 return.

## Why Use Refund Express

- Prevent any mailed check delays. **Refund Express** does not guarantee that you receive the refund sooner, but the refund reaches the bank more quickly.

## CIT-1, Page 1 and Page 2

**CORPORATION'S NAME**  
123 Main Street  
Anyplace, NM 87000

1540  
15-00000000

SAMPLE

PAY TO THE ORDER OF \_\_\_\_\_ \$ \_\_\_\_\_

DOLLARS

ANYPLACE BANK  
Anyplace, NM 87000

Routing Number      Account Number

For \_\_\_\_\_

Do not include the check number

A211500151A 2015551517C 1540

- Payment is more secure. There is no check to get lost.
- It is convenient. Avoid an extra trip to the bank.
- It saves tax dollars. Direct deposit costs less than a check.

### Refund Express Lines 1 and 2 and Boxes 3 and 4

**Line 1.** The routing number, for bank identification, has nine digits. If the first two digits are not 01 through 12 or 21 through 32, the system rejects the direct deposit and you receive a check. On the sample check on this page, the routing number is **211500151**.

**Line 2.** The account number has up to 17 characters. Include hyphens, but omit spaces and special symbols as you enter the number from left to right. Leave unused boxes blank. On the sample check, the account number is **2015551517**. Do not include the check number.

**Box 3.** Mark an **X** in the **Checking** or **Savings** box to indicate the type of account.

**Box 4.** Mark an **X** in the **YES** or **NO** box to answer whether the funds for a refund would go to or through an account located outside the U.S. Marking **NO** means the financial institution's location is within the territorial jurisdiction of the U.S., which includes any of the following:

- Within the U.S.
- On a U.S. military base
- In American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands

### What Happens for Different Answers

- If you mark an **X** in the **YES** box, you cannot use **Refund Express**. Either use a different bank account or to leave the **Refund Express** section blank to receive a paper check.
- If you do not answer the question, the Department mails the refund to you in a paper check. To comply with federal banking rules, anyone who wants their refund directly deposited into their account must answer this question.

- If you answer the question incorrectly, the National Automated Clearing House Association (NACHA) or the Office of Foreign Assets Control (OFAC) may delay, reject, or freeze the refund.
- If the bank does not accept the **Refund Express** entries, the Department mails a check to you.

## CIT-1, Page 2

Follow these instructions to complete lines and boxes 1 through 29 on CIT-1, page 2, and the signature and preparer information at the bottom of the page.

### Line 1. Taxable income before federal NOL and special deductions.

- Enter the data from either of the following:
- Federal Form 1120, taxable income before federal net operating loss (NOL) and special deductions
  - Federal Form 990T, Part II, unrelated business taxable income.

**NOTE:** If the corporation had no nexus in New Mexico (because its New Mexico activities were immune from New Mexico corporate income tax under P.L. 86-272) for the 2018 tax year, do the following:

- On line 1, enter zero.
- On CIT-1, page 1, line L, mark the box.
- Complete and include Schedule CIT-A with the CIT-1.

**Line 1a. Separate corporate entities only, enter captive REIT deductions.** If the entity is claiming a captive real estate investment trust (REIT) deduction, enter the expenses and costs directly or indirectly paid, accrued, or incurred to a captive REIT.

**Captive real estate investment trust** means a corporation, trust, or association taxed as an REIT pursuant to Section 857 of the IRC, the shares or beneficial interests of which are not regularly traded on an established securities market, provided that more than 50% of any class of beneficial interests or shares of the REIT are owned directly, indirectly, or constructively by the taxpayer during all or a part of the taxpayer's taxable year.

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## CIT-1, Page 2

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**Line 2. Interest income from municipal bonds, excluding New Mexico bonds.** Enter interest income from non-New Mexico municipal bonds and other obligations not subject to federal income tax under IRC Section 103. Only enter a positive number.

**Line 3. Federal special deductions.** Find this amount on federal Form 1120, and then enter a positive number here.

**Line 4. New Mexico base income.** This entry = (line 1 taxable income + line 1a REIT deduction + line 2 interest income from non-New Mexico municipal bonds) - line 3 special deductions.

**Line 5. New Mexico NOL carryover.** If the corporation does not have a New Mexico NOL carryover, go to the next line. Otherwise, enter the New Mexico NOL carryover to apply to the CIT-1 liability.

Include RPD-41379, *2018 New Mexico Net Operating Loss Carryforward Schedule for Corporate Income Tax*, with the return to show New Mexico NOL incurred and applied. On RPD-41379, do the following:

- Show the tax year when each New Mexico NOL occurred.
- List each loss for each tax year for which the loss was carried forward, including 2018.

**IMPORTANT:** All New Mexico NOLs must flow from an existing federal NOL. You can increase the New Mexico NOL by income, if any, from U.S. government obligations minus related expenses.

### General Information on NOLs

- Unlike a federal NOL carryforward, you cannot carry back a New Mexico NOL.
- If you filed a timely return, you cannot apply a New Mexico NOL carryforward until the following tax year.
- In the case of amended returns or original returns not timely filed, you may apply the NOL carryforward to the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed.
- If the corporation incurred a New Mexico NOL on or after January 1, 2013, you may carry it forward for 19 years or until the total amount of the loss carryover has been used, whichever occurs first.
- If the corporation incurred a New Mexico NOL in tax years beginning before January 1, 2013, you may carry it forward for up to five years.
- If the corporation incurred a NOL in a tax year starting before January 1, 1991, see Regulation 3.4.1.9(E) NMAC.

The New Mexico NOL carryover deduction is limited to the sum of the following amounts of any:

- Federal NOL carryover claimed and allowed for losses incurred in tax years beginning before January 1, 1991
- NOL [as defined by Section 172(c) of the IRC] incurred in tax years beginning on or after January 1, 1991

**Line 6. Interest from U.S. government obligations or federally-taxed New Mexico bonds.** You may deduct interest or dividend income from U.S. government obligations from the taxable income only to the extent it was included in taxable income on CIT-1, line 1. Subtract expenses related to income from U.S. obligations and then enter the net amount.

