

## Pass-Through Entity Withholding Detail (PTW-D) Report Instructions

### Who Must File

Annually, a Pass-Through Entity (PTE) subject to withholding tax from the allocable net income of its owners, partners, or members (owners), according to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-9 NMSA 1978), must file a PTW-D. On the PTW-D, the PTE must:

- Report each owner's share of net income allocable to New Mexico.
- List only payees who have New Mexico net allocable income and losses.
- Remit the New Mexico tax withheld for each non-resident owner.

The PTE reports all resident and non-resident owners on the PTW-D, even when no tax has been withheld.

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 enters **2** in the **Reason Code** box in Supplemental Page, line 6.

The PTE must file a PTW-D reporting all resident and non-resident owners who received New Mexico allocated net income, even when no tax has been withheld. Do not include owners who did not receive New Mexico allocated net income.

### Personal Services Business

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.

**NOTE:** A PTE that is a personal services business cannot enter into an agreement with its owners using RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding On Behalf of a Pass-Through Entity or Remitter*.

### Estates and Trusts

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

The estate or trust must file and pay the tax withheld using Fiduciary Pass-Through Withholding Detail (FID-D) Report. It must report the details for all recipients to whom it distributes taxable New Mexico net income. If the distributed income is not taxable to the recipient, as in the case of some grantor trusts including living trusts, the distributed income is not included on Form FID-D. See the FID-D instructions for more details.

### When to File

The PTW-D is due on or before the due date of the entity's federal return for the tax year. If a PTE is not required to file a federal income tax return for the tax year, the entity must file the PTW-D no later than 105 days after the end of its taxable year.

### Timely Postmark

If the due date of the return 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.

### Extensions

If the PTE obtains a federal automatic extension or a New Mexico extension for its return, the extension also applies to filing the PTW-D. An extension waives penalty through the extension due date, but does not waive interest. On page 1 of the PTW-D, you are required to complete the extended due date field.

### How To File and Pay

New Mexico approves software you can use to e-file. For the list of approved software, do the following:

1. Click <https://www.tax.newmexico.gov/forms-publications/>.
2. Click the search icon and search for **Approved Software for Online Filing**.

### Requirements for E-Filing and Paper Filing

- E-filing is required for PTEs with 51 or more owners who receive New Mexico net income. Do this by bulk filing an XML file as described later in this section.
- E-filing is acceptable for PTEs with 50 or fewer New Mexico payees. Do this by importing an Excel file as described later in this section.
- Paper filing is only acceptable for PTEs with 50 or fewer New Mexico payees.

**IMPORTANT:** The Department rejects PTW-D reports filed on paper when a PTE is required to e-file. If a PTE is required to but is unable to e-file due to a hardship, the PTE may request Department approval to file on paper by filing Form RPD-41350, *E-File Exception Request Form*. The Department must receive the request at least 30 days before the taxpayer's e-filed report is due.

### E-Filing

E-file at no cost through TAP at <https://tap.state.nm.us>. To set up an account, click **Create a Logon**.

### Bulk Filing

Bulk filing lets you upload multiple returns and payments into TAP for processing. The primary users of bulk filing are tax preparers who file for their clients. To use bulk filing, visit the Departments website: <https://tap.state.nm.us> and log in.

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### Importing an Excel File

You can use an Excel template from the Department website to show owner information. To find and complete the template and then import an Excel file, do the following:

1. Under **Tap Home**, click **View our TAP Frequently Asked Questions**.
2. In the first row of tabs, click **Templates** and then click question **4, How do I get the latest templates for importing PTW-D Owner information?**
3. Complete the template and save this copy.
4. Log into your TAP account
5. Click **PTW-R Account** and then click **File Return** for the appropriate period.
6. In the bottom right corner of your TAP account, click the **Import** button and load the Excel template you completed and saved in step 3.

