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## 2001 NEW MEXICO FORM PTE INCOME AND INFORMATION RETURN AND INSTRUCTIONS FOR PASS-THROUGH ENTITIES

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*PLEASE READ THE INSTRUCTIONS CAREFULLY. They will answer most questions, save time and may save money. File your return as early as possible. If you have any questions, write to the New Mexico Taxation and Revenue Department, ATTENTION: Corporate Income and Franchise Tax, P. O. Box 25127, Santa Fe, New Mexico 87504-5127.*

### GENERAL INSTRUCTIONS

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#### ENTITIES REQUIRED TO FILE A NEW MEXICO INCOME AND INFORMATION RETURN FOR PASS-THROUGH ENTITIES

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Corporations electing to be taxed as S corporations for federal income tax purposes, or any partnership, joint venture, common trust fund, limited association, pool or working agreement, limited liability company or any other combination of persons or interests required to file a federal partnership return of income must file a New Mexico *Income and Information Return for Pass-Through Entities* (PTE) if the entity is registered to do business in the state, transacts business in, into or from the state, or derives any income from property or employment within the state.

**EXCEPTION:** The following entities are exempt and are not required to file a New Mexico *Income and Information Return for Pass-Through Entities*:

- insurance companies and reciprocal or inter-insurance exchanges which pay a premium tax to New Mexico;
- estates and trusts, and

- rural electric cooperatives established under the Rural Electric Cooperative Act (Sec. 62-15-28 NMSA 1978).

**NOTE:** This form replaces the CIT-2 return which S Corporations were previously required to file.

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#### ENTITIES REQUIRED TO PAY THE NEW MEXICO FRANCHISE TAX

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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 New Mexico *Income and Information Return for Pass-Through Entities* and pay the \$50 franchise tax even if no income tax is due. This includes "disregarded" corporations doing business in New Mexico. The only exceptions are:

- corporations exempt from federal income tax under the Internal Revenue Code which have no unrelated business income;
- insurance companies and reciprocal or inter-insurance exchanges which

- pay a premium tax to New Mexico, and
- rural electric cooperatives established under the Rural Electric Cooperative Act.

Limited liability companies that are required to or which elect to file a Federal S Corporation Income Tax Return pay the New Mexico Franchise Tax.

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#### FILING FOR NON-RESIDENT OWNERS

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The pass-through entity is required to withhold and pay income tax for all non-resident owners who have not provided Form PTE-TA, *New Mexico Nonresident Owner Income Tax Agreement*. The filing of the PTE return and the payment of withholding tax for the non-resident owner fulfill the nonresident owner's obligation to file an income tax return. A nonresident owner with income from other sources within New Mexico must still file a separate income tax return. See page 8 of the instructions for completing the nonresident owner's tax agreement.

Please contact Administrative Resolution and Services Bureau at (505) 827-0825 for details on PTE filing requirements.

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## REQUIRED ATTACHMENTS TO THE FORM PTE

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**NOTE:** We can process your return more quickly if you submit your forms and attachments in the following sequence:

- PTE
- Schedule PTE-1 computing total of New Mexico taxable income applicable to all owners.
- Schedule PTE-A if the entity has income from sources both inside and outside New Mexico.
- Schedule PTE-B if the entity has nonbusiness taxable income.
- Schedule PTE-C if the entity is an S corporation with federal taxable income.
- Schedule PTE-D disclosing each owner's name, address, whether or not a resident, social security number or FEIN, profit-percentage, total New Mexico taxable income, and withholding tax paid.
- Either federal Form 1120S, page 1 and Schedule K, or federal Form 1065, page 1 and Schedule K. **If any of these forms is omitted, the New Mexico return is incomplete.**
- a copy of the approved federal extension or the approved New Mexico extension if the return is filed after the original due date or automatic federal extension date. If a copy is omitted, a late-filing penalty will be assessed.
- **Rural Job Tax Credit.** Every eligible employer may apply for a tax credit for each qualifying job the employer creates in the period beginning July 1, 2000, and ending June 30, 2005.
- **Technology Jobs Tax Credit.** Any taxpayer doing qualified research and development at a facility in New Mexico (other than one operated for the U.S.

government) may claim a credit equal to 4% of qualified expenditures.

- **Investment Tax Credit.** New Mexico has an Investment Credit Act (7-9A-1) to augment its favorable tax climate for manufacturing operations and to promote increased employment in New Mexico. The investment credit provided for in the act is an amount equal to the compensating tax rate (5%) applied to the value of qualified equipment. The credit may be claimed by the taxpayer incorporating the qualified equipment into a manufacturing operation in New Mexico, provided certain employment conditions are met.