### Allowable Deductions

- Interest on notes issued by Federal Home Loan Bank obligations
- The part of income paid by mutual funds, unit investment trusts, and simple trusts derived from investments in U.S. obligations
- Interest income from bonds issued by the state of New Mexico or its political subdivisions to the extent it was included in federal taxable income on CIT-1, line 1.

### Deductions Not Allowable

- Income from Fannie Mae, Ginnie Mae, Freddie Mac, and other U.S. guarantee entities
- Dividends issued by Federal Home Loan Bank obligations
- Income from repurchase agreements of U.S. obligations (repos)

**Line 7. Subtotal.** This entry = line 4 New Mexico base income - (line 5 New Mexico NOL carryover + line 6 interest).

**Line 8. Deduction for foreign dividends.** Enter from Schedule CIT-D, line 5, the total New Mexico foreign dividend deduction. Include Schedule CIT-D with the CIT-1.

**Line 9. New Mexico net taxable income.** This entry = line 7 subtotal - line 8 deduction for foreign dividends.

**Line 10. Income tax calculation.** This entry = line 9 amount x tax rate. See the **Corporate Income Tax Rates** table on this page.

**Line 11. New Mexico percentage.** If on CIT-C, line 5 you show the percentage of New Mexico allocated and apportioned income, enter the percentage. Otherwise, enter **100%**.

# CIT-1, Page 2

Line 10.

## Corporate Income Tax Rates

For tax years beginning 1/1/2018, but prior to 1/1/2019.

Net Taxable Income	Tax
Not over \$500,000.....	4.8% of net taxable income
Over \$500,000.....	\$24,000 plus 5.9% of the excess over \$500,000

**Line 12. New Mexico Income Tax.** This entry = line 10 x the percentage on line 11.

**Line 13. Total tax credits applied against the income tax liability on line 12.** If you are claiming any tax credits to apply to the income tax liability, complete Schedule CIT-CR. Then enter the amount on CIT-CR, line A, the total of the credits to apply to the tax liability due.

### About Tax Credits and Backup Documents

- The sum of credits claimed on CIT-CR may not exceed the income tax claimed on CIT-1, line 12.
- To calculate the amount you may claim for any tax year, follow the directions on the tax credit claim form or in the tax credit instructions.
- For the Department to consider a credit claim, you must include with the CIT-1 the required documents for each tax credit, along with applicable forms, statements, or other required backup.

To see which backup documents are required to claim a tax credit, use the CIT-CR Instructions available at [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx). Click **Income Taxes, Corporate Income Tax (CIT) - Current Year**, and then **CIT-CR Instructions**.

**NOTE:** For more information about business-related credits, see FYI-106, *Claiming Tax Credits for CRS Taxes and Business-Related Income*. You can find FYI-106 at [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx). Click **Publications** followed by **FYIs**, and then click **100 Series-General Information**.

**Line 14. Net income tax.** This entry = line 12 income tax - line 13 credits. Enter zero or a larger amount.

**Line 15. Franchise tax.** The \$50 franchise tax is due for each tax year, including short years. You may not prorate the franchise tax based on a short-year return.

Every domestic or foreign entity taxed as a corporation must pay the \$50 franchise tax if any of the following requirements are true. The entity:

- Transacts business in, into, or from New Mexico
- Derives income from property or employment within CIT-1, CIT-A, CIT-B, CIT-C, CIT-D, Vouchers

this state

- Has or exercises its corporate franchise in New Mexico, whether engaged in active business or not
- Is an otherwise tax-exempt corporation with unrelated business income

**IMPORTANT:** It is your responsibility to comply with all additional filing requirements imposed by the New Mexico Secretary of State, Corporations Bureau. For information call (505) 827-4511 in Santa Fe or toll free (800) 477-3632, email [corporations@state.nm.us](mailto:corporations@state.nm.us), or visit <http://www.sos.state.nm.us>. Click **Corporations** and then select items under **Domestic** or **Foreign**.

**Line 16. Total income and franchise tax.** This entry = line 15 franchise tax amount + line 14 net income tax amount.

**Line 17. Amended Returns Only.** If this is an amended return, enter the total amount of all 2018 refunds received and overpayments applied to 2019.

**Line 18. Subtotal.** This entry = line 16 total income and franchise tax amount + line 17 refunds and overpayments.

**Line 19. Total Payments.** Mark one or more of these boxes to show the source of the total payments:

- **Quarterly**
- **Extension**
- **Applied from prior year**

Enter the total amount of all quarterly estimated, extension, and tax payments applied from the prior year. For amended returns, include additional tax paid on or after the due date of the return. Total on line 19 = amount on CIT-1, page 1, line I, column 3.

**IMPORTANT:** If any amounts on line 19 were paid using an FEIN other than the one entered at the top of CIT-1, page 1, a schedule is required with the name and FEIN under which the payment was made. If you file using a combined unitary or consolidated group method, the CIT-1, page 1, line I entries satisfy this requirement for the schedule.

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## CIT-1, Page 2

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**Line 19a.** If you qualify to calculate penalty and interest on underpayment of estimated tax using method 4 and want to see if it is possible to reduce the penalty, mark this box. Include RPD-41287, *2018 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment*, with the CIT-1.

**NOTE:** Generally, taxpayers who pay penalty and interest on underpayment of estimated tax do not need to mark the box or file RPD-41287. If estimated tax is due, the Department calculates the penalty and interest on underpayment of estimated corporate income tax using the lower of methods 1, 2, or 3 and sends a bill.

For a description of the four calculation methods to estimate quarterly payments, in the **Completing Vouchers And Payments** section near the end of these instructions, go to **CIT-ES** and see **Calculating A Quarterly Estimated Payment**.

**Line 20. New Mexico income tax withheld from oil and gas proceeds.** From annual withholding statements 1099-MISC and RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*, enter the total of all New Mexico income tax withheld from oil and gas proceeds. Include a copy of each statement with the CIT-1.

### Requirements

- Only report New Mexico tax withheld on oil and gas proceeds received by the corporation or corporate group member.
- The only withholding statements the Department accepts are 1099-MISCs and RPD-41285s issued to the corporation or corporate group member.

