

New Mexico Tax Bites

Tax and motor vehicle news from the 47th State

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TRD Waives Estimated Payment Penalty for 2006 and 2007

More than 20,000 New Mexico taxpayers who received assessments this summer for failure to correctly file estimated New Mexico personal income tax payments will not have to pay the penalty after all.

In the face of much taxpayer confusion about the estimated payment law that has been in effect since 1997—but not enforced until this year by the assessment of penalty for failure to comply—TRD has decided not to impose that penalty on any taxpayer for tax years 2006 and 2007.

Taxpayers who paid the penalty assessed for tax year 2006 should have received a refund, minus any outstanding personal income tax liability for 2006. Those who were assessed the penalty, but have not paid it, are not required to pay the penalty since it is no longer due. Formal protests of assessments for this penalty only are considered by TRD to be closed.

TRD has also decided not impose the penalty for inadequate estimated personal income tax payments on any taxpayer for tax year 2007. Please note, however, that if a taxpayer is required by law to make estimated payments for tax year 2007 such payments must still be made, despite TRD's decision not to impose the penalty.

TRD will enforce the penalty for underpayment of estimated taxes for tax year 2008 and subsequent years. The first estimated payment for 2008 is due April 15, 2008. TRD Publication FYI-320, "PIT-ES Personal Income Tax Estimated Payments" describes who is required to make estimated payments, how to calculate the required annual payment and how to calculate the estimated payments due. This publication is available at TRD's district offices and can be downloaded from TRD's web site at www.tax.state.nm.us.

New Mexico taxpayers who received assessments of penalty for underpayment of estimated income tax this summer, along with those who saw or read news items about the penalty, may better understand the legal fact

that paying their state income tax is not just an annual task they must perform by April 15. Paying New Mexico personal income tax is a year-round, pay-as-you-go, requirement of state law.

Every person required to file a New Mexico personal income tax return must pay estimated tax on income *as it is received throughout the year* by means of New Mexico withholding tax or estimated tax payments. Beginning in 2009, a taxpayer who does not make sufficient payments for tax year 2008 may receive an assessment of penalty for underpayment of New Mexico personal income tax, even if the full tax amount owed is paid with the annual return in April. Beginning January 1, 2008, late or underpaid estimated payments will be subject to penalty at the interest rate used by the Internal Revenue Service.

New Mexico taxpayers underpay their estimated income tax when, using the figures on their annual PIT-1 return, they get a result of \$500 or more by subtracting from their net New Mexico income tax their New Mexico withholding tax and their total New Mexico rebates and credits. Estimated payments made during the tax year and income tax withheld from oil and gas proceeds may not be subtracted from net New Mexico income tax in that formula. A taxpayer who has underpaid estimated tax, due either to insufficient withholding tax or nonfiling of estimated tax payments, may be penalized.

To correct the underpayment and avoid penalty upon filing the next year's tax return, the taxpayer may increase the amount of withholding from wages or pension payments or make four equal estimated payments on April 15, June 15, September 15 and on January 15 of the following year. Penalty will not be imposed if the taxpayer uses withholding tax or estimated payments to pay either 100 percent of the

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With taxes, time truly is money, and waiting too long to pay your personal income tax may end up costing a taxpayer more than just tax.

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From Secretary Jan Goodwin....

Let's Make All Things Perfectly Clear

At TRD, at least one thing is perfectly clear: *everything* we say to the public we serve must be perfectly clear.

Our letters, forms, instructions and publications are meant to communicate important information to taxpayers. When we let jargon, acronyms, legalese and technical talk get between our message and the reader, we communicate only our failure to communicate. Failure to communicate our information effectively can only result in failure to effectively administer the tax laws of New Mexico. We don't need to use words like "assessment", "abate" and "utilize" when we can say "bill", "stop" and "use."