### E-Paying

To e-pay tax due, follow these steps:

1. Click <https://tap.state.nm.us>.
2. Under **Without Logging On**, click **Make a Payment**, and then click **Business**.
3. From the drop-down box in **Account Type**, select **PTW Remitter**.

### Paper Filing

If the PTE has 50 or fewer New Mexico payees, you can file a paper PTW-D. Attach the report to your income tax return, if applicable, and mail the form and payment to:

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

### Paying with a Check or Money Order

You can pay tax due by check or money order and a payment voucher. To pay tax due with a check or money order, follow these steps:

1. Use one of these vouchers, even when submitting the payment with your return:
  - PTW-ES for estimated payments
  - PTW-PV for a regular payment
  - PTW-EXT for an extension payment (to avoid accrual of interest)
2. Mail the payment and the payment voucher to the address on the voucher.

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

account as soon as the same day.

PTW-D payments **must be** made separately. Do not combine this payment with a payment for any income tax return, including CIT, SCorp, FID, and PTE.

### Refunds

If you request a refund due to an overpayment of tax withheld, you **must** submit form RPD-41373, *Application for Refund of Tax Withheld From Pass-through Entities* with your return.

**NOTE:** The Department requires you to file both the PTE's income tax return and its PTW-D to verify a refund.

### PTE Withholding Requirements

PTEs are required to provide sufficient information to enable the owners to comply with the provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act with respect to the owners' share of the net New Mexico income.

### Requirements for Sufficient Information

- For your owners to receive proper credit for withholding, you must issue one of these withholding statements to the owner:
  - RPD-41359, *Annual Statement Pass-Through Entity Withholding* (preferred)
  - Form 1099-MISC or pro forma 1099-MISC
- APTE must provide these statements to owners by February 15th of the year following the year for which the statement is made.
- PTEs do not submit to the Department statements they issue to owners. The filed PTW-D provides the required information from the statements.

**IMPORTANT:** The Department does not accept Schedule K-1 or its equivalent to substantiate income tax withheld by the PTE. Do not submit them with your PTW-D or return.

### Verification of Income Tax Information

The Department is required to compare the tax information received from a PTE with the records of the owners who file returns with New Mexico.

- If the Department determines that an owner is not paying the proper tax on net income, the Department may request the PTE to show reasonable cause for not withholding.
- If a PTE and an owner entered into tax agreement RPD-41353, *Owner's or Remittee's Agreement To Pay Withholding On Behalf of a Pass-Through Entity or Remitter*, and the Department determines the owner has not paid income taxes, upon the Department's notification to the PTE, the Department revokes the agreement, hereby obligating the PTE to withhold and remit all future income tax on behalf of the owner.

**IMPORTANT:** If a PTE and non-resident owner entered into

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an agreement using RPD-41353, *Owner's or Remittee's Agreement To Pay Withholding On Behalf of a Pass-Through Entity or Remitter*, the remitter or PTE must revoke the agreement and then withhold and remit with respect to future payments to the remittee or owner.

**To Get Help**

If you have questions, call (505) 827-0825 or toll free (866) 809-2335. You can also send questions to [CIT.TaxReturn-Help@state.nm.us](mailto:CIT.TaxReturn-Help@state.nm.us).

**Instructions Page 1**

This is the sequence of items to complete:

1. Name of PTE, FEIN, Address information is required.
2. Beginning of tax year, last day of tax year, federal due date, extended due date if applicable.

**NOTE:** Date format should be MM/DD/CCYY.

**Tax Year.** If the PTE is filing for a tax year that is not a full calendar year, enter the first day and the last day of the tax year. Otherwise, leave blank. The tax year for the New Mexico return must be the same as the tax year for the PTE's federal return.

**Due Date of Federal Return.** Enter the due date of the PTE's federal income tax return. If no federal income tax return is due for the tax year, enter the date 105 calendar days after the end of the entity's tax year.

**Extended Due Date.** If an extension was granted, also enter the extended due date. If you qualify for a federal automatic extension of time to file your federal income tax return, the federal automatic extension due date also applies to the PTW-D.