- **Capital Equipment Tax Credit.** This sets up another investment credit but only for telephone call centers. It applies to call centers locating or expanding in the rural part of New Mexico (defined as anywhere outside Bernalillo, Dona Ana or Santa Fe Counties).

For more information on business-related credits, see publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*, or contact your local district office.

FISCAL YEAR TAXPAYERS must file a 2001 return for fiscal years beginning in 2001 and ending in 2002.

NOTE: Forms, instructions and informational publications are available on the Department's Internet home page. Our address is: <http://www.state.nm.us/tax>. Forms and instructions can also be obtained by calling (505) 827-2206 (not a toll-free number) or visiting a district office listed on page 9.

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## PAYMENT OF THE PASS-THROUGH ENTITY TAXES

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Make your check or money order payable to the Taxation and Revenue Department and mail the return, required attachments and payment to:

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

Do not mail cash to pay the pass-through entity taxes.

To avoid misapplication of funds write "2001 PTE" and your New Mexico CRS identification number on the check or money order.

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

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## DUE DATE

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For S corporations that file on a calendar-year basis, the 2001 New Mexico *Income and Information Return for Pass-Through Entities* is due on or before March 15, 2002, with payment of taxes due. For fiscal-year filers, the return is due on the fifteenth day of the third month after the end of the fiscal year. For partnerships that file on a calendar-year basis, the 2001 New Mexico *Income and Information Return for Pass-Through Entities* is due on or before April 15, 2002. For fiscal-year filers, the return is due on the fifteenth day of the fourth month after the end of the fiscal year.

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## EXTENSION OF TIME TO FILE

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The Taxation and Revenue Department accepts an extension of time granted by the Internal Revenue Service. A federal extension requiring approval must accompany the Form PTE at the time of filing.

If the entity needs an extension of time to file the New Mexico Form PTE but has not obtained a federal extension, or if additional time to file the New Mexico return is needed beyond the federal extension date, the entity should request an extension by letter or by filing New Mexico Form RPD-41096, *Extension of Time To File* on or before the due date of the return.

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## INTEREST AND PENALTIES

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If the entity does not pay its New Mexico pass-through entity income, withholding, or franchise tax when due, interest is assessed at the rate of 15% per year, calculated at a daily rate of .041% per day on the amount of tax due.

**Interest accrues even if the entity obtains an extension of time to file a return.**

In addition, if a return is not filed or tax remains unpaid when due because of negligence or disregard of rules or regulations, but without intent to defraud, the entity is liable for a penalty of 2% per month, or partial month, from the date the return was due, not to exceed 10% of the amount of tax due or a minimum of \$5.00, whichever is greater. The penalty does not apply if there is an extension of time and the tax is paid by the extended due date.

**TENTATIVE PAYMENTS**

Taxpayers may make tentative payments to avoid accrual of interest on any taxes due by completing PTE-T1. No quarterly estimated payments are required on franchise or withholding taxes due.

**AMENDED RETURNS**

Submit an amended return on Form PTE for the year being amended and check the "amended return" box.

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

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. If the New Mexico amended return shows changes as the result of a Revenue Agent Report (RAR), the changes must be reported within 90 days of the date the federal adjustments are final. Attach a copy of the RAR.

**LINE INSTRUCTIONS FOR COMPLETING FORM PTE**

**Computerized schedule(s) will NOT be accepted in lieu of completing the appropriate forms, except that computerized forms will be accepted for Schedule PTE-D if more than eleven owners are reported.**

**All applicable line items on Form PTE and Schedules PTE-1, PTE-A, PTE-B, PTE-C, PTE-D, either Federal Form 1120S or Federal Form 1065 and Schedule K, must be completed for the return to be processed.**

**NOTE:** References to federal form line numbers correspond to the most recent federal forms as of the date of this printing. If the references do not correspond to the federal form, use the applicable line from the federal form for the item described.

Round all dollar amounts to the nearest whole dollar.

Type or print the correct name, address, zip code and identification numbers in the spaces provided. Indicate if this is an original or amended return. If the return is being filed after the due date, enter the approved extended due date. Enter the SIC code from page 10.

If the entity does not have a New Mexico CRS identification number, an application for a New Mexico CRS identification number, Form ACD-31015, *Application for Business Tax Identification Number*, must accompany the tax return when filed.

Fiscal-year or short-year filers should enter beginning and ending dates (month and year only). No entry is required for calendar year-filers.

Answer general information questions A through D.

**LINES 1 THROUGH 4:** These lines are to be used only by an S corporation that pays federal income tax on capital gains and passive income. Any S corporation with income subject to federal tax must

also compute New Mexico income tax on line 4. IF THE CORPORATION HAS NO INCOME SUBJECT TO FEDERAL TAX, ENTER ZERO ("0") ON LINES 1 AND 4.

