

GENERAL INFORMATION

WHO MUST FILE

New Mexico Residents

You must file a New Mexico return if you meet any of the following conditions:

- You have to file a federal return.
- You want to claim a refund of any New Mexico state income tax withheld from your pay.
- You want to claim any New Mexico rebates or credits.

Members of the Armed Forces

If you are a member of the military and were a resident of New Mexico at the time of enlistment, and you have not changed your state of residency, the amount of your military pay that is subject to federal income tax is also subject to New Mexico income tax.

If your permanent home (domicile) was in New Mexico when you entered the military, and you kept New Mexico as your home of record for military purposes, you are still a New Mexico resident. File a New Mexico resident return even if you are presently serving outside New Mexico.

If your permanent home (domicile) was in New Mexico when you entered the military, but you established a domicile in another state and have changed your residency status with the military, your military pay is not subject to New Mexico income tax.

Military pay of an enrolled member of an Indian nation, tribe or pueblo for periods in which the member's home of record is on the lands of that Indian nation, tribe, or pueblo is exempt.

Member of an Indian Nation, Tribe or Pueblo

The income of Indians who worked or lived on lands outside the Indian nation, tribe or pueblo of which they are members is subject to New Mexico personal income tax.

Enrolled members of an Indian nation, tribe or pueblo who lived on the lands

of the Indian nation, tribe or pueblo where they are members and whose entire income was earned from work on those lands do not need to file a New Mexico income tax return. "Enrolled member" includes the spouse or dependent of an Indian member, provided the spouse or dependent lives and works within the boundaries of the Indian member's nation, tribe or pueblo. Lands include formal and informal reservations, dependent Indian communities, and Indian allotments whether restricted or held in trust by the United States. Military pay of an enrolled member for periods in which the member's home of record is on the lands of the member's Indian nation, tribe, or pueblo is exempt.

Resident, Part-year Resident and Non-resident Defined

For income tax purposes your resident status depends on where you were domiciled during the tax year and whether you were **physically present in New Mexico for a total of 185 days or more** during the taxable year. **Note:** the 185 days do not have to be consecutive.

Your *domicile* is the place you intend as your permanent home. Your domicile is the **state** where your permanent home is located. It is the place where you intend to return whenever you are away (as on vacation, business assignment, educational leave, or military assignment).

You can have only one domicile. Your New Mexico domicile is not changed until you can show that you have abandoned it and established a new permanent domicile outside the state of New Mexico.

A change of domicile must be *clear and convincing*. Easily controlled factors are NOT the primary factors to consider in deciding where you are domiciled. If you move to a new location but intend to stay there only for a limited amount of time (no matter how long), your domicile does not change. If your domici-

cile is New Mexico and you go to a foreign country because of a business or work assignment, or for study, research or any other purpose, your domicile does not change unless you show that you definitely do not intend to return to New Mexico.

For purposes of the income tax act, you are a New Mexico **resident** if your domicile was in New Mexico for the entire year, *or* if you were physically present in this state for a total of 185 days or more during the taxable year, regardless of your domicile. **Residents include persons who are temporarily residing in New Mexico who plan to return to their out-of-state residence and who are physically present in New Mexico for 185 days or more.** Included are students, persons vacationing in New Mexico, and those temporarily assigned to work in New Mexico. Military personnel temporarily assigned to New Mexico who have established residency outside New Mexico are not New Mexico residents. Spouses who accompany military personnel to New Mexico must report as a resident of New Mexico, regardless of domicile, if they are physically present in New Mexico for 185 days or more.

You are a New Mexico **nonresident** if you were not domiciled in New Mexico for any part of the tax year *and* you were not physically present in New Mexico for at least 185 days. Military personnel who are temporarily assigned to New Mexico, but who have established residence in another state, claim nonresident filing status.

You are a New Mexico **part-year resident** if you were domiciled here during any part of the year, *and* you were not physically present in New Mexico for more than 185 days during the taxable year. Part-year residents who change domicile during the year are not residents of New Mexico for Income Tax Act purposes for periods when the taxpayer's domicile is outside New Mexico. For example: if you moved to New Mexico during the tax year intend-

ing to make New Mexico your permanent place of residence, your income is taxed as a nonresident for the period before your move to New Mexico. Additionally, if you were a New Mexico resident for only part of the year, but on December 31 you moved to another state intending to maintain domicile status in that other state, your income is nonresident income for periods after your change of abode.

Note: Except for certain military personnel, you must indicate "R" in the Residency Status box on page 1 of Form PIT-1 if you were physically present in New Mexico for more than 185 days during the taxable year. For income tax purposes you are a resident of New Mexico.

Taxpayers Domiciled in Another State and Filing Form PIT-1 as Residents of New Mexico. If you are required to file a New Mexico personal income tax return as a New Mexico resident, but you are also required to file and pay tax to another state because your permanent place of residence is in another state, complete Schedule PIT-B to allocate and apportion your income to New Mexico. Then, claim a credit for taxes paid to another state on Schedule PIT-ADJ, line 17.

Community and Separate Property and Income. If you or your spouse — or both you and your spouse — maintain domicile (see page 1) in a community property state *and* you and your spouse report a different residency status on Form PIT-1, allocate and apportion half the community income to each spouse, and all separate property to the spouse owning the separate property. See the instructions for Schedule PIT-B, page 1B. Community Property States are New Mexico, Arizona, California, Idaho, Louisiana, Nevada, Texas, Washington and Wisconsin.