**Line 21. New Mexico income tax withheld from a pass-through entity.** From annual withholding statements 1099-MISC and RPD-41359, *Annual Statement of Pass-Through Entity Withholding*, enter the total of all New Mexico income tax withheld on the net income from a PTE. Include a copy of each statement with the CIT-1.

### Requirements

- Only report New Mexico tax withheld on the net income received from a PTE.
- The only withholding statements the Department accepts are 1099-MISCs and RPD-41359s issued to the corporation or corporate group member.

**Line 22. Total payments and tax withheld.** This entry = line 19 total payments + (line 20 + line 21 taxes withheld).

**Line 23. Tax due.** If line 18 is greater than line 22, this

entry = line 18 subtotal - line 22 total payments and tax withheld.

**Line 24. Penalty.** The minimum penalty is \$5 and the maximum penalty is 20% of the tax due. If any of the following is true, this entry = line 23 tax due + penalty:

- You file late and owe tax.
- You do not pay the tax on or before the due date of the return.
- You do not pay the tax on or before the extended due date of the return.

### Formula to Calculate Penalty

Penalty = tax due from line 23 x 2% x number of months or partial months past due date or extended due date  
If you want the Department to calculate the penalty for you and send you a bill, leave this line blank.

**Line 25. Interest.** If either of the following is true, this entry = line 23 tax due + interest:

- You did not pay the tax due on line 23 by the original due date.
- You received an extension of time to file.

### Formula to Calculate Interest

Interest = tax due from line 23 x daily interest rate for the quarter x number of days late

If you want the Department to calculate interest for you and send you a bill, leave this line blank.

**Line 26. Total amount due.** This entry = line 23 tax due + line 24 + line 25.

**Line 27. Overpayment.** If the amount in line 22 is greater than the amount line 18, this entry (the refund amount) = line 22 total payments and tax withheld - line 18 subtotal.

**Line 27a.** If you want to apply some or all of an overpayment from line 27 to the 2019 liability, enter the amount to apply. Otherwise, enter zero.

**Line 27b.** If you want to receive a refund of all or part of an overpayment, this entry = line 27 overpayment - line 27a amount to apply to the 2019 liability.

**Line 28. Total portion of tax credits to refund.** Enter from Schedule CIT-CR, line B, the portion of approved tax credits the Department may refund to you.

**NOTE:** CIT-CR, line A shows the amount of these credits to apply to the tax due on the CIT-1. This is the same amount as on CIT-1, line 13.

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## CIT-1, Page 2

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### **About the Film Production Tax Credit**

The amount of film production tax credit you may claim against tax due on this CIT-1 and the amount you may receive as a refund are subject to certain limitations governing the payment of film production tax credit claims. For details about these limitations and how they may impact the return, see the instructions for RPD-41228, *Film Production Tax Credit Claim Form*.

**Line 29. Total refund of overpaid tax and refundable credit due to you.** This entry = line 27b amount of overpayment to refund + line 28 tax credit to refund.

### **Taxpayer's Signature**

An officer of the corporation must sign and date the CIT-1. Enter the following information:

- Title [of officer]
- Contact phone number
- Taxpayer's email address

### **Paid Preparer's Use Only**

Any person, other than an employee of the corporation, who prepares the return for compensation must also sign and date the return. A preparer other than an employee of the corporation is required to enter the following:

- New Mexico CRS identification number, if the preparer has one
- FEIN, if applicable
- PTIN, the Preparer Tax Identification Number
- Preparer's phone number

The Department considers an improperly signed or unsigned return invalid and incomplete for filing purposes. If the Department receives completed information after the due date, the Department may assess penalty and interest.

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# CIT-A: NM Apportioned Income for Multistate Corporations

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## When To Use Schedule CIT-A

If the corporation's income is derived from both inside and outside New Mexico, use CIT-A to apportion the corporation's income from the corporation's regular trade or business activities.

All reporting corporations, except those with 100% New Mexico activity, must complete Schedule CIT-A in its entirety, including reporting corporations with:

- Activities in New Mexico that are immune from corporate income tax under P.L. 86-272
- No business activity in New Mexico during the tax year

## Complete the Items in This Sequence

If the corporation is allocating non-business income, first complete Schedule CIT-B and then complete CIT-A. Otherwise, start with CIT-A.

This is the sequence of items to complete on CIT-A:

1. At the top of CIT-A, lines A, B, and C.
2. Lines 5 to 9, rounding percentages to four decimal places (for example, 26.6270%)
3. Lines 1 to 4.

**Apportionable income** means income arising from transactions and activities in the regular course of a corporation's trade or business. If the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business, apportionable income includes income from both tangible and intangible property. It includes investment income related to or used in the corporation's overall business operations.

You are required to include on CIT-A the following sources of apportionable income:

- Dividend income from the investment of working capital or dividend income from an investment that is functionally connected to the corporation's trade or business
- Interest income from the investment of working capital, interest income from capital investments used in the overall business operations, or interest income from an investment that is functionally connected to the corporation's trade or business
- Royalty income and fees from patents, copyrights, franchises, trademarks, and licenses developed in the regular course of the corporation's trade or business, or royalty income and fees from a product or mineral

interest used in the regular course of the corporation's trade or business

- Rental or subrental income from property purchased, leased, or used in the regular course of the corporation's trade or business
- Gains or losses from the sale of assets used in the regular course of the corporation's trade or business, or assets sold that had been treated as business assets in prior years
- If held within the regular course of the corporation's trade or business, income from a partnership or non-corporate entity

Construction contractors, railroads, airlines, trucking companies, financial institutions, television and radio broadcasters, and publishers are subject to special apportionment rules. Taxpayers electing the combined or consolidated methods of reporting must apply these apportionment rules to each qualifying entity included on the return.

## Consistency in Reporting

Consistency in a corporation's reporting is required and includes:

- Classification of income as allocable or apportionable
- Valuation of property and inclusion in the property factor
- Treatment of compensation for the payroll factor
- Exclusion or inclusion of receipts in the sales factor for returns filed in all states

A corporation must disclose any change or inconsistency from prior year returns in a statement attached to the return. The statement identifies the amounts and reasons for the changes or inconsistencies.

