

**Note on changes to the Sub-Chapter S Corporate (S-Corp) Income and Franchise Tax Return**

Starting with tax year 2023, pass-through withholding for owners of an S-Corp will no longer be reported on the RPD-41367, *PTW-D Pass-through Entity Withholding Detail Report*. This form is being retired. All withholding from distributions to owners is now reported directly on the S-Corp Income and Franchise Tax return on schedule S-Corp-D, *Detail of Owner Withholding, Composite Tax and Entity-level tax*.

In addition, a separate section of the tax return has been created for those electing to file entity-level tax. House Bill 368 passed in the 2023 regular session created new provisions for the determination of net income for an entity electing to file entity-level tax. This amount is calculated in a different manner than net income for withholding.

**Due Dates**

The new 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. You will enter the due date of the federal return for the corporation on the New Mexico S-Corp return.

**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@tax.nm.gov](mailto:CIT.TaxReturnHelp@tax.nm.gov)

(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-D
- 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

**2023 Legislative Summary**

For information about New Mexico tax law changes enacted during 2023, see **LS-2023 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 S-Corp

**& Publications, Publications, Legislative Summaries**

**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/](http://www.tax.newmexico.gov/forms-publications/), then click Publications, FYIs, and 300 Series-Income Taxes.

**FYI-106**

Publication **FYI-106, Claiming Business-Related Tax Credits for Individuals and Businesses**, provides information about the various non-refundable and refundable tax credits to claim on S-Corp-CR. Click [www.tax.newmexico.gov/forms-publications/](http://www.tax.newmexico.gov/forms-publications/), 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 2023 S-Corp, New Mexico Sub-Chapter S Corporate

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Income and Franchise Tax Return, and make payments using TAP by following these steps: Click <https://tap.state.nm.us>.

- Corporate Income and Franchise Tax
- Sub-Chapter S Corporate Income and Franchise Tax
- New Mexico Pass-Through Entities Tax Return

### Using Federal/State Filing

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

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## Contact Our Local Offices

Local tax offices can provide full service and information about the Department's taxes, programs, and forms as well as specific information about your filing situation.

### Albuquerque

Taxation & Revenue Department  
Copper Pointe  
10500 Copper Avenue NE  
P.O. Box 8485  
Albuquerque, NM 87123-8485

### Farmington

Taxation & Revenue Department  
3501 E. Main Street, Suite N  
P.O. Box 479  
Farmington, NM 87499-0479

### Las Cruces

Taxation & Revenue Department  
2540 S. El Paseo, Building #2  
P.O. Box 607  
Las Cruces, NM 88004-0607

### Roswell

Taxation & Revenue Department  
400 North Pennsylvania, Suite 200  
P.O. Box 1557  
Roswell, NM 88202-1557

### Santa Fe

Taxation & Revenue Department  
1200 South St. Francis Drive  
P.O. Box 5374  
Santa Fe, NM 87502-5374

**Call Center: 1-866-285-2996**

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## Use Our Online Services

<https://www.tax.newmexico.gov/online-services/>

- **Ask a question.**

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

- **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.

- **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/](http://www.tax.newmexico.gov/forms-publications/).

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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, please use information from the line on the federal form that matches the description of the information requested.
- Use approved, high-quality original state forms and vouchers. The Department 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 of the federal return is entered on the S-Corp return.

## Timely Returns

An S-Corp return and payment are timely if the United States Postal Service (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 Internal Revenue Code (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, 2023, use the 2023 S-Corp return, even though the ending date of the tax year is 2024.

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.

### 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 2023 S-Corp do **not** also file a 2023 PTE.

## Assembling the Return

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

- S-Corp
- S-Corp-1
  - S-Corp-A
  - S-Corp-B
  - S-Corp-C
  - S-Corp-D
- S-Corp-CR, tax credits and required attachments
- Federal Form 1120-S, 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-S, pages 1 through 5.

| If you file federal form   | You must file New Mexico form                                  |
|--|--|
| 1065 U.S. Return of Partnership Income                             | PTE New Mexico Pass-Through Entities Tax Return                |
| 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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**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 14 or 15, 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, *2023 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, *2023 Calculation of Penalty and Interest on Underpayment of Estimated Tax*.