Calculate tax due on line 2 using the taxable income figure on line 1 and the rate table below.

**LINE 5:** Enter the total withholding tax for all nonresidents as computed from PTE-D(s).

**LINE 6:** Enter total non-refundable credits taken and indicate the type of credit taken. Include appropriate documentation for the credits claimed against your tax due.

Any S corporation with income subject to federal tax may also be eligible for specific corporate tax credits: Job Mentorship Tax Credit, Intergovernmental Business Tax Credit, Child Care Tax Credit, Qualified Business Facility Rehabilitation Credit, Cultural Properties Preservation Credit, Technology Jobs Additional Tax Credit, Welfare-to-Work Credit, Rural Job Tax Credit, and the Credit for Electronic Identification Card Readers. Credits that may be claimed against the owner's withholding tax reported on Form PTE-D are the Rural Job Tax Credit, Investment Credit, Capital Equipment Tax Credit, and Technology Jobs Tax Credit. A description of some of the credits is listed below. For more information on business-related credits, see publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*.

**AVAILABLE CREDITS**

**Rural Job Tax Credit:** Eligible employers may earn the Rural Job Tax

CORPORATE INCOME TAX RATES	
Net Taxable Income	Tax
Not over \$500,000 .....	4.8% of net taxable income
Over \$500,000 but not over \$1,000,000 .....	\$24,000 plus 6.4% of the excess over \$500,000
Over \$1,000,000 .....	\$56,000 plus 7.6% of the excess over \$1,000,000

Credit for each qualifying job created after July 1, 2000, and apply it to taxes due on the CRS return or to corporate or personal income tax. For a complete list of qualifications, requirements, and a description of the pre-approval process see FYI 106. Download the application RPD-41238 from the web at [www.state.nm.us/tax](http://www.state.nm.us/tax), or call (505) 827-0962.

Pass-Through Entities may claim approved credits by completing RPD-41243, *Rural Job Tax Credit Claim Form*. Indicate the amount claimed on line 6, Form PTE, and attach to your return. You may claim the credit against corporate income taxes or withholding taxes only. Any amount exceeding the tax liability is not refundable but may be carried forward to future returns.

**Investment Credit:** An Investment Credit is available to manufacturing businesses that increase employment in New Mexico. The value of the investment credit is five percent (5%) of the value of qualified equipment (including equipment purchased under industrial revenue bonds) purchased or brought into New Mexico in connection with a manufacturing operation in New Mexico. To qualify the taxpayer must meet the increased employment requirements, and purchases must meet the definition of "qualified equipment". For a complete list of qualifications, requirements, and a description of the pre-approval process, see FYI-106. Download the application forms RPD-41167 and RPD-41168 from the TRD website at [www.state.nm.us/tax](http://www.state.nm.us/tax), or call (505) 827-0962.

Pass-Through Entities may claim approved credits by completing RPD-41212, *Investment Credit Claim Form*. Indicate the amount claimed on line 6, Form PTE, and attach the claim form to your return. You may claim the credit against withholding tax only. Any amount exceeding the tax liability may be carried forward to future returns. You may not claim a refund of Investment Credit on the PTE return.

**Capital Equipment Tax Credit:** This credit provides a credit for call center operations locating or expanding in rural parts of New Mexico after July 1,

1999. Purchases of capital equipment must be expected to be worth at least \$250,000 over three years to qualify. The credit is the applicable gross receipts or compensating tax rate applied to the value of qualified capital equipment used in the call center operation. For a complete list of qualifications, requirements, and a description of the pre-approval process, see FYI 106. Download the application RPD-41220 from the TRD website at [www.state.nm.us/tax](http://www.state.nm.us/tax), or call (505) 827-0962.

Pass-Through Entities may claim approved credits by completing RPD-41222, *Capital Equipment Tax Credit Claim Form*. Indicate the amount claimed on line 6, Form PTE, and attach the claim form to your return. You may claim the credit against withholding tax only. Any amount exceeding the tax liability is not refundable but may be carried forward to future returns.

**Technology Jobs Tax Credit:** A taxpayer conducting qualified research and development at a qualified facility in New Mexico may claim the basic credit equal to 4% of qualified expenditures purchased after July 4, 2000. Additional credit is allowed for a taxpayer who increases annual payroll expense by \$75,000 over base payroll for every \$1,000,000 in qualified expenditures claimed by the taxpayer. The basic and additional credits double if the qualified facility is in a rural area. For a complete list of qualifications, requirements, and a description of the pre-approval process, see FYI-106. Download the application RPD-41239 from the TRD website at [www.state.nm.us/tax](http://www.state.nm.us/tax), or call (505) 827-0962.