Rebates and Credits. Even if you do not have to file a return, you should file for a refund if New Mexico income tax was withheld. You also may qualify for one or more credits or rebates offered by New Mexico. The **general qualifications** for an individual claiming the rebates are:

- you were a resident of New Mexico

during the tax year, **and**

- you were physically present in New Mexico for at least six months during the tax year, **and**
- you were **not** claimed as a dependent of another taxpayer for the tax year **and**
- you were **not** an inmate of a public institution for more than six months of the tax year.

There are other eligibility requirements for the various rebates and credits. For details see specific instructions for Schedule PIT-1-RC.

Royalty Income of Nonresidents

Nonresident taxpayers who elect to compute tax on gross royalty income under \$5,000 in lieu of filing a complete Form PIT-1 and Schedule PIT-B must complete lines 1-4, 11, 12, 15, and 17 - 24. Enter your total **gross** royalty income from New Mexico sources on line 11. You cannot reduce your income by the standard deduction or exemption amounts when you compute your tax in this way. Attach a statement that you are a nonresident paying taxes on gross royalty income from New Mexico sources.

Representatives of Deceased Taxpayers

If a taxpayer dies before filing a return for 2003, the taxpayer's spouse or personal representative may have to file and sign a return for that taxpayer. A personal representative can be an executor, administrator or anyone in charge of the deceased taxpayer's property. If a taxpayer did not have to file a federal return, but New Mexico income tax was withheld, the representative files a New Mexico return to claim a refund. File a joint New Mexico return if a joint federal income tax return was filed for the deceased taxpayer and the surviving spouse. The filing due date is the same as if the taxpayer had lived. The person filing the return for the deceased should put an "X" in the appropriate box directly below the social security number section of the return indicating that the taxpayer or the taxpayer's spouse is deceased. Enter the month, day and year of death.

Include a copy of the death certificate or other proof of death if the return shows an overpayment and you are a surviving spouse, or if you are a successor requiring the refund to be made payable to the estate of the decedent.

If the return shows an overpayment, and you are a court-appointed or certified personal representative requiring the refund to be made payable to you, enter the claimant's name and social security number. Attach Form RPD-41083, *Affidavit To Obtain Refund of New Mexico Tax Due a Deceased Taxpayer*, to the taxpayer's refund claim. Include a copy of the death certificate or other proof of death.

Pass-Through Entities and S Corporations

Partnerships and other pass-through/non-corporate entities, including limited liability partnerships (LLP), limited liability investment companies (LLIC) — but excluding estates and trusts — are not subject to New Mexico personal income tax, but individual members of the partnership or company are. If the entity has any partner or owner who is a New Mexico resident, or if the entity has any income from New Mexico sources, it must provide each partner or owner with the information necessary to file a New Mexico personal income tax return. A pass-through entity reports and pays withholding tax on behalf of all nonresident partners or owners having New Mexico source income unless the partner or owner has completed Form PTE-TA assuming responsibility for filing a New Mexico personal income tax return. See the instructions for Form PTE for details on pass-through entity filing requirements.

Estates & Trusts

Estates and trusts are subject to the New Mexico personal income tax. Except for grantor trusts, the fiduciary for an estate or trust files Form FID-1, *Fiduciary Income Tax Return*. See the instructions for Form FID-1 for more details.

Each beneficiary of an estate or trust includes his or her share of the estate

FILING METHODS

New Mexico offers taxpayers a choice between filing their tax returns in the traditional paper format and using computers to file electronic returns. We describe the options below to assist you in choosing the method that makes filing your New Mexico PIT return most convenient for you.

Paper Forms

1) TRD provides **hard-copy New Mexico tax forms** to fill out by hand and mail back to the Department. These forms are in the personal income tax packet mailed to taxpayers, or you can ask for them at your local TRD office listed on the back of the front cover. Some local libraries also may carry supplies of New Mexico tax forms.

2) You may **download tax forms** using Adobe Acrobat from TRD's Internet web site where you will find personal income tax forms you can print and mail to TRD. TRD's web site address is: www.state.nm.us/tax. Click on "forms" and then on "income tax forms".

3) You can buy **software** to complete your income tax return on your personal computer (PC). You can then print and mail the tax return to TRD.

Caution: Submit only high-quality, printed, original forms to the Department. A poor print or photocopy of a form obtained from our web site or an approved software product will delay the processing of your return and your refund, credit, or rebate.

File Returns on Approved State Forms. Always submit 2003 Personal Income Tax Returns on official state forms provided or approved by the Department. If you use a software product to generate your forms, the Department must approve the software company.

Computer-generated Returns. Any computer-generated form you use must comply with Department specifications. See the list of approved software developers and vendors on the TRD web site, www.state.nm.us/tax, or call (505) 827-1746.

The New Mexico Taxation and Revenue Department approves companies who follow specifications and format requirements for the printed form. Acceptance of the software company does not imply endorsement by the Department or assurance of the quality of services provided.

When using any computer-generated personal income tax form, you must comply with the printing and legibility requirements of the software developer. Hint: If your printer can print a logo clearly, then it can print a quality tax form.

Reminder: Never submit a *photocopy* of the form the software generates. Always submit the original computer-generated form and *retain a copy* for your records.

Electronic Filing

TRD offers two ways to file your PIT return electronically, both allowing you to file either a refund return or a tax-due return. File electronic returns through TRD's Internet web site or the Federal/State Electronic Filing Program.

Filing electronically is safe and secure. It provides the fastest turnaround for a refund due.

Please note certain **restrictions** on who may file and the types of returns eligible for electronic filing. The TRD and IRS web sites listed below contain information about the personal income tax electronic filing options. There are Internet browser requirements for filing over the Internet. Details of these requirements are available at the TRD and IRS web sites. If you plan to have a professional tax preparer file your return electronically, you may contact him or her for more information.