New Mexico taxpayers deserve to be treated fairly by the agencies charged with serving them. Fair treatment includes the use of plain language that most readers will be able to understand, even when it's used to communicate complicated legal and procedural concepts. Such "plain talk" is the goal of a project recently launched by TRD, the first phase of which aims primarily to clarify the language used in the letters we most often send to taxpayers. Some forms, instructions and publications will also be "plain talked" in the first phase, which will run until the end of 2008.

As our first step toward cleaning up our language, we have formed a task force and subcommittees that will meet regularly to develop policies and procedures, revise documents and perform quality oversight on the resulting language, using members of the public to test readability.

While the plain-talk challenge we face at TRD is daunting, we can take comfort in knowing that we are not alone. In fact, the challenge to state and federal government agen-

cies, as well as to businesses, is so pervasive that it has given birth to at least one nonprofit organization dedicated to helping us all overcome that challenge. The Center for Plain Language, located in Washington, D. C., actively urges government and business officials to use clear, understandable language in laws and public communications.

The government of the District of Columbia began a plain-language initiative several years ago and several federal agencies have followed suit. The state of Washington is in the midst of an effort to simplify the language used by all its state agencies. In addition to providing better customer service, such efforts can bear more tangible fruit. After rewriting one letter, the Washington Department of Revenue saw a tripling of the number of businesses paying its use tax, which had been widely ignored by the taxpayers. That meant an extra \$800,000 collected by that department over two years.

Using more understandable language can also reduce processing costs. Clearly-stated forms, instructions and procedures help both our customers and our employees to perform transactions successfully the first time. Savings in processing time can translate directly into less taxpayer money spent by this department.

Translating legal and technical language into common speech is never easy. The task is especially challenging when we're working with precisely-worded tax statutes and regulations. Nevertheless, we will expend extreme exertion to extirpate linguistic ambiguities, confident that *finis coronat opus*.... Uh oh. That is, *we'll work very hard, trusting that our work will pay off in the end.* ■

"We're talking about people's rights and benefits. If they can't understand them, then they really don't have access to their government."

—Dana Botka,
Plain-Language
Coordinator,
State of
Washington

Estimated Payments

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previous year tax liability or 90 percent of the liability for the current tax year, whichever amount is less.

If they anticipate meeting the \$500 threshold on their next New Mexico personal income tax return, taxpayers who pay no withholding tax on their income, such as the self-employed, retired or recipients of lump sums, must make their required estimated payments on a timely basis to avoid penalties. While making proper estimated payments will avoid the imposition of penalty, the taxpayer will be required to continue making estimated payments for all tax years in which the \$500 threshold is met.

Taxpayers who have seasonal or irregular income,

including farmers and ranchers, should consult the instructions for Form RPD-41272 to see whether they qualify to use an alternative method to determine the amount and timing of their estimated installment payments that may reduce or eliminate penalty on underpayments.

Taxpayers who received assessments for underpaying or not filing estimated tax payments for the 2006 tax year may catch up with their estimated payment requirements for the 2007 tax year by taking steps before the end this year. Such taxpayers should estimate how much tax they will owe at the end of 2007 and make catch-up estimated payments by increasing their withholding tax or making the estimated payments that are overdue for April and June. ■

New GRT Location Codes Reflect Tax Changes

The addition of 11 new business location codes for the gross receipts tax rate schedule for January through June, 2008, required, for the first time, a second page for the schedule.

A new location code was created in Valencia County for the newly-incorporated municipality of Peralta. Codes were added for Santo Domingo Pueblo—two in Santa Fe County and two in Sandoval County—because the pueblo entered into a cooperative agreement with the state for collection of gross receipts tax, as many tribes had done before. The other six location codes result from recent legislation authorizing the creation of tax increment development districts and the enactment of local option gross receipts taxes creating new tax districts.