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

**Box B.** If this is an amended return, mark box B and continue to lines B.(i) and B.(ii) for Type and Date below.

If you check the amended box, you must complete the Type and Date lines, if they are applicable, for your amendment reason. See table T1. Amended Reasons below.

**Line B.(i) Type.** (Required) Review table T1. Amended Reasons and determine which Amended Reason fits your tax situation. Carry the two-digit Type Code to B.(i) on page 1 of your return.

T1. Amended Reasons		
Type Code	Amended Reason	Amended Description
01	Amended- RAR	Report changes resulting from an IRS audit and their Revenue Agent's Report (RAR) within 180 days of the date that the federal adjustments are final. Attach a copy of the RAR including spreadsheets that detail the federal adjustments by company name.
02	Amended- Capital Loss	A taxpayer 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 to carry back a capital loss, always include the following: <ul style="list-style-type: none"> <li>• A schedule showing the application of the capital loss for each carryback and carryover year</li> <li>• A copy of federal Form 1139 or 1120X filed with the IRS</li> </ul> A taxpayer's capital loss may not be carried back or forward to any other taxpayer. If the taxpayer is a filing group, its capital losses may not be carried back or forward to offset any other group's or corporation's taxable income.
03	Amended- FAR	Federal adjustments arising from a partnership level audit or an administrative adjustment request. <b>Note:</b> This amendment reason is sufficient to fulfil the Federal Adjustment Report (FAR) required by Section 7-1-13 NMSA 1978. <ul style="list-style-type: none"> <li>• In case of an audited partnership, file the returns required to be filed no later than 90 days after the final determination date.</li> <li>• In the case of a tiered partner of an audited partnership, file the returns required no later than 90 days after the final determination date.</li> <li>• For taxable direct partners of the audited partnership, no later than 180 days after the final determination date</li> <li>• For taxable indirect partners of the audited partnership, no later than 180 days after the time for the audited partnership's filing and furnishing statements to tiered partnerships and their partners as established by the IRC.</li> </ul>
04	Amended- Error on Original	If you are amending due to making an error on your original return filing (ie. calculation errors, misreported figures, etc.), attach an explanation for all changes.
05	Amended- Other	If the amended return reports changes other than the reasons provided above, attach copies of all applicable federal forms, schedules, and attach an explanation for all changes.

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**Line B.(ii) Date.** If your amended reason is due to an RAR (Type 01) or FAR (Type 03) provide the Final Determination Date on this line. Important: Format requirement MM/DD/CCYY.

**Line B.(iii) 7-1-13(G) Payment Election.** For federal adjustments made with Final Determinations Dates occurring on for after January 1, 2022, legislative changes made in 2022 under Senate Bill 410 allows for an election to pay in lieu of taxes owed by direct or indirect taxable partners under Section 7-1-13(G) NMSA 1978.

**Important:** If you are making the election under this section you must check the box. This will notify the Department to your election.

(G): The election provided by this subsection applies only to federal adjustments other than the distributive share of federal adjustments that must be included in the unitary business income of any direct or indirect corporate partner; provided that this can be reasonably determined, or federal adjustments resulting from an administrative adjustment request. A partnership making an election pursuant to this subsection shall:

- (1) file a completed federal adjustments report and notify the department that it is making the election pursuant to this subsection; and
- (2) pay an amount, determined as follows, in lieu of taxes owed by its direct and indirect taxable partners:
  - (a) exclude from the total final federal adjustments the distributive share reported to a direct partner that is an exempt partner unless the adjustment represents unrelated business taxable income;
  - (b) include only the portion of the total federal adjustment to distributive shares of partners taken into account pursuant to Section 6225(b)(2) of the Internal Revenue Code;
  - (c) apportion and allocate the adjustments as provided by the Uniform Division of Income for Tax Purposes Act as applied at the partnership level following any department regulations adopted for this purpose;
  - (d) multiply the resulting amount by the highest tax rate provided by Section 7-2A-5 NMSA 1978; and
  - (e) add to the amount calculated pursuant to Subparagraph (d) of this paragraph an amount of penalty and interest computed pursuant to the Tax Administration Act.