1) TRD's Internet Web Site

If you have access to the Internet from a personal computer (PC), free electronic filing is available on the TRD's web site at the following address:

www.state.nm.us/tax

At the TRD web site click on "Electronic Services". Directions will lead you to "PIT-NET" where you will enter your tax return information. Our Internet site will prompt you on how to send your return **electronically**. *To successfully file your return, you must read and follow all PIT-NET instructions.* You will be able to print a copy of your return information for your own records, but do **not mail** a copy of the PIT-NET return summary to TRD. You will receive a confirmation number as proof and verification that the Department has received and accepted your return. If you are due a refund, you may choose to receive a check or have the refund deposited directly into your checking or savings account. If you owe tax, you may pay via our web site using a credit card or electronic check, or you may mail a check or money order to TRD with a PIT-PV Payment Voucher. The PIT-PV should be mailed to the New Mexico Taxation and Revenue Department, P.O. Box 8390, Santa Fe, NM 87504-8390. Make your check or money order payable to New Mexico Taxation and Revenue Department.

NOTE: *There is a 2.5% convenience charge if you pay by credit card. The fee reimburses the state for fees the credit card companies charge. There is no charge for an electronic check.*

2) Federal/State Electronic Filing Program (Fed/State)

The Fed/State program, administered by the IRS, permits you to file your federal and state tax returns together or separately through electronic transmission. You may choose to file a Fed/State return through an online home filing program on a personal computer or through a professional tax preparer.

Fed/State Online Home Filing Program. This method of filing requires access to the Internet. You can reach companies offering Fed/State e-file service and tax preparation software through the Internet. You can also purchase over-the-counter software.

The IRS has partnership agreements with companies to encourage electronic

filing. A list of companies providing tax preparation software and Fed/State e-file opportunities, including descriptions of their products, services, and cost, is available on the IRS web site. The IRS' Partners Page lists companies participating in free Internet filing available to low income and other qualified individuals. For more information regarding the Fed/State e-file program participants, visit the IRS web site at the following address:

www.irs.gov

If you choose to use one of these services to e-file your state return, check that the software company supports New Mexico Personal Income Tax 2003 Electronic Filing, and the New Mexico

Taxation and Revenue Department has approved it. Visit the TRD web site for a list of approved software companies at the following address: www.state.nm.us/tax. Click on *Publications* and scroll to *Software Developers*.

The New Mexico Taxation and Revenue Department approves companies who follow specifications and format requirements for the transmission file. Acceptance of the software company does not imply endorsement by the Department or assurance of the quality of its services.

Caution: When paying your taxes through the Fed/State program, you may make payment to both the IRS and to the State of New Mexico.

Follow the correct instructions for making payment to the proper taxing authority. Do not combine payments to the IRS and to the State of New Mexico. You may also pay tax separately to New Mexico over the Internet through the TRD web site or by submitting a check with a Form PIT-PV.

Fed/State electronic filing by a professional tax preparer. Fed/State electronic filing service is also available through tax professionals who meet IRS and TRD qualifications for acceptance into the Fed/State program. Ask your professional tax preparer whether he or she has Fed/State approval. Professional preparers usually charge for their services.

REQUIRED FORMS AND ATTACHMENTS

Regardless of which federal form you file, **everyone** who files a New Mexico personal income tax return must complete and file a **Form PIT-1, New Mexico Personal Income Tax Return**. Depending on your residency status and your own personal situation, other forms and schedules also may be necessary.

Complete the **2003 Schedule PIT-ADJ** and attach it to Form PIT-1 if you are required or eligible to make New Mexico adjustments to income or wish to claim any non-refundable credits.

File Schedule PIT-ADJ if you received any of the following income not taxable by New Mexico or if you qualify for one or more of the following deductions or exemptions:

- interest and dividend income on state and local bonds;
- a New Mexico net operating loss carryover;
- interest income from U.S. government securities;
- railroad retirement income not taxable by New Mexico;
- you or your spouse, or both, are members of an Indian nation, tribe or pueblo with income earned on the lands of that nation, tribe or pueblo;
- you or your spouse, or both, are age 100 or over *and* you are not dependents of another taxpayer;

- you or your spouse, or both, are age 65 or over or blind *and* your adjusted gross income is not over \$51,000 for a joint return, \$28,500 for a single taxpayer, or \$25,500 for married taxpayers filing separately;
- you have adopted a special needs child;
- you have a New Mexico Medical Care Savings account;
- you contribute to a New Mexico Education Trust Board account, or
- you had net capital gains for which you can claim a deduction of up to \$1,000, or 10% of your net capital gains, whichever is greater.

File Schedule PIT-ADJ if you have any of the following additions to federal adjusted gross income:

- interest and dividends from federal tax-exempt bonds;
- a net operating loss;
- a refund upon termination of a college investment agreement or a prepaid tuition contract from the New Mexico Education Trust Fund, or
- a deduction for contributions to a New Mexico Education Trust Board Account (New Mexico-approved Section 529 Plan) on an earlier New Mexico personal income tax return, and you are rolling the contribution over to a Section 529 Plan that has not been approved by New Mexico.

File Schedule PIT-ADJ if you wish to claim any of the following non-refundable credits:

- tax paid to the other state if you are a New Mexico resident or part-year resident with income from sources outside New Mexico that is subject to tax by both New Mexico and the other state;
- rehabilitating a historic structure or a qualified business facility;
- Welfare-to-Work Program;
- Rural Job Tax Credit for employers who create additional jobs in specific areas;
- Technology Jobs Tax Credit for expenses in conducting research;
- purchase of an Electronic Identification Card Reader;
- Credit for Produced Water for operators who clean water produced from oil and gas drilling and production, crude oil refining, and natural gas processing and who deliver the water to the Pecos River, or
- Job Mentorship Tax Credit for employing youth participating in a career education program.