Tax Increment Development Districts

As a stimulus to job creation and economic development, the 2006 Legislature passed the Tax Increment for Development Act, allowing the use of gross receipts tax and property tax to finance public infrastructure through tax increment development projects. Such projects may include acquisition of land within a designated tax increment development area, demolition and removal of buildings; construction of streets, parks and playgrounds; installation of sewer and utilities; and grants for public improvements essential to the location or expansion of a business.

With approval of the affected voters, a Tax Increment Development District (TIDD) may be formed to carry out tax increment development projects. TIDDs are political subdivisions of the state, separate from a municipality or county. The Act allows a portion of the state and local option gross receipts taxes generated within the boundaries of a TIDD to be dedicated for the securing of gross receipts tax increment bonds used to finance tax increment development projects.

The Act specifies the county and municipal local option gross receipts taxes that may be dedicated by the county or municipality the TIDD is located in to the TIDD's bond fund. At most, only 75 percent of these local option taxes and the state gross receipts tax distributions to the local government can be dedicated. Likewise, only 75 percent of the state's net share of its gross receipts tax can be dedicated by the State Board of Finance to the TIDD's bond fund. Each TIDD must have its own gross receipts tax location code in order for the Taxation and Revenue Department to distribute these dedicated revenues.

Two location codes have been added to the gross receipts tax rate schedule for the only currently operational Mesa del Sol TIDD that has been formed in Albuquerque.

Water and Sanitation Districts

Location codes were added for three water and sanitation districts created this year when voters within those districts approved the imposition of the one-fourth percent county local option water and sanitation gross receipts tax authorized by the 2007 Legislature. The revenue from that county local option gross receipts tax is dedicated for the operation of the water and sanitation district for which the tax is imposed. The proceeds of the water and sanitation gross receipts tax must be administered by the county in which a district is created. A water and sanitation district must have its own location code to allow the county to distribute the correct revenues to that district and to identify those areas of the county that are subject to the tax.

Two districts, the El Prado and the El Valle de Los Ranchos water and sanitation districts are located in Taos County. The Valley Water and Sanitation District is in San Juan County. For information regarding the boundaries of a district, taxpayers should contact the county clerk for the county in which a district is located.

Regional Spaceport

The eleventh new location code is for the spaceport to be built in Southern New Mexico. In April, 2007, Doña Ana County voters approved the imposition of the county regional spaceport gross receipts tax at the rate of one-fourth percent. The county local option spaceport tax was enacted by the Legislature in 2006, with a maximum rate of one-half percent. At least three-quarters of the revenues from the spaceport tax must be dedicated to the Regional Spaceport District to be created for the financing, planning designing and engineering and construction of a spaceport, or for projects or services of that district. The remaining one-quarter of the tax revenues may be used for spaceport-related projects approved by the county.

A Regional Spaceport District is a political subdivision of the state that is created through a combination of two or more governmental units exercising joint authority. While a Regional Spaceport District has not been created, taxpayers should contact the office of the Doña Ana County Clerk for information about the proposed boundaries of the Regional Spaceport District. Taxpayers engaging in business within those boundaries in Doña Ana County should use the new spaceport district location code. ■

New Location Codes

Bernalillo County

Mesa Del Sol Tax
Increment District 1—Residential
02-601 6.875%
Mesa Del Sol Tax Increment
Development District 1—
Commercial
02-606 6.875%

Doña Ana County

Regional Spaceport District
07-507 6.1875%

Sandoval County

Santo Domingo Pueblo (1)
29-973 6.00%
Santo Domingo Pueblo (2)
29-974 6.00%

San Juan County

Valley Water & Sanitation Dist.
16-321 6.4375%

Santa Fe County

Santo Domingo Pueblo (1)
01-973 6.625%
Santo Domingo Pueblo (2)
01-974 6.625%

Taos County

El Prado Water & Sanitation Dist.
20-415 6.75%
El Valle de Los Ranchos Water &
Sanitation Dist.
20-419 6.75%