## Petition Procedure Open To Taxpayers

If the procedures for allocation and apportionment required for CIT-A and CIT-B do not fairly represent the extent of the taxpayer's business activity in New Mexico, the taxpayer may petition to use, or the Secretary of Taxation and Revenue may require taxpayers to use, another method to apportion or allocate all or part of the taxpayer's income.

## Completing Schedule CIT-A Top of CIT-A, Lines A, B, and C

**Line A.** Mark the **Yes** or **No** box to show if the corporation is reporting any class or type of allocated or apportioned income in this return differently from a prior taxable year.



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# CIT-A: NM Apportioned Income for Multistate Corporations

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**Line B.** If the corporation submitted written notification to use the **Manufacturers** or **Headquarters Operation** method of apportionment, enter the tax year ending date and the effective date of the election in **MM/DD/CCYY** format. Otherwise, leave blank and go to line C.

**Line C.** If you completed line B, mark the **Manufacturers** or **Headquarters Operation** box.

## APPORTIONED BUSINESS INCOME FOR MULTISTATE CORPORATIONS

**Line 1.** From CIT-1, page 2, line 9, enter the New Mexico net taxable income.

**Line 2.** If the corporation is allocating non-business income to New Mexico, from CIT-B, line 8, column 3, enter the net allocated income. Otherwise, enter zero.

**Line 3.** Subtract the amount in line 2 from the amount in line 1 and enter the difference to show the corporation's apportionable income.

**Line 4. NEW MEXICO APPORTIONED INCOME.** Multiply the apportionable income amount in line 3 by the average percentage for New Mexico in line 9 and enter the corporation's New Mexico apportioned income here.

## REQUIREMENTS FOR PROPERTY, PAYROLL, AND SALES FACTOR SECTIONS

- **Percentages.** Calculate each percentage to four decimal places. For example, 22.5431%.
- **Lines 5, 6, and 7.** If you complete column 2, you must complete column 1, **Total Everywhere**.

**IMPORTANT:** If column 1 is blank, the Department apportions 100% of the income to New Mexico.

## PROPERTY FACTOR

**Lines 5a, 5b, 5c, and 5d.** For each line, as applicable, enter amounts in the columns for inventory, real property, personal property, and rented property.

**Line 5e.** In column 1, enter the total of the column amounts for lines 5a, 5b, 5c, and 5d. In column 2, enter the total of the column amounts for lines 5a, 5b, 5c, and 5d.

**Line 5. Property factor.** In columns 1 and 2, enter a positive number or, if the result is a negative number, enter zero. Calculate the percentage for this factor as follows:

$$\frac{\text{amount in column 2}}{\text{amount in column 1}} \times 100 = \text{property factor percentage}$$

In other words:

1. Divide the average value of the real and tangible personal property owned or rented and used in New Mexico during the tax year to produce apportionable income by the average value of all real and tangible personal property owned or rented everywhere and used during the tax year to produce apportionable income.
2. To find the property factor percentage, multiply the result by 100.

## Valuation of Property

Property shall be valued according to the following rules:

- Inventory shall be valued according to the valuation method used for federal income tax purposes.
- Value property owned during the tax year shall be valued at its original cost before the allowance for depreciation amount at the time of acquisition by the taxpayer and adjusted by the taxpayer and adjusted by subsequent capital additions, improvements, and partial dispositions.
- Value property rented from others shall be valued at eight times the net annual rental rate. The net annual rate is the annual rent paid less any annual rent received from subrental of the same property. If property owned by others is used by the corporation at no charge or rented by the corporation at a nominal rate, the net annual rental rate is determined on the basis of a reasonable market rental rate for the property.

Determine the average value of property by doing the following:

1. Add the total value of property held by the taxpayer at the beginning of the tax period to the total value of property held at the end of the tax period.
2. Divide the sum by two.

**NOTE:** If the Department determines a monthly average is necessary to correctly reflect the average value of the taxpayer's property, the Department may require the taxpayer to calculate an average value on a monthly basis.

## PAYROLL FACTOR

**Line 6a.** In columns 1 and 2, enter the total wages, salaries, commissions, and other compensation of employees related to apportionable income.

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## CIT-A: NM Apportioned Income for Multistate Corporations

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**Line 6. Payroll factor.** In columns 1 and 2, enter a positive number or, if the result is a negative number, enter zero. Calculate the percentage for this factor as follows:

$$\frac{\text{amount in column 2}}{\text{amount in column 1}} \times 100 = \text{payroll factor percentage}$$

In other words:

1. Divide the total amount paid as compensation to employees in New Mexico during the tax year by the total amount paid as compensation to employees everywhere during the tax year.
2. To find the payroll factor percentage, multiply the result by 100.

**Compensation** means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services. Only amounts paid directly to employees are includable in the payroll factor.

**Employees** include leased employees where the taxpayer is considered an employer for payroll tax purposes. Employees are not independent contractors to whom the taxpayer issues federal Form 1099.

Include in the payroll factor only compensation attributable to business operations subject to apportionment. Exclude from the payroll factor compensation of an employee whose primary activities relate to the production of non-business income; however, you may include this compensation as a related expense of the allocated activity.

### SALES FACTOR

**Line 7a.** In columns 1 and 2, enter the total amounts of gross receipts.

**Line 7. Sales factor.** If you have a federal taxable income or loss, in column 1 enter only a positive number. Otherwise, in columns 1 and 2 enter a positive number or, if the result is a negative number, enter zero. Calculate the percentage for this factor as follows:

$$\frac{\text{amount in column 2}}{\text{amount in column 1}} \times 100 = \text{sales factor percentage}$$

In other words:

1. Divide the total gross receipts attributable to New Mexico during the tax year, excluding returns, allowances, and allocated income, by the total gross receipts attributable to New Mexico during the tax year, excluding returns, allowances, and allocated income.

2. To find the sales factor percentage, multiply the result by 100.

**Gross receipts** means all income from transactions and activities in the regular course of business including income from licensing intangible personal property.