**Line C. Type of New Mexico Income Tax return the PTE is filing for the current tax year.** Mark the box that fits your tax situation for your Income Tax return requirement.

**Line D. Reporting Detail.** Check all that apply to the return filing depending on what tax types you are reporting on the Schedule A and Schedule A Supplemental(s).

**Line 1. Total New Mexico Net Income.** Enter the total New

Mexico net income for the tax year of this report. This is the amount reported on either of the following:

- PTE return Section 2, line 17
- S-Corp return, S-Corp-1 page 2, line 12

**Line 2. Total withholding tax from Line 8 on all Schedule A's.** From the bottom of each Schedule A and Schedule A Supplemental pages, add all Line 8 totals and enter the sum here.

**Line 3. Total tax withheld passed to the owners.** Enter the amount of tax the PTE withheld and passed to the its owners. If the PTE is required to file one of the following returns, this line amount is the amount reported on the PTE's New Mexico income tax return:

- New Mexico Corporate Income and Franchise Tax Return (CIT return)
- S-Corp New Mexico Sub-Chapter S Corporate Income and Franchise Tax Return (SCorp return)
- PTE New Mexico Information Return for Pass-Through Entities (PTE return)

**Line 4. Subtotal of Withholding Tax Due.** Subtract Line 3 from line 2, enter the amount here.

**Line 5. Total owner Composite Tax amount from Line 11 on all Schedule A's.** From the bottom of each Schedule A and Schedule A supplemental pages, add all Line 11 totals and enter the sum here.

**Line 6. Total Entity Level Tax from line 12 on all Schedule A's.** From the bottom of each Schedule A and Schedule A Supplemental pages, add all Line 12 totals and enter the sum here.

**Line 7. Subtotal of Tax Due.** Add lines 4, 5, and 6, enter amount here.

**Line 8. Total payments and credits.** Enter the total payments the PTE remitted to the Department on behalf of its owners. Include PTW payments the PTE remitted before filing and when filing this report.

If you are filing an amended return, be sure to check the **Amended Return** box, and enter the sum of any refunds the PTE received for this report period for a previously filed PTW-D.

**NOTE:** If the Department paid interest on a refund, do not include the interest paid.

**Line 9. Tax Due.** If line 7 is greater than line 8, enter the difference here to show the tax due.

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**Line 10. Penalty.** If the entity fails to file timely or to pay the amount on line 9 when due, add penalty on this line. Penalty is not to exceed 20% of the tax due, and may not be less than \$5.00.

### Formula to Calculate Penalty

Penalty = tax due from line 9 x 2% x number of months or partial months past due date

**Line 11. Interest.** If the entity fails to file timely or to pay the amount on line 9 when due, add interest on this line. Interest accrues daily on the unpaid principal of tax due. The interest accrual rate can change on a quarterly basis.

### Finding the Interest Rate for the Quarter

You can find the effective interest rates for each quarter in these ways:

- Go to [www.tax.newmexico.gov](http://www.tax.newmexico.gov). In the black navigation bar at the top, click **Individuals** and then under **File Your Taxes**, click **Penalty & Interest Rates**.
- <https://www.tax.newmexico.gov/individuals/file-your-taxes-overview/penalty-interest-rates/>
- Call (505) 827-0825 or toll free (866) 809-2335, or email [CIT.TaxReturnHelp@state.nm.us](mailto:CIT.TaxReturnHelp@state.nm.us).

### Formula To Calculate Interest

Interest = tax due from line 9 x daily interest rate for the quarter x number of days late

**Line 12. Tax, Penalty, and Interest Due.** Add lines 9, 10, and 11 to calculate the total due.

**Line 11. Overpayment.** If line 8 is greater than line 7, enter the difference here. Otherwise, leave blank.

**Line 12. Amount from line 13 you want applied to your 2023 estimated tax.** If you want to apply some or all of an overpayment from line 11 to the 2023 liability, enter the amount to apply. Otherwise, enter zero.

