

### Due Dates

Sub-chapter S 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. **If you e-file and e-pay, the filing deadline is March 31, 2019**, or on or before the last day of the third month following the end of the tax year. The extended due date also applies to Form RPD-41367.

### 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, 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

- S-Corp, *Sub-Chapter S Corporate Income and Franchise Tax Return*
  - ◆ S-Corp-1, *Income Taxable to Owners*
  - ◆ S-Corp-A, *New Mexico Apportionment Factors Schedule*
  - ◆ S-Corp-B, *Allocated Non-business Income Taxable to Owners*
  - ◆ S-Corp-C, *Allocated and Apportioned Income Taxed to S Corporations*
- S-Corp-CR, *Tax Credit Schedule*
- S-Corp-EXT, *Extension Payment Voucher*
- S-Corp-PV, *Tax Payment Voucher*
- S-Corp-ES, *Estimated Tax Payment Voucher*
- RPD-41367, *Pass-Through Entity Withholding Detail (PTW-D) Report*
- PTW-PV, *Pass-Through Entity Withholding Detail (PTW-D) Report Tax Payment Voucher*
- PTW-EXT, *Pass-Through Entity Withholding Detail (PTW-D) Report Extension Payment Voucher*

### 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**.

### 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 S-Corp-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 S-Corp, *New Mexico Sub-Chapter S 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 an S-Corp 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*

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## Contact Our Local Offices

Local tax and revenue offices can provide full service and information about New Mexico's 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 (866) 285-2996 toll free  
(505) 827-0825 for S-Corp help

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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 S-Corp 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 the S-Corp return.

### ◆ 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.

## Due Dates

The due dates of the S-Corp return for the taxable year conform to the due dates instituted at the federal level. The due date for calendar-year filers is March 15, 2019.

## Timely Returns

An S-Corp return 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 S-Corp Return

Corporations and limited liability companies (LLCs) that elect to be taxed as S corporations for federal income tax purposes must file a *New Mexico S Corporate Income and Franchise Tax Return* if any of the following is true about the entity. The entity is:

- Registered to do business in New Mexico
- Transacts business in, into, or from New Mexico
- Derives any income from property or employment within New Mexico

### Exceptions

The following entities are exempt and not required to file an S-Corp 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 S 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 S-Corp return and pay the \$50 franchise tax, even if no income tax is due. This includes the following:

- Disregarded corporations doing business in New Mexico
- 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
- Entities with no nexus in New Mexico pursuant to P.L. 86-272 (not immune from paying franchise tax)

### Exceptions

The only exceptions are the following:

- 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 S-Corp 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 S-Corp 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.

**NOTE:** The Department may require an entity that files an S-Corp return to file RPD-41367, *Pass-Through Entity Withholding Detail (PTW-D) Report*.

## When to File Other Returns

If the business does not file a New Mexico S-Corp return, New Mexico may require you to file one of the following returns for New Mexico instead:

- CIT-1, *New Mexico Corporate Income and Franchise Tax Return*
- PTE, *New Mexico Information Return for Pass-Through Entities*
- PIT-1, *New Mexico Personal Income Tax Return*
- FID-1, *New Mexico Fiduciary Income Tax Return*

**NOTE:** Entities that file a 2018 S-Corp do **not** also file a 2018 PTE.

## Assembling the Return

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

- S-Corp
- S-Corp-1

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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- For all multistate filers:
  - ◆ S-Corp-A
  - ◆ S-Corp-B
  - ◆ S-Corp-C
  - ◆ S-Corp-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 S-Corp return 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 S-Corp return 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 its S-Corp return, or if the corporation needs additional time to file the S-Corp 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 S-Corp, lines 12 or 13, include a copy of all annual information returns and withholding statements issued to the entity 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 S-Corp return. A Schedule K-1 or its equivalent is not sufficient evidence of New Mexico income tax withheld.

### 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*.

### RPD-41227, *Renewable Energy Production Tax Credit Claim Form*

To claim the renewable energy production tax credit, attach RPD-41227 to the return. Report the amount you claimed on Schedule S-Corp-CR.

### RPD-41228, *Film-Related Tax Credit Claim Form*

To claim an approved film-related tax credit, attach RPD-41228 to the return. Report the amount you claimed on Schedule S-Corp-CR.