### What Are New Mexico Sales?

Sales of tangible personal property are New Mexico sales if either of the following is true. The property is:

- Delivered or shipped to a purchaser other than the U.S. government within New Mexico regardless of the FOB (free on board) point or other conditions of the sale
- Shipped from an office, store, warehouse, factory, or other place of storage in New Mexico and either of the following is true:
  - ♦ The purchaser is the U.S. government.
  - ♦ The taxpayer is not taxable in the state of the purchaser.

Sales other than sales of tangible personal property are New Mexico sales if any of the following are true:

- The income-producing activity was performed in New Mexico.
- The income-producing activity was performed both inside and outside New Mexico, but a greater proportion was performed within New Mexico than in any other single state. The proportion shall be determined by the cost of performance in each state.
- The gross receipts were from the rental, lease, licensing, or any other use of either real or tangible personal property during the time the property was in New Mexico.
- The gross receipts were from the performance of personal services in New Mexico.

**Line 8. Sum of factor percentages.** Add lines 5, 6, and 7 to find the sum of factor percentages and then enter the percentage sum.

**Line 8a. Count of factors.** Count all the factors you used and enter the total count here.

**Line 9. AVERAGE PERCENTAGE.** New Mexico uses an evenly weighted three-factor formula. Taxpayers who use the three-factor formula complete lines 8, 8a, and 9 on Schedule CIT-A.

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# CIT-A: NM Apportioned Income for Multistate Corporations

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The three-factor formula is for all taxpayers except the following exclusions, described in detail later in this section:

- **Exclusion 1.** Qualifying manufacturers who elect to use the apportionment formula with a single-weighted sales factor.
- **Exclusion 2.** A taxpayer whose principal business activity in New Mexico is a headquarters operation and who elects to use the single-weighted sales factor formula.
- **Exclusion 3.** Taxpayers allowed or required to eliminate one or more factors because the three-factor formula does not fairly represent the extent of their business activity in New Mexico.

Taxpayers who elect to use the manufacturers apportionment formula or who are required to use one of the other exclusions, must follow the instructions described next.

## For Help Electing an Exclusion Method

For help electing any exclusion method or if you have any questions, call (505) 827-0825 or toll free (866) 809-2335, or email [CIT.TaxReturnHelp@state.nm.us](mailto:CIT.TaxReturnHelp@state.nm.us).

## Exclusion 1

### Electing Manufacturers Apportionment Formula

Taxpayers whose principal activity is manufacturing may elect to use the special apportionment formula shown on this page. For tax years beginning on or after January 1, 2014, the election allows taxpayers to apportion their business income to New Mexico using a single weighted calculation by dividing total sales within New Mexico by total everywhere sales.

The electing manufacturer must use the special factor method for a total of three consecutive tax years, covering at least 36 calendar months, or until the manufacturer notifies the Department in writing that the election is terminated.

The statutory authority for this elective method is Section 7-4-10B NMSA 1978.

**Manufacturing** means combining or processing components or materials to increase their value for sales in the ordinary course of business, but does not include any of the following:

- (a) construction
- (b) farming
- (c) power generation, except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act

(Articles 1 through 6 and 8 through 13 of Chapter 62 NMSA1978)

- (d) processing natural resources, including hydrocarbons

## Electing the Manufacturers Method

To elect to use the manufacturers apportionment formula, do the following:

1. No later than the filing date of the first return to which the election applies, notify the Department in writing.
2. Submit the notification to the Taxation and Revenue Department, CIT Unit, P.O. Box 630, Santa Fe, NM 87504-0630.
3. On Schedule CIT-A, complete lines B and C.

**NOTE:** To terminate the election, submit that notification to the address in step 2.

## Exclusion 2

### Electing Headquarters Operation Apportionment Formula

Taxpayers whose principal business activity in New Mexico is a headquarters operation may elect to use a single weighted sales factor apportionment formula. For tax years beginning on or after January 1, 2014, the election allows taxpayers to apportion the business income to New Mexico using a single weighted calculation by dividing total sales within New Mexico by total everywhere sales.

If elected, the taxpayer must use the special factor method for a total of three consecutive tax years, covering at least 36 calendar months, or until the manufacturer notifies the Department in writing that the election is terminated.

The statutory authority for this elective method is Section 7-4-10C NMSA 1978.

**Headquarters operation** means (a) and all its items are true or (b) and all its items are true:

- (a) the center of operations of a business:
  - 1) where corporate staff employees are physically employed
  - 2) where centralized functions are performed, including administrative, planning, managerial, human resources, purchasing, information technology, and accounting, but not including a call center
  - 3) the function and purpose of which is to manage and direct most aspects and regional and regional headquarters, if the national headquarters is subordinate only to the ownership of the business

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## CIT-A: NM Apportioned Income for Multistate Corporations

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or its representatives and the regional headquarters is subordinate to the national headquarters

- (b) the center of operations of a business:
- 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions
  - 2) from which final authority over one or more centralized functions is issued

### **Electing The Headquarters Operation Method**

To elect to use the headquarters operation apportionment formula, do the following:

1. No later than the filing date of the first return to which the election applies, notify the Department in writing.
2. Submit the notification to the Taxation and Revenue Department, CIT Unit, P.O. Box 630, Santa Fe, NM 87504-0630.
3. On Schedule CIT-A, complete lines B and C.

**NOTE:** To terminate the election, submit that notification to the address in step 2.

### **To Calculate the Line 9 Apportionment Percentage**

Follow the next steps to calculate the headquarters operation apportionment percentage for CIT-A, line 9:

1. Complete the property factor and payroll factor information in column 1 and 2. Although an election for a single weighted formula has been made, this information is still necessary. The percentage factors for property and payroll are not included in the calculation of the Average New Mexico Percentage.
2. Enter gross receipts in line 7a, columns 1 and 2.
3. On line 7, calculate the sales factor percentage by dividing 7a, column 2 by column 1, and then multiplying by 100.
4. In line 8, copy the amount in line 7.
5. In line 8a, enter 1.
6. In line 9, copy the amount in line 7.