### 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 Business-Related Tax Credits for Individuals and Businesses*. To find FYI-106, click [www.tax.newmexico.gov/forms-publications/](http://www.tax.newmexico.gov/forms-publications/), then click **Publications, FYIs, and 100 Series-General Information**.

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** file PTE, *New Mexico Pass-Through Entities Tax Return*.

An S-Corp subject to withholding tax from its non-resident owner's, partner's, member's, or beneficiary's net income according to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-10 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.

For S-Corps, the required annual reporting of withholding is reported on the S-Corp tax return on schedule S-Corp-D. The S-Corp is 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 owner's share of the net New Mexico income.

If the owner elects to have the entity pay composite income tax on their behalf, the S-Corp will provide Form RPD-41359, *Annual Statement of Pass-Through Entity Withholding*, as support to the owner that the tax has been paid. Composite return tax is an election available to non-resident members only.

An S-Corp that elects to file and pay entity-level tax must provide Form RPD-41359 to its owners to show the owner's share of net income subject to entity-level tax and the owner's share of entity-level tax paid by the entity. The election to pay entity-level tax is binding on all owners of the electing pass-through entity whose income is included in the entity's distributed net income.

Forms 1099-Misc, pro forma 1099-Misc, or Form RPD-41359, must be provided to the owner by February 15th of the year following the year for which the statement is made. The S-Corp is not required to submit these forms to the Department.

### Amended Returns

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

1. Use the S-Corp return for the year amended.

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# General Instructions

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2. Check the "Amended" box **and** indicate the **Type** of amended return. If applicable, provide the **Final Determination Date**.

**NOTE:** 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.

3. Attach all schedules previously filed with the original return.

4. If additional tax is due, include payment for the full amount and include interest calculated from the date the original return was due and any applicable penalty.

**NOTE:** Do not attach a copy of the originally filed 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 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

S-Corp

transfer, funds may be withdrawn from the account as soon as the same day you make the payment.

## Corporations Required to Make Estimated Payments

An S-Corp is required to make estimated payments on that portion of income subject to corporate income tax, if 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 <https://www.tax.newmexico.gov/individuals/file-your-taxes-overview/penalty-interest-rates/>.

## 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

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# General Instructions

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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.

## 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 Admin-

istration Act, the law under the Intercept Act 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 by visiting our website: [www.tax.newmexico.gov/forms-publications/](http://www.tax.newmexico.gov/forms-publications/). 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 and continue to lines 4b.(i) and 4b.(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 for more information.

**Line 4b.(i) Type. (Required)** Review table **T1. Amended Reasons** below and determine which Amended Reason fits your tax situation. Carry the two-digit *Type Code* to 4b.(i) on page 1 of your return.

**Line 4b.(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.

**NOTE:** A complete amended return indicating **Amended-FAR** is sufficient to meet the requirement of filing a Federal Adjustment Report (FAR) with the New Mexico Taxation and Revenue Department under Section 7-1-13 NMSA 1978.

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

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

| 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 return 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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**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.** 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.** Enter the original due date of the corporation's required federal return. If the federal return provides an electronic due date for that return, enter that date. The original federal due date is not the extension due date.

**Line 6d.** If the due date was extended, enter the extension date and include a copy of the federal or New Mexico 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 2023 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 23 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, enter the total allocated and apportioned income taxed to the corporation.

**Line 2. Tax on amount on line 1.** This entry = line 1 income taxable to corporation x tax rate in the rate table below, and including the tax amount over \$500,000 if applicable).

**Line 3. New Mexico percentage.** If on S-Corp-C, line 5 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/](http://www.tax.newmexico.gov/forms-publications/). Click **Income Taxes, Corporate Income Tax- Current Year, Subchapter S Corporate Income Tax Return Forms**, and then **S-Corp-**

| <b>Line 2.</b>  |   |
|---|---|
| <b>Corporate Income Tax Rates</b>                                       |   |
| <small>For tax years beginning 1/1/2023, but prior to 1/1/2024.</small> |   |
| <b>Net Taxable Income</b>   | <b>Tax</b>                                      |
| 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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## CR Instructions.

**NOTE:** For more information about business-related credits, see FYI-106, *Claiming Business-Related Tax Credits for Individuals and Businesses*. You can find FYI-106 at [www.tax.newmexico.gov/forms-publications/](http://www.tax.newmexico.gov/forms-publications/). Click **Publications**, **FYIs**, and **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, or visit <http://www.sos.nm.gov>.