**Line 13. Amount to be refunded to you.** If you want to receive a refund of all or part of an overpayment, this entry = (line 11 overpayment - line 12 amount to apply to the 2023 liability).

**IMPORTANT: A claim for refund requires a RPD-41373.** You must attach RPD-41373, *Application for Refund of Tax Withheld From Pass-Through Entities*, to claim a refund of the overpayment shown on line 15. Additional information can be located under Section 7-1-23 NMSA 1978.

### Taxpayer's Signature

An officer, member, or partner of the entity must sign and date the PTW-D. 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 Business Tax Identification Number (NMBTIN), If the preparer has one (formally known as CRS number)
- FEIN, if applicable
- PTIN, the Preparer Tax Identification Number
- Preparer's phone number

### Schedule A and Schedule A Supplemental

To complete the Schedule A and Schedule A Supplemental, do the following:

1. Report every PTE owner with net allocable income or loss.
2. Complete all fields for each PTE as described in the **Line Instructions** section below.
3. At the bottom of each page, enter the sum of all amounts for lines 8, 11, and 12 for that page.
4. If the PTE has more than 8 owners, print more copies of the Schedule A Supplemental Page directly from the website. Then repeat steps 2 and 3.  
**NOTE:** If you use more than 12 additional pages (over 51 owners), you must file electronically.
5. Attach all Schedule A and Schedule A Supplemental pages to the first page of the PTW-D.  
**IMPORTANT:** Do not use a copy machine to make more pages. Copied forms delay processing your report because high-throughput scanning machines have difficulty reading copied barcodes. It is easier for the machines to read printed barcodes printers than photocopied barcodes.

### Line Instructions

**Line 1a. Owners SSN/ITIN/FEIN.** This information is required.

**Line 1b. ID Provided.** Check the box to indicate which ID type was provided on line 1a. SSN/ITIN or FEIN

**Line 2. Owners Name.** Provide the owners first, middle, and last name.

**Line 3a. Owners Address (Number Street).** This field allows for two row entry, please provide full address.

**Line 3b. City.** Enter in the City for the address provided on 3a.

**Line 3c. State.** Enter in the State for the address provided

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Pass-Through Entity Withholding Tax Rate Table	
If your report period begins on or after:	The effective rate is:
Jan. 1, 2011 .....	4.9%
Jan. 1, 2021 .....	5.9%

on 3a.

**Line 3d. ZIP Code/ Postal Code.** Enter in the ZIP code and if applicable the Postal code for the address provided on 3a.

**Line 3e. Mark if outside of the US/Country Code.** If outside of the US check the box and provide the two character country code in the space allowed. You can find the country codes listed on the IRS website: <https://www.irs.gov/e-file-providers/foreign-country-code-listing-for-modernized-e-file>.

**Line 4. Residency Status.** Provide the owners New Mexico resident status.  
 • N- Non-resident  
 • R- Resident

**Line 5. Withholding required.**  
 • **Y** for **Yes**, withholding required, skip line 6.  
 • **N** for **No**, withholding not required. If **No**, line 6 is required.

**Line 6. Reason Code.** Enter the **Reason Code** in the box to identify the reasonable cause for not withholding. New Mexico regulations recognize the following reasonable causes for not withholding. See table **T2. Reason Codes: Withholding Not Required**, on page 8.

**Approval Required for Other Reasonable Causes**  
 If you believe the PTE has a valid reason for not withholding from an owner, other than the reasons listed on page 8, the Secretary's approval of your reason before filing gives the PTE the right not to withhold. A request requires detailed information to support an alternative reasonable cause for not withholding.