The **PIT-1-RC, Rebate and Credit Schedule** is a separate schedule used by Form PIT-1 filers to claim any of the following refundable credits:

- Low Income Comprehensive Tax Rebate;
- Property Tax Rebate (for low-income

- persons 65 or older);
- Additional Low Income Property Tax Rebate for Los Alamos county residents;
- Film Production Tax Credit, or
- Child Day Care Credit.

The **PIT-B, Allocation and Apportionment Schedule** is filed with Form PIT-1 by resident, part-year, and nonresidents to allocate and apportion income from sources (employment, business or property) inside and outside New Mexico.

The **PIT-D, Voluntary Contributions Form** must be completed and attached to Form PIT-1 if you wish to contribute to one or more of the voluntary contribution funds from an overpayment on your return.

New Mexico and Federal Extension of Time To File. Check the box on line 2b of Form PIT-1 if you have an approved state or federal extension. Enter the date the extension expires. Please DO NOT attach a copy of a federal extension request that is automatically granted. If the Internal Revenue Service grants an additional extension, attach a copy of the approved additional federal extension. You do not have to attach a copy of the state extension.

If you qualify for a federal or state extension for military personnel deployed in a combat zone, special instructions and backup are required. See publication FYI-311, *Military Extensions for New Mexico Personal Income Tax*, for details. Mark in red at the top of the return the type of extension for which you qualify. Check the extension indicator box on line 2b of Form PIT-1. Enter the date the extension expires. The state extension requires you to attach **Form DD 214** showing the date of release from active duty.

PIT-PV Payment Voucher. If your return shows a balance due, and you choose to pay by mail or delivery to one of our local offices, you will need to complete Form PIT-PV. Include it with your check or money order. Also include Form PIT-PV when submitting your payment with your return. Write your social security number and the tax year on all checks.

PIT-ES Estimated Income Tax Payment Voucher. To make estimated tax payments by mail or delivery, you will need to complete PIT-ES. Include it with your check or money order. Please do not mail estimated payments with your PIT-1 tax return.

The total amount you must pay for tax year 2004 through withholding and estimated tax is the lesser of:

1. 90% of the tax shown on your tax year 2004 return, **or**
2. 100% of the tax shown on your tax year 2003 return. If you did not file a 2003 return, or your 2003 return did not cover a full 12 months, you must pay 90% of the tax shown on your tax year 2004 return through withholding and estimated tax to avoid penalty.

You do not have to pay estimated tax if you expect to owe less than \$500 after deducting tax withheld.

For more information, see the instructions for PIT-ES, Estimated Income Tax Payment Voucher.

Amended Returns

Any change to New Mexico taxable income, credits or rebates and for changes to federal taxable income requires an amended New Mexico return for the same year. The law requires an amended return to be filed within 90 days of the date an adjustment to your federal return becomes final.

If you must file an amended return, please use the form for the appropriate tax year. Mark the "amended" check box or write "Amended" at the top of the form if no check box is present on the form. **Do not file an amended return on Form PIT-X** even if the instructions for the tax year indicate the PIT-X should be filed. The Department cannot accept a return filed on Form PIT-X. The Form PIT-X is no longer in use.

When completing the return, please follow these instructions carefully.

- Record the total amount of Income Tax Withheld (PIT-1, line 17) and Total Estimated Income Tax Payments

(PIT-1, line 18) as reported on your original return;

- Add any payment made with the original return as an estimated payment on line 18;
- Do not reduce Total Payments and Credits (PIT-1, line 19) by any refund you received, refund donation (PIT-D), or amount you requested to be applied to year 2004 Estimated Tax;
- Do not adjust the total payments reported on this form to reflect tax due or the adjusted refund due. *The adjusted tax due or adjusted refund will be calculated for you based upon your prior return information.*

Attach schedules PIT-ADJ, PIT-1-RC, PIT-B or PIT-D even if the amounts did not change. Do not file forms W-2 and similar forms unless you are amending your New Mexico return to change the amount of withholding reported.

Other Forms or Attachments You May Have To File

All annual information returns and withholding statements. Attach to your PIT-1 a copy of all annual information returns and withholding statements showing income and New Mexico income tax withheld. Include all federal Form(s) W-2, 1099, 1099-MISC, 1099-R, 1099-Q, W-2G, and New Mexico Form(s) W-K, *New Mexico Income and Withholding from Pass-Through Entities* and RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*.

IRS Approval for an ITIN. If you or your spouse are unable to obtain a social security number and you applied for and received an ITIN (Individual Taxpayer Identification Number) from the IRS, submit a copy of the IRS approval documentation. The Department cannot process a refund with an ITIN without proof of a valid Individual Taxpayer Identification Number. If you are filing a joint nonresident federal return, and your spouse is not required to have an SSN or ITIN, you must submit a copy of your **federal nonresident return**.

A Statement of Division of Community and Separate Income and Payments. Attach a statement reflecting a correct division of community and sepa-

rate income and payments if:

- you are married and filing separate returns,
- you divorced during 2003, or
- you claim the exemption for income of persons 100 years or older, and your income and payments are not evenly distributed.

Form RPD-41083, Affidavit To Obtain Refund of New Mexico Tax Due a Deceased Taxpayer, is used to claim a refund for a deceased taxpayer when the refund is paid to the order of a person other than either the surviving spouse or the estate of the deceased. Attach a copy of a death certificate or other proof of death.