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

**Line 9. Total withholding, composite, and entity-level tax.** This is the amount from S-Corp-1, line 28.

**Line 10. Total New Mexico tax.** This entry = line 8 total income and franchise tax + line 9 total withholding, composite, and entity-level tax.

**Line 11. Amended Returns Only.** If this is an amended return, enter the total amount of all 2023 refunds received and overpayments applied to 2024.

**Line 12. Subtotal.** This entry = line 10 total New Mexico income tax + line 11 refunds received and overpayments applied.

**Line 13. 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 13 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 14. 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 for oil and gas proceeds are the forms 1099-MISC and RPD-41285 issued to the entity.

**Line 15. 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 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 for PTE withholding are the forms 1099-MISC and RPD-41359 issued to the entity.

**Line 16. Total payments and tax withheld.** This entry = line 13 total payments + line 14 oil and gas proceeds + line 15 pass-through entities.

**Line 17. Tax due.** If line 12 is greater than line 16, this entry = line 12 subtotal - line 16 total payments and tax withheld.

**Line 18. Penalty.** Calculate penalty if any of the following is true:

- 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.

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# S-Corp

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## Formula to Calculate Penalty

Penalty = tax due from line 17 x 2% x number of months or partial months past due date or extended due date (though no more than 10 months).

**Line 19. Interest.** Calculate interest if either of the following is true:

- You did not pay the tax due on line 17 by the original due date.
- You received an extension of time to file.

## Formula to Calculate Interest

Interest = tax due from line 17 x daily interest rate for the quarter x number of days late.

**Line 20. Total amount due.** This entry = line 17 tax due + line 18 penalty + line 19 interest.

**Line 21. Overpayment.** If the amount in line 16 is greater than the amount line 12, this entry (the refund amount) = line 16 total payments and tax withheld - line 12 subtotal.

**Line 21a.** If you want to apply some or all of an overpayment from line 21 to the 2024 liability, enter the amount to apply. Otherwise, enter zero.

**Line 21b.** If you want to receive a refund of all or part of an overpayment, this entry = line 21 overpayment - line 21a amount to apply to the 2024 liability.

**Line 22. 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.

**Line 23. Total refund of overpaid tax and refundable credit due to you.** This entry = line 21b amount of overpayment to refund + line 22 tax credit to refund.

## Refund Express

If you want a refund of overpaid tax and any refundable credit (S-Corp, line 23) 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, 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

# 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: A211500151 A  
Account Number: 2015551517 C 1540

1540  
15-000000000

Do not include the check number

**SAMPLE**

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 Business Tax Identification Number (NMB-TIN), 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-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 business 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 business 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.

**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. Deduction for certain expenses related to a New Mexico licensed cannabis business.** A licensed cannabis business may enter an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disal-

lowed pursuant to Section 280E of the Internal Revenue Code, as that section may be amended or renumbered.

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

**Line 9. Apportionable income.** This entry = line 4 subtotal - (line 5 interest + line 6 allowable deductions + line 7 cannabis expense + line 8 allocated income).

**Line 10. Average New Mexico percentage.** Enter the average New Mexico percentage from S-Corp-A, line 5.

**Line 11. New Mexico apportionable income.** This entry = line 9 apportionable income x line 10 average New Mexico percentage.

**Line 12. New Mexico allocated income.** If applicable, enter New Mexico allocated income from S-Corp-B, line 9, column 2.

**Line 13. NEW MEXICO net income.** This entry = line 11 apportionable income + line 12 allocated income.

**Line 14. Amount of net income from line 13 that is subject to PTE withholding tax.** Enter the portion of New Mexico net income that the entity has determined is subject to PTE withhold tax, including any additional amounts that the entity has decided to withhold on for owners. Note that no withholding is due with respect to any net income on which the entity pays tax directly, i.e. any amount included in line 24. If electing to file entity-level tax (see below), include only the net income of owners whose income is not included in the distributed net income subject to entity-level tax on line 24. If all net income of the owners is included on line 24, leave line 14 blank.

For more information on what income distributed to owners is required to have New Mexico income tax withheld, see the introduction to these instructions.