To request the Secretary's approval, submit a written request to:

New Mexico Taxation and Revenue Department  
 Corporate Income Tax Unit  
 P.O. Box 630  
 Santa Fe, NM 87504-0630

**Line 7. Owners Share of allocable net income.** Enter the owner's share of the PTE's allocable net income. The total of all line 7 for all schedules should equal the amount on page 1, line 1, **Total New Mexico Net Income**.

**Line 8. Owners share of withholding tax.** Enter the owner's

share of withholding tax. This is equal to the owner's share of withholding tax the PTE paid and reported to the owner.

**IMPORTANT:** If a PTE requests a refund of overpayment of tax withheld on its New Mexico income tax return, do not include the refund amount.

**NOTE:** When determining the amount of tax to withhold for each owner, see **Adjustments To The Amount Withheld** at the end of these instructions.

**Line 9. Owner's Percentage.** Enter the owner's percentage of ownership.

**Line 10. Composite Return Election.** If a nonresident owner has elected to have the PTE file a Composite Return check the **yes** box. If there is no election in place, mark the **no** box and skip line 11.

**Line 11. Owner's Composite Tax Amount.** Composite Tax is to be submitted at the highest marginal rate of 5.9% on pro rata or distributive shares.

**Line 12. Entity Level Tax on distributive net.** Entity-level tax is imposed on the distributed net income of the PTE at the maximum rate of 5.9%.

**More About RPD-41353**  
 RPD-41353 is required documentation showing the PTE and non-resident owner entered into an agreement that the non-resident owner agrees to pay New Mexico tax on the owner's share of the PTE's allocable net income. All PTEs except personal services businesses may enter into this agreement with its owners. Keep RPD-41353 in your files with the PTE's other records. Unless you receive a Department request that requires you to furnish a true and correct copy of this agreement, do not submit RPD-41353 to the Department.

**Definitions**  
**Distributed net income** of a pass-through entity shall equal the amount of net income of the pass-through entity allocated and apportioned to New Mexico pursuant to the Uniform Division of Income for Tax Purposes Act, less allocations of net income from that amount to:

- (1) the United States, this state or a political subdivision of either;

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- (2) a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, or any political subdivision thereof;
- (3) an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code; or
- (4) a corporate partner that would properly include the income in the partner's New Mexico tax return as part of the partner's unitary business income.

**Net income** means, for any PTE, the income reported to an owner by the PTE for federal income tax purposes, including ordinary business income or loss, net rental income or loss, guaranteed payments to a partner of a partnership, dividends, royalties, and capital gain or loss, less associated deductions, plus interest earned on a state or local bond, less interest earned on a bond issued by the State of New Mexico or its political subdivisions, less income from obligations of the U.S. less expenses incurred to earn that income.

In the case of a subchapter S corporation, net income also includes income taxable to the corporation for federal income tax purposes. Net income also includes appropriate allocation and apportionment of that income to New Mexico in accordance with the Uniform Division of Income for Tax Purposes Act.

**Owner** means a partner in a partnership not taxed as a corporation for federal income tax purposes for the tax year, a shareholder of an S corporation or of a corporation other than an S corporation that is not taxed as a corporation for federal income tax purposes for the tax year, a member of a limited liability company, or any similar person holding an ownership interest in any PTE. Owner also means a performing artist to whom payments are due from a personal services business.

**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

**Partnership** means a combination of persons, including a

partnership, joint venture, common trust fund, association, pool, or working agreement, or any other combination of persons treated as a partnership for federal income tax purposes.

**Personal services business** means a business organization that receives payments for the services of a performing artist for purposes of the film production tax credit.

**Adjustments To The Amount Withheld**

A PTE may make the following adjustments to the amount withheld:

- You may reduce, but not below zero, the amount of tax withheld from the owner's net income by the amount required to withhold for oil and gas proceeds.
- If a PTE deducted and withheld an amount, pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act, from the net income of an owner that is also a PTE, the payee PTE may take credit for that amount in determining the amount the payee PTE must withhold and deduct.