### **Exclusion 3**

#### **Eliminating One or More Factors**

If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of the business activity in New Mexico, an election may be made for, or the Department may require the exclusion of, any one or more insignificant factors. A factor is considered insignificant if column 1 (the denominator) is less than 3% of net income.

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## CIT-B: NM Allocation of Non-Business Income

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### When to Use Schedule CIT-B

Use CIT-B to allocate income not connected to the corporation's regular trade or business. From the gross amount of income, deduct all direct and indirect expenses related to allocated income.

The corporation's books and records determine expenses related to allocated income.

**NOTE:** If the corporation's books and records do not reflect proper amounts for deduction, the corporation may rely on other reasonable methods.

### Line 1 through Line 9

Complete lines 1 through 9 to allocate non-business income to New Mexico. For applicable lines 1 through 7, do the following:

1. In column 1, enter the gross income.
2. In column 2, enter the total of all direct and indirect expenses related to income to allocate to New Mexico.
3. For column 3, subtract the amount column 1 from the amount in column 2, and then enter the difference.
4. For details about column 4, see the instructions for the line in this section.

**Line 1. Non-business dividends.** If the taxpayer's commercial domicile is in New Mexico, allocate to New Mexico the total amount of dividends in column 3 by entering the column 3 amount in column 4.

**Commercial domicile** means the principal place from which the taxpayer's trade or business is directed or managed.

**Line 2. Non-business interest.** If the taxpayer's commercial domicile is in New Mexico, allocate to New Mexico the total amount of interest in column 3 by entering the column 3 amount in column 4.

**Line 3. Non-business rents.** From column 3, allocate to New Mexico in column 4 the following non-business net rent income:

- Income from real property in New Mexico
- If the taxpayer's commercial domicile is in New Mexico and the corporation is not organized under the laws of or taxable in the state where the property is used, income from all tangible personal property
- Income from tangible personal property used in New Mexico

**Line 4. Non-business royalties.** From column 3, allocate to New Mexico in column 4 the following non-business net royalty income:

- Income from intangibles (patents, copyrights, franchises, trademarks, and licenses) used in New Mexico
- If the taxpayer's commercial domicile is in New Mexico, but the income from the intangible is not taxable in the state where the intangible is used, income from intangibles

**NOTE:** A patent is used in New Mexico if it is used in production, fabrication, manufacturing, or other processing in New Mexico. A copyright is used in New Mexico if printing or other production occurs in New Mexico.

**Line 5. Profit or loss on sale or exchange of non-business assets.** From column 3, allocate to New Mexico in column 4 the net gain or loss from the sale or exchange of the following non-business income:

- Real property in New Mexico
- Tangible personal property located in New Mexico at the time it was sold
- If both the following are true, tangible personal property not located in New Mexico at the time it was sold:
  - ◆ The corporation's commercial domicile is within New Mexico.
  - ◆ The gain was not taxable in the state where the tangible personal property was located.
- If the corporation's commercial domicile is in New Mexico, intangible personal property

**Line 6. Non-business partnership income.** From column 3, allocate to New Mexico in column 4 non-business partnership income to the extent the partnership conducts business in this state.

**Line 7. Other non-business income.** From column 3, allocate to New Mexico in column 4 other non-business income. If you enter an amount in column 4, you must include a schedule to identify all other income allocated to New Mexico.

**Line 8. Net allocated income.** Add the amounts in column 3, lines 1 through 7, and enter the total allocated income. Also enter this amount on CIT-A, line 2.

**Line 9. Net New Mexico allocated income.** Add the amounts in column 4, lines 1 through 7, and then enter the total income to allocate to New Mexico. Also enter this amount on CIT-C, line 2.

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## CIT-C: Calculate NM Percentage

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### When to Use Schedule CIT-C

Use CIT-C if you completed CIT-A, CIT-B, or both.

#### Lines 1 Through 5

Complete lines 1, applicable lines 2 and 3, and then line 4 to calculate the corporation's net New Mexico allocated income and New Mexico apportioned income. Complete line 5 to show the New Mexico percentage.

**Line 1. New Mexico net taxable income.** From CIT-1, page 2, line 9, enter the amount here.

**Line 2. Net New Mexico allocated income.** If you completed CIT-B, enter the amount on CIT-B, line 9, column 4.

**Line 3. New Mexico apportioned income.** If you completed CIT-A, enter the amount on CIT-A, line 4.

**Line 4. Subtotal.** Add the amounts in line 2 and line 3, and then enter the sum here.

**Line 5. New Mexico percentage.** To calculate and show the percentage of non-business income allocated and apportioned to New Mexico, do the following:

1. Divide the line 4 subtotal by line 1, the corporation's net New Mexico allocated income.
2. Multiply the quotient by 100 to convert it to a percentage.
3. Round the percentage to four decimal places (for example, 45.3524%).
4. If the percentage is positive, enter the New Mexico percentage. If it is negative, enter zero.
5. On CIT-1, page 2, line 11, page 2, enter this New Mexico percentage.

**IMPORTANT:** The percentage cannot be under zero or over 100%.

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## CIT-D: NM Foreign Dividend Deduction Schedule

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### When to Use Schedule CIT-D

Use CIT-D to deduct foreign dividend gross-up amounts by completing the applicable lines.

**NOTE:** Combined and consolidated filers may elect to adjust their apportionment percentages by inclusion of the factors of their foreign-source dividend payers on CIT-A. For help with this election, call (505) 827-0825 or toll free (866) 809-2335, or email [CIT.TaxReturnHelp@state.nm.us](mailto:CIT.TaxReturnHelp@state.nm.us)

**Line 1. Foreign dividend gross-up.** From federal Form 1120, Schedule C, line 15, enter the corporation's foreign dividend gross-up net of any applicable expenses.

**Line 2.** Only corporations that select separate corporate entity filing may deduct foreign-source dividends on lines 2, 3, and 4. These dividends are wholly or partially excludable from the corporation's base income as described here in line 2 and in the instructions for lines 3 and 4.