**Line 15. Withholding tax rate.** The withholding tax rate is 5.9%.

**Line 16. Amount of withholding tax on net income.** This entry = Line 14 amount of net income subject to PTE withholding tax x line 15 withholding tax rate.

**Line 17. Total withholding tax passed directly to owners.** This is the amount of withholding tax that was withheld from a payment made to the S-Corp and that was passed directly on to an owner or owners.

**Line 18. Total withholding tax.** This entry = line 16 amount of withholding tax on net income - line 17 withholding passed directly to owners.

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# S-Corp and S-Corp-1

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**Line 19. Amount of net income from line 13 subject to composite income tax.** The portion of net income distributed to owners that have elected to have the entity file a composite income tax return.

**Line 20. Composite income tax rate.** The composite tax rate is 5.9%.

**Line 21. Total composite income tax.** This entry = line 19 net income subject to composite income tax x line 20 composite income tax rate.

## COMPUTATION OF ENTITY-LEVEL TAX

Complete lines 21 through 25 if electing to file and pay entity-level tax. This election is binding on all members of the entity. The S-Corp calculates the distributed net income subject to entity-level tax on the lines below and will pay tax directly on this income. All owners whose income is included in distributed net income subject to entity-level tax on line 23 will be allocated a share of the entity-level tax paid and be able to claim a credit for the tax paid on the owner's PIT and CIT return.

**Line 22. New Mexico net income from line 13.** The amount entered on line 13.

### Line 23. New Mexico Net Capital Gains Deduction.

Enter the amount of net capital gains that may be deducted from net income pursuant to Section 7-2-34 NMSA 1978 for owners who are subject to the Income Tax Act. The PTE may deduct from net income all or part of net capital gains reported and claimed on the federal tax return that is allocated to owners **subject to personal income tax**. For purposes of this deduction, "net capital gains" are defined by Section 1222(11) of the Internal Revenue Code as the excess of net long-term capital gains over short-term capital losses for the tax year.

The PTE may deduct the greater of:

- 100% of the owner's net capital gains, not to exceed \$1,000; or
- 40% of the owner's net capital gains.

The PTE may claim only one-half of the net capital gains deduction allocated to an owner who files a married filing

separate return. **IMPORTANT:** The PTE may not claim the net capital gains deduction in addition to the credit provided by the Venture Capital Investments Act.

### Line 24. Distributions not subject to entity-level tax.

Income of certain owners is not included in distributed net income, and the entity may not pay tax directly on such income. Income distributed to the following entities listed below are not subject to entity-level tax, and the taxpaying pass-through entity may not pay tax directly with respect to or on behalf of such owners.

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

(b) a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, or any political subdivision thereof;

(c) 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;

(d) 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; or

(e) a pass-through entity that is an owner of the electing pass-through entity;

**Line 25. Distributions subject to entity-level tax.** This entry = line 22 New Mexico net income - (line 23 New Mexico net capital gains deduction + line 24 distributions not subject to entity-level tax).

**Line 26. Entity-level tax rate.** The entity-level tax rate is 5.9%.

**Line 27. Total entity-level tax.** This entry = line 25 distributions subject to entity-level tax x line 26 entity-level tax rate.

**Line 28. Total withholding, composite and entity-level tax.** This entry = line 18 total withholding tax + line 21 total composite income tax + line 27 total entity-level tax. Enter this amount on line

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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.

**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

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

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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 sub-rental 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, 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.



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

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- 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 10.

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@tax.nm.gov](mailto:CIT.TaxReturnHelp@tax.nm.gov).

### 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.

On or after January 1, 2020, if eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing or operating a computer processing facility, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year

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

#### Definition of Manufacturing

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

- a. construction;
- b. farming;
- c. power generation; provided that for taxable years beginning prior to January 1, 2024, "manufacturing" includes electricity generation at a facility that does not require location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the Public Utility Act;
- d. processing natural resources, including hydrocarbons; or
- e. processing or preparation of meals for immediate consumption.

**How to Make the Election:** To elect to use the manufacturers apportionment formula, you must notify the Department in writing no later than the filing date of the first return to which your election applies. NOTE: On Schedule S-Corp-A, complete line 5B.