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T2. Reason Codes: Withholding Not Required	
Reason Codes	Explanation
<b>Code 1</b>	<p>Documentation is on file showing that the owner maintains its place of business or residence in New Mexico and any of the following is true:</p> <ul style="list-style-type: none"> <li>• The owner's address on Form 1099-MISC, pro forma 1099-MISC, or RPD-41359, <i>Annual Statement of Pass-Through Entity Withholding</i>, is a New Mexico address.</li> <li>• An individual has a signed RPD-41354, <i>Declaration of Principal Place of Business or Residence in New Mexico</i>, on file that declares the individual is a resident of New Mexico and the physical location of the individual's abode is in New Mexico.</li> <li>• A corporation has a signed RPD-41354, <i>Declaration of Principal Place of Business or Residence in New Mexico</i>, on file that declares the corporation's principal place of business is in New Mexico.</li> </ul> <p><b>NOTE:</b> Keep RPD-41354 in your files with the PTE's other records. Unless you receive a Department request that requires you to furnish a true and correct copy of this agreement, do not submit RPD-41354 to the Department.</p> <ul style="list-style-type: none"> <li>• A corporation incorporated in New Mexico has on file Articles of Incorporation and sufficient portions of those papers demonstrate incorporation in New Mexico, or information from the Secretary of State, Corporation Bureau website indicates the corporation is a New Mexico corporation in good standing and shows its address.</li> </ul>
<b>Code 2</b>	<p>Documentation is on file showing that the PTE and owner executed the tax agreement RPD-41353, in which the owner agreed to report and pay the amount to the Department on behalf of the owner. If the PTE has on file a signed RPD-41353, <i>Owner's or Remittee's Agreement to Pay Withholding on Behalf of a Pass-through Entity or Remitter</i>, use this code.</p> <p>The owner satisfies the terms of the agreement by filing a New Mexico income tax return and paying the tax due. If the Department notifies the PTE that the owner failed to remit the required payment, the RPD-41353 agreement is no longer acceptable by the Department as reasonable cause for failure to withhold. The PTE is not responsible for withholding on the net income earned in periods that ended before the Department's notification.</p>
<b>Code 3</b>	<p>Documentation shows the U.S. Commissioner of Internal Revenue granted the owner exemption from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code. In addition to this documentation, on file is a copy of the owner's Form W-9 or a copy of the IRS determination letter. <b>IMPORTANT:</b> If the income constitutes unrelated income, the obligation to deduct and withhold from payments applies to these organizations.</p>
<b>Code 4</b>	<p>Documentation is on file showing the owner is the U.S., New Mexico, or any agency, instrumentality, or political subdivision.</p>
<b>Code 5</b>	<p>Documentation is on file showing the owner is a federally-recognized Indian nation, tribe, or pueblo or any agency, instrumentality, or political subdivision thereof.</p>
<b>Code 6</b>	<p>Documentation is on file showing the PTE's inability to make payment of withholding from net income for the tax year due to non-availability of cash, or due to contracts and other binding written covenants with unrelated third parties. However, if the PTE made cash payment(s) to any owner during the tax year, the PTE is liable for payment of the withholding amount due up to the extent of those cash payment(s).</p>
<b>Code 7</b>	<p>The PTE made a timely election for federal income tax purposes that changes the net income of a PTE in a prior quarter.</p>
<b>Code 8</b>	<p>For tax years 2014 through 2018, the PTE elected pursuant to Section 26 U.S.C .108(i) to defer income from the discharge of indebtedness in conjunction with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument for the period 2014 through 2018, and the entity has insufficient cash to remit the withholding amount due on the deferred income reported in the year.</p>
<b>Code 9</b>	<p>The owner is an insurance company, reciprocal, or interinsurance exchange that pays a premium tax to New Mexico and falls under the provisions of Section 59A-6-6 NMSA 1978.</p>
<b>Code 10</b>	<p>The amount to withhold from an owner's allocable share of the net income in any calendar year is less than \$100.</p>