### Schedule S-Corp-CR, *New Mexico Tax Credit Schedule*

To claim any non-refundable or refundable credits, complete and file Schedule S-Corp-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.

**IMPORTANT:** Entities that file an S-Corp return do not also file PTE, *New Mexico Information Return for Pass-Through Entities*.

On RPD-41367 (now called PTW-D), a pass-through entity (PTE) subject to withholding tax from its non-resident owner's, partner's, member's, or beneficiary's (owner's) net income according to the Oil and Gas Proceeds and

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# General Instructions

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Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-9 NMSA 1978) must annually report each owner's share of net income allocable to New Mexico and remit the New Mexico tax withheld for each owner. Even if no tax was withheld, the Department requires these PTEs to file RPD-41367.

**Pass-through entity** means a personal services business or any other business association other than any one of the following:

- A sole proprietorship
- An estate or trust that does not distribute income to beneficiaries
- A corporation, limited liability company, partnership, or other entity not a sole proprietorship taxed as a corporation for federal income tax purposes for the tax year
- A partnership that is organized as an investment partnership in which the partner's income is derived solely from interest, dividends, and sales of securities
- A single member limited liability company that is treated as a disregarded entity for federal income tax purposes
- A publicly traded partnership as defined in Section 7704(b) of the Internal Revenue Code

**NOTE:** Except for a PTE that is a personal services business, if the PTE entered into an agreement with the owner for the owner to file and pay tax due on the owner's share of allocable net income of the PTE, the PTE must mark **2** in the PTW-D **Reason Code** box in Supplemental Page, column 5.

## Amended Returns

To amend an S-Corp return, follow these steps:

1. Use the S-Corp return for the year amended.
2. In the upper right under **CHECK ONE**, mark box **4b** to show this is an amended return.

**NOTE:** if you filed a PTE return in a year prior to tax year 2011, use the PTE return for that year to amend the return.

3. Attach all schedules previously filed with the original return.
4. If you want the Department to compute penalty and interest, leave S-Corp, lines 17 and 18 blank.
5. If additional tax is due, include payment for the full amount and, unless you left lines 17 and 18 blank in step 4, include interest calculated from the date the original return was due and any applicable penalty.

6. If the New Mexico amended return reports changes as the result of filing an amended federal return, attach copies of the applicable federal forms and schedules. In all other cases, attach an explanation of the changes.

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

## Revenue Agent Report Requirements

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.

## Payment Guidelines and Information

Taxpayer Access Point (TAP), our secure resource at <https://tap.state.nm.us>, lets you e-file and e-pay the 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 S-Corp-PV, S-Corp-ES, and S-Corp-EXT vouchers, see **Completing Vouchers And Payments** near the end of these instructions.

## Paying Taxes

You can use the following to make the 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.

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# General Instructions

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## Corporations Required to Make Estimated Payments

A corporation is required to pay estimated S-Corp 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 S-Corp return 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.

## 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 S-Corp return, even if you receive an extension of time to file. Interest is a charge for the use of money and by law cannot be waived.

Interest is calculated on a daily basis at the rate established for individual income tax purposes by the 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 **S-Corp-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 S-Corp return 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 an S-Corp return, 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.

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# General Instructions

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

## Collection of Debts from a Refund

If the entity 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 entity 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, computation 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.

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**.



# Line Instructions to Complete the S-CORP Returns and Schedules

## S-Corp

### Line 1a through Line 6c and Line A through F

Type or print the entity's information at the top of the S-Corp return as described here. Then complete all information in lines A through F, and mark all relevant boxes.

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

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

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

**Line 3b.** If the entity'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.

**Box 4b.** If this is an amended return, mark box 4b.

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

**Line 5a.** The entity'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 entity 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 entity has no gross receipts, withholding, or compensating tax reporting requirements, leave blank.

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

**Line 5c.** The entity'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 6a and 6b.** Fiscal year or short-year filers enter tax year start and end dates (the dates the entities' books open and close for the tax year) from their federal returns.

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

**Line A.** The state where the entity was organized.

**Line B.** Date the entity was organized.

**Line C.** Date business began in New Mexico.

**Line D.** If the New Mexico business was terminated in New Mexico, enter that date.

**Line E.** Enter the name of the entity's registered agent and the agent's address, including street address, city, state, and ZIP code.