Submit your notification to make your election or to terminate your election to Taxation and Revenue Department, CIT Unit, P.O. Box 630, Santa Fe, NM 87504-0630. For assistance, call (505) 827-0825 or toll free: (866) 809-2335, option 4 e-mail: [CIT.TaxReturnHelp@tax.nm.gov](mailto:CIT.TaxReturnHelp@tax.nm.gov).

**Election Period:** If the election is made for taxable years beginning prior to January 1, 2020, it applies to the taxable year in which the election is made and to each taxable year

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

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thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier.

Elections made for a taxable year beginning on or after January 1, 2020, apply to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months.

### 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.

On or after January 1, 2020, if a filing group, or a taxpayer that is not a member of a filing group, has a headquarters operation in New Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

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

**How to Make the Election:** To elect to use the manufacturers apportionment formula, you must notify the Department in writing no later than the filing date of the first return to which your election applies. NOTE: On Schedule S-Corp-A, complete line 5B.

Submit your notification to make your election or to terminate your election to Taxation and Revenue Department, CIT Unit, P.O. Box 630, Santa Fe, NM 87504-0630. For assistance, call (505) 827-0825 or toll free: (866) 809-2335, option 4 e-mail: [CIT.TaxReturnHelp@tax.nm.gov](mailto:CIT.TaxReturnHelp@tax.nm.gov).

**Election Period:** If the election is made for taxable years beginning prior to January 1, 2020, it applies to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier.

Elections made for a taxable year beginning on or after January 1, 2020, apply to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months.

#### 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 may require the exclusion of, any one or more insignificant factors. A factor is considered insignificant if column 1 (the denominator) is less than 3% of net income.

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

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### 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

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

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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 8.

**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 12.

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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.

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## S-Corp-D: Detail of Owner Withholding, Composite Tax and Entity-level tax Detail

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### S-Corp-D

#### Detail of Owner Withholding, Composite Tax and Entity-level tax

Annually, an S-Corp that passes tax to its owner and therefore is subject to withholding tax from the allocable net income of its owners, according to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (Sections 7-3A-1 through 7-3A-10 NMSA 1978), will file the S-Corp return and use the S-Corp-D Detail of Owner Withholding, Composite Tax and Entity-level tax, to report withholding for each owner, composite income tax for any electing owners, and/or the amount of entity-level tax paid on behalf of each owner. The S-Corp-D:

- Lists only payees who have New Mexico net allocable income and losses
- Reports each owner's share of net income allocable to New Mexico for withholding tax and reports the owner's share of withholding
- Reports the amount of composite income tax paid for any electing owners
- If electing to file entity-level tax, reports each owner's share of allocable net income subject to entity-level tax if electing to file entity-level tax

The S-Corp reports all resident and non-resident owners on the S-Corp-D, even when no tax has been withheld. Do not include owners who did not receive New Mexico allocated net income.

To complete the S-Corp-D and S-Corp-D Supplemental, do the following:

1. Determine every S-Corp owner with net allocable income or loss.
2. Calculate the share of withholding tax paid on any each owners behalf if applicable.
3. Calculate the composite income tax paid for any electing owners.
4. If the entity has elected to file entity-level tax, determine each owners share of allocable net income subject to entity-level tax. For owners that are subject to personal income tax, the entity will adjust the amount of allocable net income subject to entity-level tax with respect to the capital gains deduction allowed for these taxpayers. Be sure that for owners that are subject to corporate income tax, or owners that are another pass-through entity, the owners allocable share of net income subject to entity-level tax does not reflect this deduction.
5. If the entity has elected to file entity-level tax, determine the amount of each owner's share of entity-level tax. Adjust the amount by any credit for entity-level tax that the S-Corp has been allocated by another pass-through entity. Since the S-Corp is unable to directly claim a credit for entity-level tax on its own return, the S-Corp

will allocate any credit for entity-level tax to each of its owners, allowing them to eventually claim the credit on their PIT or CIT returns.

6. Complete all fields for each S-Corp as described in the **Line Instructions** section below.
7. If the S-Corp has more than 8 owners, print more copies of the S-Corp-D Supplemental directly from the website. **NOTE:** If you use more than 12 additional pages (over 51 owners), you must file electronically.
8. Attach all S-Corp-D Supplemental pages to the first page of the S-Corp-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 than photocopied barcodes.