A copy of a death certificate must accompany the PIT-1 return when a refund is due and the primary taxpayer or the spouse died during the tax year.

In the first year in which a taxpayer claims a deduction for a Special Needs Adoption, attach a **Certification from the Human Services Department or a licensed child placement agency** that the adopted child is under eighteen years of age and meets the definition of a “difficult to place child” as defined in Subsection B of Section 32A-5-44 NMSA 1978.

Attach **Form PIT-4, Cultural Property Claim**, and related **Historic Preservation Division Certification** to claim the Preservation of Cultural Property credit on Form PIT-1.

Form PIT-5, Qualified Business Facility Rehabilitation, is needed to claim the Qualified Business Facility Rehabilitation credit for building renovations within New Mexico enterprise zones.

Attach **Certification from the New Mexico Department of Labor** to claim the **Credit for Welfare-to-Work Program**.

Rural Job Tax Credit requires the *Rural Job Tax Credit Claim Form*, **RPD-41243**.

Technology Jobs Tax Credit requires the *Technology Jobs Tax Credit Claim Form*, **RPD-41244**.

Credit for Electronic Identification Card Reader requires certification by the taxpayer. Complete **Form RPD-41246**.

Credit for Produced Water requires the *Credit for Produced Water Claim Form*, **RPD-41221**.

Job Mentorship Tax Credit requires Form **RPD-41281**, the *Job Mentorship Tax Credit Claim Form*, and a **Form RPD-41280, Job Mentorship Tax Credit Certificate**, for each qualified student the taxpayer employed during the taxable year.

The **Film Production Tax Credit** requires Schedule PIT-1-RC and the Film Production Tax Credit Claim Form, **RPD-41228**.

If you claim the **additional low-income property tax rebate for Los Alamos County residents** and the address on your Form PIT-1 is not a Los Alamos County address, provide a copy of your **property tax statement** for the Los Alamos County property.

To claim the **New Mexico Child Day Care Credit** on Schedule PIT-1-RC, submit a copy of Form(s) **PIT-CG, Caregiver's Statement**.

Attach 2003 **Form RPD-41272, 2003 Calculation of Estimated Personal Income Tax Underpayment Penalty** if you qualify for and have elected to use an **alternative method of computing penalty of estimated payments**, and you marked the indicator box on Form PIT-1 under line 18.

Attach **Other States' Forms** only when claiming credit for taxes paid to another state on Form PIT-ADJ by a New Mexico resident or part-year resident on income taxable in **both** New Mexico and another state.

Tax Credit for Certain Venture Capital Investments. If your federal adjusted gross income includes a “qualified diversifying business net capital gain” from the sale of “qualified diversifying business stock” on or after July 1, 2000, and you are in full compliance with all provisions of the New Mexico Venture Capital Investment Act, contact (505) 827-1746 for details on claiming the tax credit allowed by that Act.

Form PIT-110, Adjustments to New Mexico Income Worksheet, is for a nonresident whose job is located in this state but requires temporary assignment outside of New Mexico.

The **Schedule CC, Alternative Tax Schedule**, is for nonresidents who qualify to pay tax using an Alternative Tax Method.

Form PIT-8453, 2003 Individual Income Tax Declaration For Electronic Filing. A taxpayer who files electronically through a paid tax preparer, may be asked to complete Form PIT-8453. Generally, Form PIT-8453 does not need to be sent to the Department. However, if the return generates a refund of \$9,500 or more, the tax preparer must submit this form with supporting documentation. If you must submit Form PIT-8453 to the department, Form PIT-1 or any electronically submitted schedules do not need to be included. Form PIT-8453 authorizes the electronic transmission of the tax return, authenticates the electronic portion of the return and provides a transmittal for additional supporting documentation when the refund requested is \$9,500 or more. Taxpayers who electronically file their own personal income tax return do not need to complete this form.

Federal Forms and Schedules. The Department may require you to furnish a true and correct copy of your federal income tax return and attachments.

ABOUT YOUR TAX RETURN INFORMATION

KEEP COPIES OF YOUR TAX RECORDS AND RETURNS. Please remember to keep a copy of your completed income tax return for at least seven years after you file it. Keep copies of books, records, schedules, statements or other documents. The Department may ask you to provide copies of these records after you have filed your income tax return.

Privacy Notification

The rights of the Taxation and Revenue Department and the Secretary of the Department to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, are in Section 7-1-12 NMSA 1978 and 3.1.1.15 NMAC.

The Taxation and Revenue Department uses this information primarily to determine and administer state tax liabilities. The Department also uses the information for certain tax-offset and exchange-of-tax information authorized by law, and for any other purpose authorized by law.

1099G and 1099INT Information Returns

Federal law requires New Mexico to report to the Internal Revenue Service all New Mexico income tax refunds and interest paid to taxpayers on those refunds. New Mexico is required to report

the same information to you on a Form 1099.

The amount reported on Forms 1099G and 1099INT may or may not be federally taxable to you. Consult your tax preparer or the Internal Revenue Service to determine if you should report the amount as income for federal income tax purposes.

Audit Selection

The method you use to file or your request for an extension of time to file does NOT increase your chances of being selected for audit. Returns for a particular tax year are not selected for audit until after the filing period closes. Each return faces an equally random chance of selection.

Federal/State Tax Agreement

Under authority of federal and New Mexico laws, the New Mexico Taxation and Revenue Department and the Internal Revenue Service are parties to a federal/state agreement for the mutual exchange of tax information.