**Line F box.** Mark this box if the New Mexico activities were immune from New Mexico corporate income tax under P.L. 86-272 (the entity had no nexus) for the 2018 tax year. You must also complete and include S-Corp-A with the S-Corp return.

## Line and Other Entries on S-Corp

Follow these instructions to complete lines 1 through 22 on the S-Corp return, and the signature and preparer information at the bottom of the page.

Lines 1 through 4 are for S corporations with income subject to federal tax. S corporations use these lines to calculate New Mexico tax.

**Line 1. Income taxable to corporation.** From S-Corp-C, line 4, column 1, enter the total allocated and apportioned income taxed to the corporation.

**Line 2. Tax on amount on line 1.** This entry = line 9 amount x tax rate (see tax rate table).

**Line 3. New Mexico percentage.** If on S-Corp-C, line 5

**Line 2.**

### 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

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# S-Corp

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you show the percentage of New Mexico allocated and apportioned income, enter the percentage. Otherwise, enter **100%**.

**Line 4. New Mexico income tax.** This entry = line 2 x the percentage on line 3.

**Line 5. Total tax credits applied against the income tax liability on line 4.** If you are claiming any tax credits to apply to the income tax liability, complete Schedule S-Corp-CR. Then enter the amount on S-Corp-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 S-Corp-CR may not exceed the income tax claimed on S-Corp, line 4.
- To calculate the amount an entity 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 S-Corp return 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 S-Corp-CR Instructions available at [www.tax.newmexico.gov/forms-publications.aspx](http://www.tax.newmexico.gov/forms-publications.aspx). Click **Income Taxes, Subchapter S Corporate Income Tax Return Forms**, and then **S-Corp-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 6. New Mexico income tax less tax credits.** This entry = line 4 income tax - line 5 credits. Enter zero or a larger amount.

**Line 7. 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 an S 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 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 8. Total income and franchise tax.** This entry = line 7 franchise tax amount + line 6 net income tax amount.

**Line 9. Amended Returns Only.** If this is an amended return, enter the total amount of all 2018 refunds received and overpayments applied to 2019.

**Line 10. Subtotal.** This entry = line 8 total income and franchise tax amount + line 9 refunds and overpayments.

**Line 11. Total Payments.** Mark one or more of these boxes to show the source of the entity's total payments:

- **Estimated**
- **Extension**
- **Applied from prior year**

Enter the total amount of all 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.

**IMPORTANT:** If any amounts on line 11 were paid using an FEIN other than the one entered at the top of the S-Corp return, a schedule is required with the name and FEIN under which the payment was made.

**Line 12. 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 S-Corp return.

## Requirements

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

**Line 13. New Mexico income tax withheld from pass-through entities.** 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

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# S-Corp

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income from a PTE. Include a copy of each statement with the S-Corp return.

## 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 entity.

**Line 14. Amount from lines 12 and 13 passed to owners.** If the entity passed to owners the income tax withheld from oil and gas proceeds or PTEs, enter the amount withheld and reported on RPD-41367.

**Line 15. Total payments and tax withheld.** This entry = [line 11 total payments + (line 12 + line 13 taxes withheld)] - line 14 amount withheld.

**Line 16. Tax due.** If line 10 is greater than line 15, this entry = line 10 subtotal - line 15 total payments and tax withheld.

**Line 17. Penalty.** The minimum penalty is \$5 and the maximum penalty is 20% of the entity's tax due. If any of the following is true, this entry = line 16 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 16 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 a bill, leave this line blank.

**Line 18. Interest.** If either of the following is true, this entry = line 16 tax due + interest:

- You did not pay the tax due on line 16 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 19. Total amount due.** This entry = line 16 tax due + line 17 + line 18.

**Line 20. Overpayment.** If the amount in line 15 is greater than the amount line 10, this entry (the refund amount) = line 15 total payments and tax withheld - line 10 subtotal.

**Line 20a.** If you want to apply some or all of an overpayment from line 20 to the 2019 liability, enter the amount to apply. Otherwise, enter zero.

**Line 20b.** If you want to receive a refund of all or part of an overpayment, this entry = line 20 overpayment - line 20a amount to apply to the 2019 liability.