#### Line Instructions for S-Corp-D

**Line 1a. Owner's 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. Owner's Name.** Provide the owners first, middle, and last name.

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

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

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

**Line 3d. ZIP Code/ Postal Code.** Enter 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 owner's New Mexico residency 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

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## S-Corp-D: Detail of Owner Withholding, Composite Tax and Entity-level tax Detail

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regulations recognize the following reasonable causes for not withholding. See table **T2. Reason Codes: Withholding Not Required**, on page 23.

### Approval Required for Other Reasonable Causes

If you believe the S-Corp has a valid reason for not withholding from an owner, other than the reasons listed on page 23, the Secretary's approval of your reason before filing gives the S-Corp 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. Owner share of allocable net income.** Enter the owner's share of allocable net income. The total of all line 7 amounts for all schedules corresponds to the amount on the S-Corp-1 line 13, **New Mexico net income**.

**Line 8. Owner share of withholding tax.** Enter the owner's share of withholding tax. The total of all line 8 amounts for all schedules corresponds to the amount on the S-Corp-1, line 18, **Total withholding tax**.

**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. Amount of owner composite tax.** Amount of composite tax the S-Corp has paid for the owner. The total of all line 10 amounts for all schedules corresponds to the amount on the S-Corp-1, line 21, **Total composite income tax**.

**Line 11. Owner share of allocable net income subject to entity-level tax.** Enter the amount of allocable net income subject to entity level for this owner. The total of all line 11 amounts for all schedules corresponds to the amount on the S-Corp-1, line 25, **Distributions subject to entity-level tax**.

**Line 12. Owner share of entity-level tax.** Enter the share of entity-level tax for this owner. A total of all line 12 amounts for all schedules may not equal the amount of entity-level tax on S-Corp-1, line 27, **Total entity-level tax**. This line may include amounts of entity-level tax passed on from other pass-through entities.

### Adjustments To The Amount Withheld

An S-Corp 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 an S-Corp 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.

## 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>   |
| <b>Code 11</b> | <p>The owner's allocable share of net income is subject to entity-level tax of an electing S-Corp.</p>   |

# 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
- NMBTIN 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 **2023 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 **12/31/2023**. 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
- **NMBTIN 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 9 to estimate the income tax liability. To avoid penalty and interest for underpayment of estimated tax, calculate the estimated tax using one of these methods:

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

**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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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 cumulatively). 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, *2023 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, *2023 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
- **NMBTIN 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 **2023 S-Corp-EXT** on it.

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# New Mexico Taxpayer Bill of Rights

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Most tax transactions happen without problems. Sometimes, thought, troubles arise through misunderstanding, mathematical error, missed deadlines, lost papers, high volume of transactions and many other situations. Changes in the law may make earlier information outdated. Over the years the Legislature and the Department have created ways to handle difficulties according to the provisions of the state tax code. Following are some of your rights as outlined 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 have the Department conduct its audits in a timely and efficient manner and be entitled to the correct calculation of interest as provided in the Tax Administration Act under Section 7-1-67 and 7-1-68 NMSA 1978;
- The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest, appeals 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 through 7-1-8.11 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 apply to pay your tax obligations by installment payment agreements according to the provisions of Section 7-1-21 NMSA 1978.

## **Confidentiality Provisions:**

Statutes protecting the privacy of your taxes are strict and are outlined in Sections 7-1-8 through 7-1-8.11 NMSA 1978. Section 7-1-8.2 NMSA 1978 limits requiring the Department to answer questions about whether a taxpayer is registered to do business in New Mexico or is registered for other tax programs. It does not allow employees to say whether you have filed a return. Employees may discuss your account only with you or your authorized representative. A hearing officer's written ruling on questions of evidence or procedure pursuant to the Administrative Hearings Office Act are in the public domain. The name and identification number of the taxpayer requesting the ruling are not public record. Public record includes 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 taxpayer pays. 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 reveal to the Gaming Control

Board the tax returns of license applicants and their affiliates.

## **Audit Provisions:**

The Department 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.

## **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 120 days from the filing date to approve or deny a statutory tax credit. If it does not act, the credit is approved. For more information see Section 7-1-29.2 NMSA 1978.

## **Refund Offsets:**

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 to 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.