Pass-Through Entities may claim approved credits by completing RPD-41244, *Technology Jobs Tax Credit Claim Form*. Indicate the amount claimed on line 6, Form PTE, and attach the claim form to your return. You may claim basic credits against withholding tax and additional tax credits against corporate income tax. Any amount exceeding the tax liability is

not refundable but may be carried forward to future returns.

For more information on business-related credits, see publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*, or call your local district office.

**LINE 8: Every domestic or foreign entity taxed as a corporation must pay the \$50 franchise tax if it:**

1. transacts business in, into or from New Mexico;
2. derives income from any property or employment within this state, or
3. has or exercises its corporate franchise in New Mexico, whether engaged in active business or not.

**Corporations electing to be treated as S corporations are not exempt from franchise tax.**

The \$50 franchise tax is due for each tax year, including short years. The franchise tax may not be pro rated based on a short-year return.

**REMINDER: It is your responsibility to comply with all additional filing requirements imposed by the New Mexico Public Regulation Commission. For information call (505) 827-4508.**

**LINE 12:** Enter the total amount of all tentative payments, amounts applied from prior year, and amounts withheld on a W-K 2001. Check the appropriate box(es) indicating the source of the payment(s).

**LINE 13a:** Indicate the amount of overpayment you want applied to 2002 on line 13a. If an amount is not indicated, a refund of any overpayment will be issued.

**LINE 15: Penalty.** A penalty must be added if the entity fails to file timely or to pay when due any amount of tax required. Calculate the penalty by multiplying the amount on line 14, PTE by 2%, then by the number of months and partial months for which the return is late, not to exceed 10% of the tax due or a minimum of \$5.00, whichever is greater.

**LINE 16: Interest.** Add interest if the amount of tax due on line 14 was not paid by the original due date, **even if an extension of time to file was obtained.** Interest is calculated at the statutory rate of 15% per year. On or after January 1, 2001, interest is .041% of the unpaid tax due for each day the payment is late. The formula for calculating daily interest is:

Tax due x .00041 x number of days late = interest.

**SIGNATURE. The return must be signed and dated by an officer or manager of the entity.** Any person, other than an employee of the entity, preparing the return for compensation must also sign the return on the line provided and indicate the preparer's address, telephone number and the date signed. A preparer other than an employee of the corporation must enter the preparer's New Mexico CRS identification number or, if the preparer does not have a New Mexico CRS identification number, the preparer's social security number or federal PTIN.

A signature stamp does not constitute a valid signature. An improperly signed or unsigned return will be considered invalid for filing purposes, and penalty and interest may be assessed.

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**SCHEDULE PTE-1  
LINE INSTRUCTIONS**

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**LINES 1 - 12. INCOME TAXABLE TO OWNERS**

**Line 1.** Enter the ordinary income or loss as recognized from federal tax return Form 1065, Schedule K, or Form 1120S, Schedule K.

**Line 2.** Except for guaranteed payments to partners, enter the summation of all other income or losses recognized on federal tax return Form 1065, Schedule K, or Form 1120S, Schedule K.

**Line 3.** Enter interest income from non-New Mexico state and local bonds not subject to federal income tax under IRC Section 103.

**Line 5. Interest from U.S. government obligations.** Interest or dividend income from U.S. government obligations is deductible from the corporation's taxable income only if, and to the extent that, it was included in taxable income on line 1. Expenses related to income from U.S. obligations must be subtracted and the net amount entered. **NOTE:** Income from Fannie Maes, Ginnie Maes, Freddie Macs and other U.S. guarantee entities is not deductible. Income from repurchasing agreements of U.S. obligations (REPOs) is not deductible. That portion of income paid by mutual funds, unit investment trusts, and simple trusts which is derived from investments in U.S. obligations may be deducted.

Interest income from bonds issued by the state of New Mexico or its political subdivisions may also be deducted on this line to the extent that income was included in federal taxable income.

**Line 6.** Enter the allowable deductions recognized on the federal tax return Form 1065, Schedule K, or Form 1120S, Schedule K.

**Line 7.** Enter total allocated income from PTE-B, column 1, line 8, if applicable.

**Line 9.** Enter the **Average New Mexico Percentage** from PTE-A, line 5.

**Line 11.** Enter New Mexico allocated income from PTE-B, column 2, line 9, if applicable.

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**SCHEDULE PTE-A  
LINE INSTRUCTIONS**

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**LINES 1 - 5. APPORTIONMENT OF INCOME**

PTE-A must be used by an entity to apportion its income from the entity's regular trade or business activities when income is derived from both inside and outside New Mexico.