**Line 21. Total portion of tax credits to refund.** Enter from Schedule S-Corp-CR, line B, the portion of approved tax credits the Department may refund to you.

**NOTE:** S-Corp-CR, line A shows the amount of these credits to apply to the tax due on the S-Corp return. This is the same amount as on S-Corp, line 5.

## About the Film Production Tax Credit

The amount of film production tax credit you may claim against the tax due on this S-Corp return 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 22. Total refund of overpaid tax and refundable credit due to you.** This entry = line 20b amount of overpayment to refund + line 21 tax credit to refund.

## Refund Express

If you want a refund of overpaid tax and any refundable credit (S-Corp, line 22) 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.
- 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 S-Corp return.

## Why Use Refund Express

- Prevent any mailed check delays. **Refund Express** does not guarantee that you receive a refund sooner,

# S-Corp

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

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

ANYPLACE BANK  
Anyplace, NM 87000

For \_\_\_\_\_

Routing Number: 211500151  
Account Number: 2015551517  
Check Number: 1540

1540  
15-000000000

Do not include the check number

but the refund reaches the bank more quickly.

- 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.

### Taxpayer's Signature

An officer of the corporation must sign and date the S-Corp return. 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:

- Printed preparer's name
- 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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# S-Corp and S-Corp-1

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## S-Corp-1

Complete all information in lines 1 through 12 to show the calculation of net income taxable to owners.

**Line 1. Ordinary income (loss) from federal Form 1120S, Schedule K.** Enter the ordinary income or loss as recognized from federal tax return Form 1120S, Schedule K.

**Line 2. Other income (loss) from federal Form 1120S, Schedule K.** Except for guaranteed payments to partners and health insurance payments made on behalf of the partners or partners' dependents, enter the sum of all other income or losses recognized on federal tax return Form 1120S, Schedule K.

**Line 3. Interest income from municipal bonds, excluding New Mexico bonds.** Enter interest income from non-New Mexico state and local bonds not subject to federal income tax under Internal Revenue Code (IRC) Section 103.

**Line 4. Subtotal of lines 1 through 3.** This entry = line 1 ordinary income (loss) + line 2 other income (loss) + line 3 interest income from municipal bonds except New Mexico bonds.

**Line 5. Interest from U.S. government obligations or federally-taxed New Mexico bonds.** An S corporation may deduct interest or dividend income from U.S. government obligations from the corporation's taxable income only if, and to the extent that, it was included in taxable income on line 1. This entry, a net amount = S-Corp line 1 - expenses related to income from U.S. obligations.

**IMPORTANT:** Income from Fannie Mae, Ginnie Mae, Freddie Mac, and other U.S. guarantee entities is not deductible. Income from repurchasing agreements (repos) of U.S. obligations is not deductible. Interest on notes issued by Federal Home Loan Bank obligations are deductible, but not dividends issues by the Federal Home

Loan Bank. That portion of income paid by mutual funds, unit investment trusts, and simple trusts derived from investments in U.S. obligations is deductible.

Interest income for bonds issued by the State of New Mexico or its political subdivisions is also deductible on this line to the extent that income was included in federal taxable income.

**Line 6. Allowable deductions from Schedule K.** Except for health insurance payments made on behalf of the partners or partners' dependents, enter the allowable deductions recognized on federal Form 1120S, Schedule K. Not allowed to claim at the entity level on the S-Corp return are net operating loss carryover nor oil and gas depletion deductions.

**Line 7. Allocated income.** If applicable, enter the total allocated income from S-Corp-B, column 1, line 8.

**Line 8. Apportionable income.** This entry = line 4 subtotal - (line 5 interest + line 6 allowable deductions + line 7 allocated income).

**Line 9. Average New Mexico percentage.** Enter the average New Mexico percentage from S-Corp-A, line 5.

**Line 10. New Mexico apportionable income.** This entry = line 8 apportionable income x line 9 average New Mexico percentage.

**Line 11. New Mexico allocated income.** If applicable, enter New Mexico allocated income from S-Corp-B, column 2, line 9.