Valencia County

Peralta
14-412 6.4375%

REGULATIONS

After public hearing in September, these regulations were expected to be filed by TRD on October 31 and to become effective on that date:

Tax Administration Act

3.1.12.13 NMAC
(Collection of Community Debt Against a Spouse or Former Spouse);

3.1.4.10 NMAC (Amend)
(Due Dates and Timeliness);

3.1.4.12 NMAC (Amend)
(Extensions)

Motor Vehicle Code

18.19.5.7 NMAC
(Definitions)

Special Fuels Supplier Tax Act

3.16.109.8 NMAC
(Calculation of Special Fuel Excise Tax Liability);

3.16.109.9 NMAC
(Proof Satisfactory to the Department);

3.16.109.10 NMAC
(Deduction—Sales to Other Suppliers);

3.16.109.11 NMAC
(Indirect Sales to the United States, The State of New Mexico, Indian Nations, Tribes or Pueblos or for Export);

3.16.109.12 NMAC
(Deduction—Sales to a Non-United States Signatory of the North Atlantic Treaty);

3.16.109.13 NMAC
(Special Fuel Used in School Buses)

Gross Receipts and Compensating Tax Act

3.2.220.13 NMAC
(Construction of Irrigation Pipelines)

This regulation is scheduled for hearing on October 24, 2007:

Cigarette Tax Act

3.9.1.7 NMAC
(Definitions: Cigarettes Defined)

This regulation became effective on October 1, 2007:

Motor Vehicle Code

18.19.5.12 NMAC
(Proof of Identification Number, Identify and Residency).

FREE CRS WORKSHOPS

October-December, 2007

Albuquerque: Oct. 16 and 23*; Nov. 6, 13, 20 and 27*; Dec. 4, 11 and 18; Spanish language on Oct. 17	505/841-6200
Santa Fe: November 13	505/827-0951
Las Cruces: October 16; November 20; December 18; Spanish language on Oct. 21	575/524-6225
Farmington: October 18; December 20	505/599-9701
Roswell: October 19	575/624-6065
Hobbs: October 16	575/393-0163
Clovis: October 18	575/763-5515
Carlsbad: October 17	575/885-5616
Las Vegas: October 18	505/885-5616
Raton: October 18	575/454-2582

* Workshops for businesses that are new employers. Please call to reserve a place and verify the time and location of the workshop. Telephone numbers are for district offices or satellites.

The complete 2007 CRS workshop schedule is available on our web site at www.tax.state.nm.us. You will find the schedule by clicking on "Public Events" under "Resources" on the home page.

To Contact Us

Main Office Telephones

All main office telephone numbers use the 505 AREA CODE.

Main Switchboard: 827-0700

Motor Vehicle Division: 827-2296

Audit & Compliance Division: 827-0900

Revenue Processing Division: 827-0800

Admin. Services Division: 827-0369

Property Tax Division: 827-0870

Office of the Secretary: 827-0341

Tax Information & Policy:
827-0908, 0679, 2588, 0928, 2523

Inspector General:
841-6580 (Alb.) 476-1510 (S.F.)

Tax Fraud Investigations Division:
841-4731 (Alb.), 476-1765 (S.F.)

New Mexico Tax Fraud Hotline:
1-866-457-6789

Satellite Office Telephones

Alamogordo 575/437-2322

Carlsbad 575/885-5616

Clovis 575/763-5515

Hobbs 575/624-6065

Silver City 575/388-4403

Mail

New Mexico Taxation & Revenue Dept.

P.O. Box 630

Santa Fe, NM 87504-0630

Street Addresses

For the street address of your nearest district office call either TRD's main switchboard at 505/827-0700 or the appropriate number shown on the CRS workshop calendar above.

For other New Mexico agencies check the state web site at www.state.nm.us.

E-mail

policy.office@state.nm.us

TRD Web Site

www.tax.state.nm.us

Fax

Tax Information & Policy 505/827-0331