**"Apportionable income" means income arising from transactions and activities in the regular course of an entity's trade or business.**

**Apportionable income includes income from both tangible and intangible property if the acquisition, management or disposition of the property constitutes integral parts of the entity's regular trade or business. It includes investment income related to or used in the entity's overall business operations. The following sources of income are considered apportionable income and must be included:**

- Dividend income from the investment of working capital or dividend income from an investment which is functionally connected to the entity's trade or business.
- Interest income from the investment of working capital, or interest income from capital investments used in the overall business operations, or interest income from an investment which 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 which had been treated as business assets in prior years.

● Income from a partnership or non-corporate entity engaged in a related business activity.

Complete lines 1 through 5 of PTE-A.

Round each percentage to four decimal places (example, 26.9658%).

Calculate each percentage to four decimal places (example, 22.4653%). Enter on PTE-1, line 9.

The average percentage on line 5 must be supplied to all owners of the entity.

**LINE 1. Property Factor.** This factor is a percentage determined as follows:

**Divide:** The average value of the real and tangible personal property owned or rented and used in New Mexico during the taxable year to produce apportionable income (column 2).

**By:** The average value of all real and tangible personal property owned or rented everywhere and used during the taxable year to produce apportionable income (column 1).

Property shall be valued according to the following rules:

Inventory shall be valued in accordance with the valuation method used for federal income tax purposes.

Value property owned during the taxable year at its original cost for federal income tax purposes (prior to federal adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions, improvements and partial dispositions.

Value property which was rented from others at eight (8) times the net annual rental rate. The net annual rate is the annual rent paid less any annual rent received from subrentals of the same property. If property owned by others is used by the entity at no charge or rented by the entity 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 adding 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. Divide by two.

A taxpayer may be required to compute an average value on a monthly basis if the Department determines that a monthly average is necessary to correctly reflect the average value of the taxpayer's property.

**LINE 2. Payroll Factor.** This factor is

a percentage determined as follows:

**Divide:** The total amount paid as compensation to employees in New Mexico during the taxable year (column 2)

**By:** The total amount paid as compensation to employees everywhere during the taxable year (column 1).

"Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services. Only amounts paid directly to employees are included in the payroll factor. "Employees" include leased employees where the taxpayer is considered an employer for payroll tax purposes, but "employees" are not independent contractors to whom the taxpayer issues federal Form 1099.

Only compensation which is attributable to business operations subject to apportionment is included in the payroll factor.

Compensation of any employee whose primary activities relate to the production of nonbusiness income is excluded from the payroll factor, but may be included as a related expense of the allocated activity.

**LINE 3. Sales Factor.** This factor is a percentage determined as follows:

**Divide:** The total gross receipts attributable to New Mexico during the taxable year, excluding returns, allowances and allocated income (column 2)

**By:** The total gross receipts everywhere during the taxable year, excluding returns, allowances and allocated income (column 1)

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

Sales of tangible personal property are New Mexico sales if:

A. the property is delivered or shipped to a purchaser, other than the United States government, within the state regardless of the f.o.b. point or

other conditions of the sale, or

B. the property is shipped from an office, store, warehouse, factory or other place of storage in this state and:

1. the purchaser is the United States government, or
2. the taxpayer is not taxable in the state of the purchaser.

Sales other than sales of tangible personal property are New Mexico sales if:

A. the income-producing activity was performed in New Mexico, or

B. 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), or

C. 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, or

D. the gross receipts were from the performance of personal services in New Mexico.

**LINES 4, 4a and 5. Total Factors.**

New Mexico uses an evenly weighted three-factor formula for all taxpayers except manufacturers. Taxpayers whose principal activity is manufacturing may use a four-factor formula (sales x 2, plus property, plus payroll) for tax years beginning on or after January 1, 1995, and before January 1, 2011. Once elected, the manufacturer must continue to use the four-factor method for a total of three consecutive taxable years covering at least 36 calendar months. "Manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business. It does not include construction, farming, power generation or processing natural resources. A taxpayer may not use this option unless: (a) its tax liability is greater than it would have been for the previous year if the same apportionment method was used, or (b) the taxpayer has increased its combined property and payroll factor percentages in the state over its 1991 levels.

The election to use the four-factor

method must be made in writing no later than the filing date of the first return to which the election will apply. Statutory authority for this elective method is in Section 7-4-10 NMSA 1978.

**Qualified manufacturers** electing the four-factor method should complete the statements on line 4a and make the following adjustments when calculating the New Mexico apportionment percentage on the Schedule PTE-A:

Line 3, Sales Factor. Divide column 2 by column 1 and multiply the result by 200, not 100.

Line 5, Average Percent. Divide the total factors on line 4 by 4.