**Line 12. NEW MEXICO taxable income.** This entry = line 10 apportionable income + line 11 allocated income.

**NOTE:** If the S-Corp is required to file RPD-41367, report this amount RPD-41367, line 1.

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# S-Corp-A: New Mexico Apportionment Factors

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## When to Use Schedule S-Corp-A

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

All reporting entities, except those with 100% New Mexico activity, must complete Schedule S-Corp-A in its entirety, including reporting entities 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

**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 entity'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 entity's overall business operations.

You are required to include on S-Corp-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 entity'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 entity's trade or business
- Royalty income and fees from patents, copyrights, franchises, trademarks, and licenses developed in the regular course of the entity's trade or business, or royalty income and fees from a product or mineral interest used in the regular course of the entity's trade or business
- Rental or subrental income from property purchased, leased, or used in the regular course of the entity's trade or business
- Gains or losses from the sale of assets used in the regular course of the entity'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 entity'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 entity'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

An entity 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 S-Corp-A and S-Corp-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 S-Corp-A

When you complete S-Corp-A, follow these basic requirements for the property, payroll, and sales factor sections:

- **Percentages.** Calculate each percentage to four decimal places. For example, 22.5431%.
- **Lines 1, 2, and 3.** 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 1a, 1b, 1c, and 1d.** For each line, as applicable, enter amounts in the columns for inventory, real property, personal property, and rented property.

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

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# S-Corp-A: New Mexico Apportionment Factors

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

**Line 2. 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:

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

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 3a.** In columns 1 and 2, enter the total amounts of gross receipts.

**Line 3. 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:

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

In other words:

1. Divide the total gross receipts attributable to New Mexico during the tax year, excluding returns,

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## S-Corp-A: New Mexico Apportionment Factors

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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 4. Sum of factor percentages.** Add lines 1, 2, and 3 to find the sum of factor percentages and then enter the percentage sum.

**Line 4a. Count of factors.** Count all the factors you used and enter the total count here.

**Line 5. Average New Mexico Percentage.** New Mexico uses an evenly weighted three-factor formula. Taxpayers who use the three-factor formula complete lines 4, 4a, and 5 on Schedule S-Corp-A.

**IMPORTANT:** You are required to provide the average percentage on line 5 to all owners of the entity. Also enter this percentage on S-Corp-1, line 9.

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 in this section. 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



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## S-Corp-A: New Mexico Apportionment Factors

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(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 S-Corp-A, complete line 5B.

**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 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 S-Corp-A, complete line 5B.

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

### To Calculate the Line 5 Apportionment Percentage

Follow the next steps to calculate the headquarters operation apportionment percentage for S-Corp-A, line 5:

1. Complete the property factor and payroll factor information in column 1 and column 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 3a, columns 1 and 2.
3. On line 3, calculate the sales factor percentage by dividing 3a, column 2 by column 1, and then multiplying by 100.
4. In line 4, copy the amount in line 3.
5. In line 4a, enter 1.
6. In line 5, copy the amount in line 3.

### 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

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## S-Corp-A: New Mexico Apportionment Factors

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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.

### Finishing the Last Entries Under Line 5

**Line A.** If the entity 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 B.

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

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# S-Corp-B: Allocated Non-Business Income Taxable to Owners

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## When to Use Schedule S-Corp-B

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

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

**NOTE:** If the entity's books and records do not reflect proper amounts for deduction, the entity 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 total income.
2. In column 2, enter the total of all direct and indirect expenses related to income to allocate to New Mexico.

**Line 1. Net non-business dividends.** If the taxpayer's commercial domicile is in New Mexico, allocate to New Mexico the total amount of dividends in column 1 by entering the column 1 amount in column 2.

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

**Line 2. Net non-business interest.** If the taxpayer's commercial domicile is in New Mexico, allocate to New Mexico the total amount of interest in column 1 by entering the column 1 amount in column 2.

**Line 3. Net non-business rents (loss).** From column 1, allocate to New Mexico in column 2 the following non-business net rent income loss:

- Income from real property in New Mexico
- If the taxpayer's commercial domicile is in New Mexico and the entity 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. Net non-business royalties.** From column 1, allocate to New Mexico in column 2 the following net non-business 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. Net non-business profit or loss on sale of assets.** From column 1, allocate to New Mexico in column 2 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. Net non-business partnership income (loss).** From column 1, allocate to New Mexico in column 2 non-business partnership income to the extent the partnership conducts business in this state.