Enter of 70% of dividends included on federal Form 1120, Schedule C, lines 13 and 14, received from corporations owned less than 20% by the reporting corporation, but

only if those dividends would have been subject to the 70% deduction under 26 U.S.C. Sections 243 (a)(1) had the payor of the dividends been a domestic corporation.

**Line 3.** Enter 80% of dividends included on federal Form 1120, Schedule C, lines 13 and 14, received from corporations owned 20% to 80% by the reporting corporation, but only if those dividends would have been subject to the 80% deduction under 26 U.S.C. Section 243(c) had the payor of the dividends been a domestic corporation.

**Line 4.** Enter 100% of dividends included on federal Form 1120, Schedule C, lines 13 and 14, received from corporations owned more than 80% by the reporting corporation, but only if those dividends would have been subject to the 100% deductions under 26 U.S.C. Section 254 (a)(3) had the payor of the dividends been a domestic corporation.

**Line 5. Total New Mexico foreign dividend deduction.** Add lines 1 through 4 and then enter the sum. Also enter this sum on CIT-1, page 2, line 8.

# Completing Vouchers and Payments

## Mailing a Voucher and Payment

Make all payments under the corporation filing the CIT-1. Complete a voucher when you mail a check or money order, and mail the voucher and payment to:

NM Taxation & Revenue Department  
P.O. Box 25127  
Santa Fe, NM 87504-5127

## CIT-PV

When you submit a regular CIT-1 tax payment, complete and include CIT-PV, *New Mexico Corporate Income and Franchise Tax Payment Voucher*, with the payment. You can send vouchers and payments with or without the CIT-1 return.

To complete the CIT-PV, fill in the following fields:

- Name and address of corporation responsible for filing CIT-1
- **Tax Year Ended**, in **MM/DD/CCYY** format
- **FEIN** of corporation responsible for filing CIT-1
- **CRS ID Number**
- **AMOUNT ENCLOSED**

To complete the check or money order, do the following:

- Make it payable to **NM Taxation & Revenue Dept.**
- Write the FEIN and **2018 CIT-1** on it.

## CIT-ES

When you make an estimated payment, complete and include CIT-ES, *New Mexico Corporate Income and Franchise Estimated Tax Payment Voucher*, with the payment.

The **Estimated Tax Payment Chart** on this page shows when the estimated payments are due.

To complete the CIT-ES, fill in the following fields and boxes:

- Name and address of corporation responsible for filing CIT-1
- **Tax Year Ended**, in **MM/DD/CCYY** format  
For calendar year returns, enter December 31 of the year of the return, or **12/31/2018**. For fiscal year returns, enter the last day of the fiscal year.
- Mark the box for the quarter (**1ST QTR**, **2ND QTR**, **3RD QTR**, or **4TH QTR**) to apply the payment
- **FEIN** of corporation responsible for filing CIT-1
- **CRS ID Number**
- **AMOUNT ENCLOSED**

To complete the check or money order, do the following:

- Make it payable to **NM Taxation & Revenue Dept.**
- Write the FEIN, **CIT-ES**, and tax year/quarter on it.

## Calculating a Quarterly Estimated Payment

Use the corporate income tax rate on page 13 to estimate the income tax liability. To avoid penalty and interest for underpayment of estimated tax, calculate the estimated tax using one of these methods:

- **Method 1.** 80% of the current year's estimated tax liability.
- **Method 2.** 100% of the previous year's tax liability if it was a full 12-month or a 52/53-week year.
- **Method 3.** 110% of the liability for the year immediately preceding the previous tax year if it was a full 12-month

**Estimated Tax Payment Chart**

If the tax year ends in	Estimated tax payments for this tax year are due on the 15th of			
	1st Period	2nd Period	3rd Period	4th Period
December	April	June	September	December
January	May	July	October	January
February	June	August	November	February
March	July	September	December	March
April	August	October	January	April
May	September	November	February	May
June	October	December	March	June
July	November	January	April	July
August	December	February	May	August
September	January	March	June	September
October	February	April	July	October
November	March	May	August	November

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# Completing Vouchers and Payments

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tax year or a 52/53-week year and both the following are true:

- ◆ Return for the previous tax year has not been filed
- ◆ Extended due date for filing the previous tax year's return has not occurred by the time the current tax year's first estimated payment is due
- **Method 4.** 80% of the estimated tax liability for each quarter of the current tax year, calculated period by period (not accumulatively). Use this method if the income is seasonal or varied throughout the year.

**NOTE:** Method 4 lets you adjust required payments due for each fiscal quarter based on actual income received.

### Payment Requirements for Each Method

When you use methods 1, 2, or 3, you are required to pay estimated tax in four installments, each equal to 25% of the estimated tax. When you use method 4, you are required to pay the full 80% for each quarter.

### Instructions for Using Method 4

To use method 4, follow these steps:

1. Complete RPD-41287, *2018 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment*.
2. On CIT-1, page 2, mark box **19a** to show you qualify for and want to use the special underpayment penalty and interest calculation method.
3. Submit RPD-41287 with the CIT-1.

### Penalty and Interest Assessments and Methods

The Department assesses estimated penalty and interest on the difference between the underpayment or non-payment of estimated payments and the amount of estimated tax due. The Department automatically computes estimated payments using the lower of methods 1, 2, or 3, only using method 4 when you include RPD-41287, *2018 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment*, and mark box **19a** on the CIT-1.

**NOTE:** For more information about computing penalty and interest, see the instructions for lines 24 and 25.

### Tax Act Rule and Estimated Payments

The amount of tax deducted and withheld under the Withholding Tax Act or the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act shall be deemed a payment of estimated tax.

An equal amount of withheld tax shall be deemed paid on each due date for the applicable tax year unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts withheld shall be deemed payments of estimated tax on the dates on which the amounts were actually withheld.

The taxpayer may apply this rule separately to amounts withheld under the Withholding Tax Act or the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act.

### CIT-EXT

When you make a CIT-1 extension payment, complete and include CIT-EXT, *New Mexico Corporate Income and Franchise Tax Extension Payment Voucher*, with the payment.