### Elimination of Factor(s)

If the entity has not elected or is not eligible to use the four-factor method of apportionment, and the denominator (column 1) of one or more of the three factors (property, payroll or sales) is zero or less than 3% of net income, it may exclude that factor or factors without advance approval from the Department. Use the number of significant factors included to compute the average of the factors.

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## SCHEDULE PTE-B LINE INSTRUCTIONS

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### LINES 1 - 9. ALLOCATED NONBUSINESS INCOME TAXABLE TO OWNERS

PTE-B must be used by entities to allocate income not connected to the entity's regular trade or business.

Direct and indirect expenses related to allocated income must be deducted from the related income. Expenses related to allocated income are determined by the entity's books and records. If the entity's books and records do not reflect proper amounts for expenses, the entity may rely on other reasonable methods.

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

Enter the following information on the PTE

appropriate lines of PTE-B to allocate income:

**Line 1. Allocated Nonbusiness Dividends.** Column 2: Total amount in Column 1 is allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

**Line 2. Allocated Nonbusiness Interest.** Column 2: Total amount in Column 1 is allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

**Lines 3 and 4. Allocated Nonbusiness Rents and Royalties.** Column 2: The following net rent and royalty income should be allocated to New Mexico if it is nonbusiness income:

1. Income from real property located in New Mexico;
2. Income from all tangible personal property 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;
3. Income from tangible personal property which is used in New Mexico;
4. Income from intangibles (patents, copyrights, franchises, trademarks and licenses) used in New Mexico, and
5. Income from intangibles 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.

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. Allocated Net Profit or Loss on the Sale or Exchange of Nonbusiness Assets.** Column 2: The net gain or loss from the sale or exchange of the following should be allocated to New Mexico if it is nonbusiness income:

1. Real property located in New Mexico;
2. Tangible personal property located

in New Mexico at the time it was sold;

3. Tangible personal property not located in New Mexico at the time it was sold if:

a) the entity's commercial domicile is within New Mexico, and

b) the gain was not taxable in the state where the tangible personal property was located, and

4. Intangible personal property if the entity's commercial domicile is in New Mexico.

**Line 6. Allocated Nonbusiness Partnership Income.** Column 2: Nonbusiness partnership income should be allocated to New Mexico to the extent the partnership conducts business in this state.

**Line 7. Other Allocated Nonbusiness Income.** A schedule must be attached to identify all other allocated income.

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## SCHEDULE PTE-C LINE INSTRUCTIONS

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### LINES 1 - 5. ALLOCATED AND AP-PORTIONED INCOME TAXED TO S CORPORATIONS

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

**LINE 1A.** Enter net capital gains from Line 17 of federal Form 1120S, Schedule D, in column 1. Enter net capital gains allocated to New Mexico in Column 2.

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

Gains and losses from sales and exchanges of tangible personal property are allocated to New Mexico if:

(1) the property was in New Mexico at the time of sale, or

(2) the taxpayer's commercial domicile is in New Mexico and the taxpayer is not taxable in the state in which the property was located.

Gains and losses from the sale of intan-

gible property shall be allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

**LINE 2.** Enter net passive income from Line 10 of worksheet in instructions for federal Form 1120S in Column 1. Enter net passive income allocated to New Mexico in Column 2.

**LINE 3.** Enter net recognized built-in gain from line 28 of federal Form 1120S, Schedule D, in Column 1. Enter net recognized built-in gain allocated to New Mexico in Column 2.

**LINE 5.** Divide the amount on line 4, column 2, by the amount on line 4, column 1 and multiply by 100. Carry the percentage to four decimal places and round to four decimal places (example, 22.4653%). Enter the percentage on line 5 of PTE-C and on line 3 of the PTE.

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#### PTE-D LINE INSTRUCTIONS

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#### COLUMNS 1 - 7. OWNER INFORMATION

**Resident Owners Only:** For an entity with 100% of its business activity conducted in New Mexico, you may enter "100% New Mexico" on any line and attach copies of Federal K-1 Schedules for each resident owner rather than complete the PTE-D.

**COLUMN 3. Owner's Percentage.** Enter income percentage as disclosed on the owner's federal tax return Form 1065, Schedule K-1, or ownership percentage from federal tax return Form 1120S, Schedule K-1.

**COLUMN 4. Owner's Taxable Income.** Enter owner's taxable income amount by multiplying column 3 by PTE-D, line 1, for each owner. If an owner has special allocation (for example, guaranteed payments), combine with amount computed from Form PTE-D, line 1. If Form PTE-D, line 1 is a loss, enter zero for each owner.

**COLUMN 5. Resident.** Check box for owner that is a resident of New Mexico. A resident is an individual who is domiciled in this state. An owner which is an entity is a resident if the entity was

organized under the laws of New Mexico.