**Line 7. Other net non-business income (loss).** From column 1, allocate to New Mexico in column 2 other non-business income. If you enter an amount in column 2, you must include a schedule to identify all other income allocated to New Mexico.

**Line 8. Total allocated income.** Add the amounts in column 1, lines 1 through 7, and enter the total allocated income. Also enter this amount on S-Corp-1, line 7.

**Line 9. Total New Mexico allocated income.** Add the amounts in column 2, lines 1 through 7, and then enter the total income to allocate to New Mexico. Also enter this amount on S-Corp-1, line 11.

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# S-Corp-C: Allocated and Apportioned Income Taxed to S Corporations

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## When to Use Schedule S-Corp-C

S corporations with federal taxable income must complete Schedule S-Corp-C. S corporations without federal taxable income should not complete this schedule.

**Line 1. Capital gains.** In column 1, enter net capital gains from federal Form 1120S, Schedule D. In column 2, enter net capital gains allocated to New Mexico.

**Real property.** Gains and losses from sales and exchanges of real property in New Mexico are allocated to New Mexico.

**Tangible property.** Gains and losses from sales and exchanges of tangible personal property are allocated to New Mexico if either of the following is true:

- The property was in New Mexico at the time of sale.
- The taxpayer's commercial domicile is in New Mexico and the taxpayer is not taxable in the state where the property was located.

**Intangible property.** If the taxpayer's commercial domicile is in New Mexico, gains and losses from the sale of intangible property is allocated to New Mexico.

**Line 2. Passive income.** Refer to the worksheet in the instructions for federal Form 1120S. In column 1, enter the

worksheet's excess net passive income on line 22a. In column 2, enter the excess net passive income allocated to New Mexico.

**Line 3. Net recognized built-in gain.** In column 1, enter the net recognized built-in gain from federal Form 1120S, Schedule D. In column 2, enter the net recognized built-in gain allocated to New Mexico.

**Line 4. Total.** This entry = line 1 capital gains + line 2 passive income + line 3 net recognized built-in gain.

**Line 5. New Mexico percentage.** Calculate and show the percentage of non-business income allocated and apportioned to New Mexico, using this formula:

$$\frac{\text{line 4, column 2}}{\text{line 4, column 1}} \times 100 = \text{New Mexico percentage}$$

Carry the percentage to four decimal places and round to the fourth decimal place (example, 22.4653%).

Enter the percentage on line 5 of Schedule S-Corp-C and on line 3 of the S-Corp return.

# Completing Vouchers and Payments

## Mailing a Voucher and Payment

Make all payments under the entity that is filing the S-Corp return. 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

## S-Corp-PV

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

To complete the S-Corp-PV, fill in the following fields:

- Name and address of corporation responsible for filing the S-Corp return
- **Tax Year Ended**, in **MM/DD/CCYY** format
- **FEIN** of corporation responsible for filing the S-Corp return
- **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 S-Corp** on it.

## S-Corp-ES

When you make an estimated payment, complete and include S-Corp-ES, *New Mexico Sub-Chapter S*

*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 S-Corp-ES, fill in the following fields and boxes:

- Name and address of corporation responsible for filing the S-Corp return
- **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 the S-Corp
- **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, **S-Corp-ES**, and tax year/quarter on it.

## Calculating a Quarterly Estimated Payment

Use the corporate income tax rates 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.

**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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- **Method 3.** 110% of the liability for the year immediately preceding the previous tax year if it was a full 12-month 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. Submit RPD-41287 with the S-Corp return.

### 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*.

**NOTE:** For more information about computing penalty and interest, see the instructions for lines 17 and 18.

### 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.

### S-Corp-EXT

When you make an S-Corp extension payment, complete and include S-Corp-EXT, *New Mexico Sub-Chapter S Corporate Income and Franchise Tax Extension Payment Voucher*, with the payment.

To complete the S-Corp-PV, fill in the following fields:

- Name and address of corporation responsible for filing the S-Corp return
- **Tax Year Ended**, in MM/DD/CCYY format
- **FEIN** of corporation responsible for filing the S-Corp return
- **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 S-Corp-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.