Every year New Mexico participates in a program which matches New Mexico return information with federal return information. If you receive notice from the New Mexico Taxation and Revenue Department telling you of a difference between the state and federal information or a non-filed return, it is to your

advantage to respond promptly and provide any information you have to clear your record of the difference. If you do not respond within 160 days we will presume the notice to be correct. We will issue an assessment of taxes due for the amount of underpaid taxes plus penalty and interest.

Treasury Offset Program

If an assessment of New Mexico Personal Income Tax is due is established, the New Mexico Taxation and Revenue Department may submit your unpaid debt to the Treasury Offset Program. This "offset" is authorized by federal law and allows the U.S. Department of the Treasury to reduce or withhold any of your federal income tax refund by the amount of your debt.

Collection of Debts from Your Refund

The law also requires the Department to transfer all or part of your overpayment if you owe money for past-due child support, educational assistance loans, unemployment compensation, medical support, public assistance or food stamp overpayments, or fines, fees and costs owed to district, municipal, magistrate or metropolitan courts. See page 18 of these instructions if you receive notification that all or part of your refund was transferred to a claimant agency.

KEEP COPIES OF YOUR TAX RECORDS AND RETURNS. Please remember to keep a copy of your completed income tax return for at least seven years after you file it.

YOUR RIGHTS UNDER THE TAX LAW

The Tax Administration Act governs how the Department administers the Income Tax Act and gives you specific rights and responsibilities.

To help avoid tax problems keep accurate tax records and stay current with changes in the tax law. These instructions and other Department publications contain information that can help you do both.

While most tax problems can be resolved informally, it is important to understand that you must exercise certain rights provided to you under law within specific time frames. If an adjustment is made to your return, you will receive a notice explaining the adjustment with a description of procedures to use if you disagree.

At any time after filing your return, the

return may be subject to further review, verification or correction. If your tax return is adjusted or there is an assessment of additional tax, you will receive a copy of publication *FYI-402, Taxpayer Remedies*. The publication outlines your rights and obligations and describes in detail how to dispute a Department action through either the Claim for Refund procedure or the Protest procedure. Read these procedures carefully to ensure you take the necessary steps to protect your rights.

Publication FYI-402 is available by contacting Taxpayer Information by e-mail at poffice@state.nm.us or call (505) 827-0951. It is also available on the Department's Internet home page at:

www.state.nm.us/tax
Click on "publications".

Note: The taxpayer may protest the Department's inaction on a claim for refund. If the Department has neither granted nor denied any portion of a claim for refund within 120 days from the date you submit either a claim for refund or a tax return, you may protest, bring suit or refile the claim. You must file the protest or suit within the 90 days following the 120-day period.

The Department may not issue a refund from the original claim if the statutory 90 days expires and you have not filed a protest or a suit to protest the Department's inaction. You may refile the claim for refund within the applicable statute of limitations.

For a detailed explanation of your rights, see *New Mexico Taxpayer Bill of Rights* on page 20.

WHEN AND WHERE TO FILE AND PAY

File your return as soon as you have all the necessary information, but not later than the filing deadline of **APRIL 15, 2004**. **If you file or pay late, you may have to pay penalties and interest.** See *Penalties & Interest* on page 9. The due date for fiscal-year taxpayers is the 15th day of the fourth month following the close of their fiscal year.

If you file *and* pay your tax electronically either through our web site, a personal computer, or a tax professional, your filing deadline is **APRIL 30, 2004**. To avoid penalty or interest you must file your return *and* pay your tax electronically. Your electronically filed return and payment of tax due must be transmitted on or before April 30, 2004. See *Electronic Filing* on page 3 and *Making Payment Through the Internet* on this page for a description of electronic filing and payment methods. Please note that the April 15 deadline holds for paper returns.

For a faster refund file your return electronically and/or file before March 31, 2004.

Mail your return to:

**Taxation and Revenue Department
P.O. Box 25122
Santa Fe, NM 87504-5122**

A mailed New Mexico income tax return and tax payment are timely if the United States Postal Service postmark on the envelope bears a date on or before the due date. If the due date falls on a Saturday, Sunday, state or national legal holiday, the tax return is timely when 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.

Making Payment by Check

Whether you submit your payment with or without your tax return, complete PIT-PV, *Income Tax Payment Voucher*. Write your social security number and "2003 PIT-1" on your check or money order. Make the check or money order payable to New Mexico Taxation and Revenue Department.

If you make an estimated payment, complete PIT-ES, *Estimated Income Tax Payment Voucher*. Write your social security number and "2004 PIT-ES" on the check or money order.

Separating Payments of Tax Due and Estimated Payments. Please do NOT combine payments for tax due on your 2003 return and payments of your estimated income tax liability on the same check or money order. If you combine payments, it is likely they will not be credited to your account in the way you would wish.

Separate Mailing Address for Payments. Mail payment and PIT-ES, *Estimated Income Tax Payment Voucher*, or payment and PIT-PV, *Income Tax Payment Voucher*, to a separate post office box.

Mail PIT-ES and PIT-PV payments to:

**Taxation and Revenue Department
P.O. Box 8390
Santa Fe, NM 87504-8390**

Making Payment Through the Internet

Using PIT-NET you may make tax payments via credit card. *A convenience fee of 2.5% is required to use this service.*

You may also pay by electronic check at **no charge**. Your electronic check authorizes the Taxation and Revenue Department to debit your checking account in the amount you specify. Directions are available on the web site. Visit www.state.nm.us/tax, click on *Electronic Services*.

Extension of Time To File

Check box 2b on Form PIT-1 to indicate an approved state or federal extension. New Mexico recognizes and accepts an Internal Revenue Service automatic extension of time to file. If the Internal Revenue Service automatically grants you an extension to August

15 (120 days), it is NOT necessary to attach federal Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*. Beyond 120 days, however, you are required to attach a copy of the IRS-approved Form 2688, *Application for Additional Extension of Time to File U.S. Individual Income Tax Return* (180 days), or an extension will be denied.