**COLUMN 6. Withholding Taxes. Required for non-resident owners for whom a tax agreement (Form PTE-TA) is not held by the entity.** If column 5 "resident" box is checked, enter zero for each owner. If column 4 shows taxable income, and no tax agreement is held by the entity, compute withholding tax by multiplying 7.1% by the amount in column 4 for each non-resident owner and enter the total taxes withheld on Line 5 of Form PTE.

**COLUMN 7. Hold Owner's Tax Agreement (Form PTE-TA).** If the entity holds a tax agreement executed by the owner, check the "Yes" box; no withholding tax is required for that owner. **Retain the New Mexico Nonresident Owner Income Tax Agreement, PTE-TA, in your records. Do not submit with the return.**

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#### NEW MEXICO NONRESIDENT OWNER TAX AGREEMENT (FORM PTE-TA)

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Each nonresident owner may elect to file a New Mexico income tax return and make timely payments of all taxes imposed by the State of New Mexico with respect to its share of the New Mexico income of the entity. An individual is a nonresident if the individual is not a resident of this state. An owner entity is a non-resident owner if the owner entity was organized under the laws of another state. In the absence of actual knowledge, the pass-through entity may rely on the mailing address of the owner to determine residence. The nonresident owner must complete and sign a nonresident owner tax agreement (Form PTE-TA) if the owner elects to file its own income tax return. PTE-TA Forms may be obtained from the New Mexico Taxation and Revenue Department. A copy of Form PTE-TA must also be kept on file with the pass-through entity.

The pass-through entity shall provide to each of its owners sufficient information to enable the owner 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 net income.

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#### CONSISTENCY IN REPORTING

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An entity is required to be consistent in: 1) classifying income as allocable or apportionable; 2) the valuation of property and its inclusion in the property factor; 3) the treatment of compensation for the payroll factor, and 4) the exclusion or inclusion of receipts in the sales factor for returns filed in all states.

Any change or inconsistency from prior-year returns must be disclosed in a statement attached to the return. Identify the amounts and reasons for the changes or inconsistencies.

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#### PETITION PROCEDURE OPEN TO TAXPAYER

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If the above procedures for allocation and apportionment do not fairly represent the extent of the taxpayer's business activity in New Mexico, the taxpayer may petition, or the Secretary of Taxation and Revenue may require, that another method be used to apportion or allocate all or any part of the taxpayer's business income.

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#### AFTER YOU FILE YOUR RETURN

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If your return shows an overpayment and you have requested that all or a portion of the overpayment be refunded to you, please allow at least 12 weeks for processing before contacting the Department. Processing time will vary according to when you file your return. Occasional computation errors in a tax return will delay processing or result in adjustments to your refund or the amount you owe. If you disagree with any adjustment made by the Department, you should follow the procedures in publication FYI-400, *Tax Audits and Protest Procedures - Your Rights as a Taxpayer*.

At any time after filing your return, the return may be subject to further review, verification or correction. The state of New Mexico, pursuant to reciprocal information exchange agreements, exchanges information with the Internal Revenue Service, certain other state

agencies and taxing authorities in other states. If your tax return is adjusted or an assessment of additional tax is issued you will be provided a description of your rights as a taxpayer. Our publication FYI-400, *Tax Audits and Protest*

*Procedures - Your Rights as a Taxpayer*, describes in detail how to dispute an adjustment or assessment made by the Department through either the claim for refund procedure or the protest procedure. Publication FYI-400 is available

by contacting your local district tax office or by downloading from the Department website at [www.state.nm.us/tax](http://www.state.nm.us/tax). Click on "publications".

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## Contact our local offices . . .

If you need forms, instructions or other assistance, please contact the nearest Taxation and Revenue Department office shown below. Our district offices in Santa Fe, Albuquerque, Roswell, Farmington and Las Cruces provide full state tax services and information to taxpayers in their areas. Please use our local offices so we may better serve you.

### ALBUQUERQUE:

Taxation & Revenue Department  
5301 Central Ave., NE  
P.O. Box 8485  
Albuquerque, NM 87198-8485  
Telephone: (505) 841-6200

### SANTA FE:

Taxation & Revenue Department  
Manuel Lujan State Office Building  
1200 South St. Francis Drive  
P.O. Box 5374  
Santa Fe, NM 87502-5374  
Telephone: (505) 827-0951

### LAS CRUCES:

Taxation & Revenue Department  
2540 El Paseo, Building #2  
P.O. Box 607  
Las Cruces, NM 88004-0607  
Telephone: (505) 524-6225

### ROSWELL:

Taxation & Revenue Department  
901 South Main Street  
P.O. Box 1557  
Roswell, NM 88202-1557  
Telephone: (505) 624-6065

### FARMINGTON:

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

### CARLSBAD:

Telephone: (505) 885-5616

### CLOVIS:

Telephone: (505) 763-5515

### HOBBS:

Telephone: (505) 393-0163

(above calls transfer to Roswell office)

## In addition . . .

You may order forms and instructions by calling (505) 827-2206 (not a toll-free number), or you may write to:

Taxation and Revenue Department  
P.O. Box 2629  
Santa Fe, NM 87504-2629.