To complete the CIT-PV, fill in the following fields:

- Name and address of corporation responsible for filing CIT-1
- **Tax Year Ended**, in **MM/DD/CCYY** format
- **FEIN** of corporation responsible for filing CIT-1
- **CRS ID Number**
- **AMOUNT ENCLOSED**

To complete the check or money order, do the following:

- Make it payable to **NM Taxation & Revenue Dept.**
- Write the FEIN and **2018 CIT-EXT** on it.



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# New Mexico Taxpayer Bill of Rights

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Most tax transactions happen without incident. In an imperfect world, however, occasional disagreements occur through misunderstanding, mathematical error, missed deadlines, misplaced papers, high volume of transactions and many other situations.

Over the years the Legislature and the Department have established ways to handle difficulties according to the provisions of the state tax code. Following are some of your rights. If you want to consult the law itself, you will find it in Sections 7-1-4.1 through 7-1-4.3 NMSA 1978:

- The right to available public information and prompt and courteous tax assistance;
- The right to representation and advice by counsel or other qualified representatives at any time during your interactions with the Department according to provisions of Section 7-1-24 NMSA 1978, or with the Administrative Hearings Office in accordance with the provisions of the Administrative Hearings Office Act;
- The right to have audits, inspections of records and meetings conducted at a reasonable time and place according to Section 7-1-11 NMSA 1978;
- The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest and collection proceedings under the Tax Administration Act;
- The right to receive an explanation of audit results and the basis for audits, assessments or denials of refunds that identify tax, interest or penalty due;
- The right to seek review through formal or informal proceedings of findings or unfavorable decisions arising from determinations during audit or protest procedures according to Section 7-1-24 NMSA 1978 and the Administrative Hearings Office Act;
- The right to have your tax information kept confidential unless otherwise specified by law in Sections 7-1-8.1 through 7-1-8.10 NMSA 1978;
- The right to an abatement of an assessment of taxes incorrectly, erroneously or illegally made (Section 7-1-28 NMSA 1978) and a right to seek a compromise of an asserted tax liability. When the Secretary of Taxation and Revenue in good faith doubts that you owe us what we claim you owe, you also have the right to seek a compromise if one exists in your particular case (Section 7-1-20 NMSA 1978);
- The right to clear information of the consequences 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 pay your tax obligations by installment payment agreements according to the provisions of Section 7-1-21 NMSA 1978.

## Confidentiality Provisions

Statutes regulating the confidentiality of your taxes continue to be strict. The Legislature included language in Section 7-1-8 NMSA 1978 requiring the Department to answer questions about whether a taxpayer is registered to do business in this state or is registered for other tax programs, but it does not allow employees to reveal whether you have filed a return.

A hearing officer's written ruling on questions of evidence or procedure according to the provisions of the Administrative Hearings Office Act may be made public, but not the name and identification number of the taxpayer requesting the ruling.

Now included in public record are the monthly gasoline tax reports of numbers of gallons of gasoline and ethanol-blended fuels received and deducted, and the tax paid by each filer or payer of the tax. Identities of rack operators, importers, blenders, suppliers or distributors and the number of gallons of gasoline and other fuels are public record. The Department may make known to the Gaming Control Board the tax returns of license applicants and their affiliates.

## Audit Provisions

We must provide you with written, dated notice that an audit is about to begin on a specific date, and the notice must tell you which tax programs and reporting periods will be covered. We must issue a second notice, which states any outstanding records or books of account requested and not yet received, between 60 and 180 days after the audit begins.

If you do not produce the records within 90 days, the Department can issue an assessment of tax on the basis of the information as it stands. If you need additional time, you must submit a specific request in writing.

Interest on outstanding liabilities accrues if the Department does not issue an assessment within 180 days of the notice of outstanding records or books, or within 90 days after time has expired under your request for additional time; however, you are entitled to an abatement of interest for the period of time after you have complied with Department requests and the Department has not acted on the audit.

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# New Mexico Taxpayer Bill of Rights

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## **Administrative Hearing Procedures**

A hearing officer may not engage or participate in any way in the enforcement or formulation of general tax policy other than to conduct hearings. You may request the Chief Hearing Officer of the Administrative Hearings Office determine if a hearing officer has engaged or participated in the enforcement or formulation of tax policy and if the hearing officer's activities have affected his or her impartiality.

The Chief Hearing Officer may designate another hearing officer for the matter. Hearing officers may not communicate unilaterally about a matter you have protested while that matter is still pending. The chief hearing officer may appoint another hearing officer if that occurs.

You may request a written ruling on any contested question of evidence in matters in which you have filed a pending written protest. You also may request that two or more protests on related issues be combined and heard jointly, and the hearing officer shall grant the request unless it creates an unreasonable burden on the Department.

## **Credit Claims**

The Department has 180 days from the filing date to approve or deny a statutory tax credit. If it does not act, the credit is approved. The Secretary decides whether a refund of tax due you may be offset against your other tax liabilities, and you will receive notice that the refund will be made accordingly.

You are entitled to interest until the tax liability is credited with the refund amount. Please see the paragraph above on "Audit Provisions" for interest due you if the Department does not offset a refund or credit against your other tax liabilities within the prescribed time.

The Department may make a direct refund of overpaid taxes to the taxpayer without requiring the taxpayer to file a refund claim. The Department does not have to pay interest on credits or refunds if it applies the amount to a tax interception program, to an estimated payment, or to offset prior liabilities of the taxpayer.

## **Awarding of Costs and Fees**

If you prevail in an administrative or court proceeding brought by you or against you after July 1, 2003, under the Tax Administration Act, you may be entitled to a judgment or a settlement for reasonable administrative costs connected to the action.

## **Penalty**

The Department may not assess penalty against you if you fail to pay tax when due because of a mistake of law made in good faith and on reasonable grounds.

If the Secretary determines that it is unfair to hold a spouse or former spouse liable for payment of unpaid taxes, the Secretary may decline to take action against the spouse or former spouse of the person who actually owes the tax. In extreme cases of delinquency under Section 7-1-53 NMSA 1978 the Department may enjoin a taxpayer from continuing in business after a hearing and until the delinquency is cleared.