If you expect to file your federal return by the original due date but need additional time to file your New Mexico return, ask for an extension of time by filing New Mexico Form RPD-41096, *Extension of Time To File*. File Form RPD-41096 on or before the April 15, 2004, due date. You do not need to attach an approved state extension to your return.

Special instructions and backup are required if you qualify for a federal or state extension for military personnel deployed in a combat zone. See publi-

cation FYI-311, *Military Extensions for New Mexico Personal Income Tax*, for details. Mark in red at the top of the return the type of extension for which you qualify. Check the extension indicator box on line 2b of Form PIT-1 and enter the date the extension expires. The state extension requires you to attach **Form DD 214**.

An extension of time to file your return does NOT extend the time to pay. If tax is due, interest continues to accrue. Therefore, if you expect to owe more tax when you file your return, the best policy is to make an estimated payment using an estimated payment voucher and avoid the accrual of interest on that amount. *Please make sure you put the correct tax year on both the PIT-PV Income Tax Payment Voucher and your check or money order. This minimizes the chance that your payment will be credited to the incorrect tax period.* Report the amount of any payment(s) on line 18 of Form PIT-1 when the return is actually filed.

PENALTIES AND INTEREST

Interest. Interest accrues on income tax that is not paid on or before the due date of your 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 at the statutory rate of 15% per year computed on a daily basis.

If you are due a refund, you may be entitled to interest on your overpayment at the same rate charged for underpayments, but only under certain conditions. The Department shall pay no interest if the refund is made within 55 days of the date of the claim for refund, the interest is less than \$1.00, or if your return cannot be processed. For processing to take place, your return must show your name, address, social security number, signature and the information needed to mathematically verify your tax liability.

Negligence Penalty for Late Filing or Late Payment. If you file late and owe tax, or if you do not pay your tax when due, you will receive a penalty of

2% of the tax due for each month or part of a month the return is not filed or the tax is not paid, to a maximum of 10%.

This penalty applies when your failure to file or pay is because of negligence or disregard of the rules and regulations but without intent to defraud.

Fraudulent Returns. In the case of failure to pay when due any amount of required tax, with willful intent to evade or defeat any tax, a civil penalty of 50% of the tax due will be charged. The minimum penalty is \$25.00.

Penalty for Underpayment of Estimated Tax. If your 2003 withholding and estimated tax payments do not equal the "Required Annual Payment" of (1) 100% of the prior-year tax liability, or (2) 90% of the current-year tax liability, you may be subject to penalty. The law provides some exceptions to the penalty. For more information on exceptions, see instructions for PIT-ES. The Department will calculate and assess the penalty if you have not made

the required annual payment. You may provide additional information if you believe the penalty to be in error.

Returned Check Penalty. A check that is not paid by a financial institution does not constitute payment. A penalty of \$20 will be assessed for a bad check in addition to other penalties that may apply to late payment.

Failure of Paid Preparers To Conform to Certain Requirements. A penalty of \$25 per return or claim for refund will be assessed a paid preparer for:

- failure to sign the tax return or claim for refund, or
- failure to include the identifying number of the paid preparer. See instructions for Step 6, page 19.

The law provides for a penalty of \$500 per item against any tax return preparer who endorses or otherwise negotiates, either directly or through an agent, any refund check issued to a taxpayer.

CONTACTING THE DEPARTMENT

Information and Forms. For general information on New Mexico income taxes call (505) 827-0827.

Order forms by calling (505) 827-2206.

If you want to write, please address your letter to Taxpayer Information Unit, Taxation and Revenue Department, P.O. Box 630, Santa Fe, NM 87504-0630.

If you order forms or write for information after April 1, you should not rely on receiving the forms or a response to your correspondence before April 15.

Forms and instructions are also avail-

able on our Internet Home Page. Our address is:

www.state.nm.us/tax

Need Help with Your Return?

Contact your local district office or call (505) 827-0827 for general assistance with filing your return and for tax help.

Assistance in preparing your tax return may be available from:

- Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE). Volunteers give free or low-cost help to lower-income, elderly, and handicapped individuals. Watch for VITA and TCE information

in your community for the site nearest you.

- Some senior citizens' centers. Contact the center for dates and times;
- Some social service agencies. They either provide assistance or direct you to other free or low-cost tax preparation assistance programs;
- Department district offices. They offer tax-preparation assistance to elderly and low-income taxpayers, or
- Software preparation services or a tax preparer.

Contact our site for brochures on tax assistance for senior citizens and low-income filers.

NOTE: When To Call About Your Refund. Generally, electronically filed returns claiming a refund are processed within four weeks. A paper return received in the Department early in the tax season takes 6 to 8 weeks. If you file after April 1, you may not receive your refund check for up to 12 weeks. If you have to call to ask where your refund check is, please wait until sufficient time has passed for the Department to process your refund claim, then call (505) 827-0827. Have a copy of your tax return available when you call. Be prepared with your social security number(s).

STEPS FOR PREPARING YOUR RETURN

Prepare your federal return first. Much of the information on your New Mexico return will be the same. Even if you are not required to file a federal return, you will find it easier to prepare your New Mexico return if you complete a sample federal return first.

Most New Mexico income tax laws are based on federal income tax laws. In these instructions we point out only the differences and explain those items unique to New Mexico law. No instructions are given for self-explanatory items; for example, when a line requires addition or subtraction.