Income and Information returns and instructions for pass-through-entities are also available on the Department's Internet home page.

Our address is: <http://www.state.nm.us/tax>. Click on "Forms"

## STANDARD INDUSTRIAL CLASSIFICATION CODES

<u>SIC CODE</u>	<u>DESCRIPTION</u>
<b>AGRICULTURE</b>	
0100	Agricultural production
0700	Agricultural services
0800	Forestry and fisheries
<b>MINING</b>	
1000	Metal mining, except copper, uranium and molybdenum
1020	Copper
1069	Molybdenum
1094	Uranium
1200	Coal
1310	Crude petroleum, natural gas and natural gas liquids
1381	Oil and gas well drilling
1389	Oil and gas field services, except drilling
1400	Nonmetallic minerals, except fuels and potash
1474	Potash
<b>CONTRACT CONSTRUCTION</b>	
1500	General building contractors
1610	Highway contractors
1620	Non-building heavy contractors except highway
1700	Special trade contractors
<b>MANUFACTURING</b>	
2001	Food and kindred products, except meat products
2010	Meat packing and other meat products
2300	Apparel and textile mill products
2400	Lumber, wood and paper products
2700	Printing and publishing
2800	Chemicals and allied products
2900	Petroleum refining and related industries
3200	Stone, clay, glass and concrete products
3400	Primary metal industries and fabricated metal products
3500	Machinery, except electrical
3600	Electrical machinery, equipment and supplies
3670	Electronic components and accessories
3700	Transportation equipment
3800	Professional, scientific, optical and other precision instruments
3900	Miscellaneous manufacturing
<b>TRANSPORTATION, COMMUNICATIONS &amp; UTILITIES</b>	
4000	Railroad transportation
4100	Local and highway passenger transportation
4200	Motor freight transportation, warehousing & transportation services
4500	Air transportation
4600	Pipeline transportation
4810	Telephone and telegraph communications
4830	Radio and television broadcasting
4900	Electric, water and sanitary service utilities
4920	Gas utilities
<b>WHOLESALE TRADE</b>	
5010	Motor vehicles and automotive equipment
5020	Drugs, chemicals and allied products
5040	Groceries and related products
5060	Electrical goods and household appliances
5070	Hardware, plumbing and heating equipment and supplies
5080	Machinery, equipment and supplies
5090	Miscellaneous wholesalers
5092	Petroleum and petroleum products
<b>RETAIL TRADE</b>	
5200	Building materials
5251	Hardware store
5252	Farm equipment dealers
5300	General merchandise, except department stores
5310	Department stores
5400	Retail food stores
5510	Motor vehicle dealers
5540	Gasoline service stations
5592	Mobile home dealers
5599	Miscellaneous vehicle and auto accessory dealers
5600	Apparel and accessory stores
5700	Furniture, home furnishings and appliance stores
5800	Eating and drinking places
5813	Liquor dispensers - by the drink
5910	Drug and proprietary stores
5920	Package liquor stores
5990	Miscellaneous retailers
<b>FINANCE, INSURANCE AND REAL ESTATE</b>	
6000	Banks
6100	Credit agencies other than banks and savings and loan associations
6120	Savings and loan associations
6200	Security and commodity brokers, dealers, exchanges and services
6300	Insurance agents, carriers, brokers and service
6510	Real estate operators, lessors, agents brokers, dealers and title abstract companies
6550	Real estate subdividers, developers
6700	Holding and other investment companies
<b>SERVICES</b>	
7000	Hotels, motels, trailer parks and other lodging
7200	Personal services
7300	Miscellaneous business services
7391	Commercial Research and Development Laboratories
7500	Automobile rental, repair and other services
7600	Miscellaneous repair services
7800	Motion picture theaters and production
7900	Amusement and recreation services
8010	Physicians, dentists and others
8060	Hospitals and other health services
8100	Legal services
8200	Educational services
8910	Engineering and architectural services
9999	Nonclassifiable establishments
<b>GOVERNMENTS</b>	
9100	Federal government - all other
9119	Federal government - military bases
9189	Federal government - military research
9200	State government - exclude education and scientific research
9282	State government - educational institutions
9289	State government - scientific research
9300	Local government - Counties
9393	Local government - Municipalities
9395	Local government - School districts
9396	Local government - Special districts and other