NOTE: References to line numbers on federal forms are provided as a convenience. They are based on information available to the Department at the time we deliver New Mexico forms to the printing contractor. Use caution. The Department is not responsible for changes or errors in these references.

STEP 1

Get all forms and publications you need.

If you need forms or additional instructions, see *Contacting the Department* on page 10.

STEP 2

Get your tax records together. Name and Social Security Number.

Enter your name and social security number (or valid federal individual taxpayer identification number) on all forms and correspondence you send to TRD. We cannot accept a return without a valid identification number.

Resident or nonresident foreign nationals who do not have and are not eligible to obtain a social security number may obtain a federal individual taxpayer identification number (ITIN) by filing Form W-7 with the Internal Revenue Service. Use this ITIN instead of a social security number. Attach a copy of your ITIN approval from the IRS to your return when filing your New Mexico personal income tax return. Contact the Internal Revenue Service for forms and informa-

tion on the ITIN program, or visit the IRS web site at www.irs.gov.

If you received a salary or wages, gather all 2003 wage and tax statements. Only your employer can issue or correct the federal Form W-2. *Do not alter the Form W-2 in any way.* If you have not received your wage and tax statements by February 15, or if the form you receive is incorrect, contact your employer. If your employer withheld New Mexico taxes in error, we require a written explanation from your employer.

If you received an annuity, pension, retirement pay, IRA distribution, distribution from a New Mexico-approved qualified state tuition program, Railroad Retirement or sick pay or social security benefits in 2003, whether or not income tax was withheld on the payments, gather all federal Form(s) 1099-R, 1099-Q, RRB1099 and 1099-SSA. If you did not have tax withheld but would like to in the future, see *Withholding on Pensions* below.

If you had tax withheld from oil and gas proceeds from an oil or gas well located in New Mexico, obtain a copy of your federal Form(s) 1099-MISC, or Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*.

If you had gambling or lottery winnings, whether or not income tax was withheld on the winnings, you need your 2003 federal Form W-2G or a record of winnings not required to be reported on a Form W-2G.

If you received public assistance, Temporary Assistance to Needy Families (TANF) or a similar program, welfare benefits or Supplemental Security Income (SSI) during 2003, you will need records of the amounts.

If you received any other income in 2003, whether or not taxable, such as an insurance settlement, a scholarship or grant, VA benefits, income from an inheritance or trust, gifts of cash or marketable property, alimony, separate maintenance or child support, gather your records of the amounts.

To claim the Property Tax Rebate for persons age 65 or older, or the Low Income Property Tax Rebate for Los Alamos county residents, you need records of the property tax billed for 2003 and/or the rent paid on your principal place of residence.

To claim the Child Day Care Credit you need a Caregiver's Statement, Form PIT-CG, from each person who provided child day care during 2003.

Withholding on Pensions

Retired members of the Army, Air Force, Navy, Marines, Coast Guard, U.S. Civil Service, the National Oceanic and Atmospheric Administration, and the U.S. Public Health Service may request that New Mexico income tax be withheld from their retirement pay by contacting the appropriate retirement pay office.

U.S. Coast Guard Human Resources
Service and Information Center
444 S.E. Quincey St.
Topeka, KS 66683-3591
(Also for retired members of the
National Oceanic and Atmospheric
Administration)

U.S. Public Health Service
Compensation Branch
5600 Fisher Land
Rockville, MD 20857-0001

Defense Finance and
Accounting Service
Cleveland Center
1240 E. 9th St.
Cleveland, OH 44199-2055
1-800-321-1080

Office of Personnel Management
Retirement Operations Center
P.O. Box 45
Boyers, PA 16017
1-888-767-6738
Annuitant Express
1-800-409-6528

If you paid income taxes to another state on income that also will be taxable in New Mexico, you need a copy of that state's return. Both states must claim the same income source.

If you made New Mexico estimated tax payments during the year, you need your records of the amounts and dates of payment. If you had an overpayment from your 2002 return applied to your 2003 estimated taxes, be sure to include that amount in your listing.

If you are married and filing separate returns, if you were divorced during 2003, or if you are claiming the exemption for income of persons 100 years or older, *and* your income and payments are not evenly distributed, attach a statement reflecting a correct division of community and separate income and payments.

To claim a deduction, exemption or tax credit on Schedule PIT-ADJ, or Schedule PIT-1-RC, make sure you have

the appropriate approvals, certifications, and forms. See the specific instructions for the line, or *Other Forms or Attachments You May Have To File*, page 5.

STEP 3

Fill in your return.

Fill in your return using the line instructions below. Continue with **STEP 4** on page 18.

LINE INSTRUCTIONS FOR FORM PIT-1

All information on your return except your mailing address should be for the calendar year January 1, 2003, through December 31, 2003, or for your fiscal year. If you are filing for a fiscal year, enter the month and day your tax year began, and the month, day and year that it ended at the top of the first page. Fiscal year filers are required to compute tax on the taxable income in a special manner. If you are a fiscal year filer, carefully follow the instructions for line 12, on page 16 of these instructions.

Filling in your tax return.

Complete all required information on your form. Failure to complete all required information will delay processing your return and may cause your return to be incorrectly computed.

You will notice that Form PIT-1 and other selected forms and attachments are designed to let us use scanning and image-processing equipment. Some forms contain boxes to guide you in making your handwritten entries. Clear, legible printing reduces errors and lets us process your return more efficiently. Please spend a moment reviewing the items below before making your entries:

Whole Dollar Amounts. All money items on your return **MUST** be rounded to the nearest whole dollar. There is no space for entering cents. For example, enter \$10.49 as \$10 and \$10.50 as \$11.

Please type or print using a blue or black pen -- no pencils;

• Write your numbers like this:

1	2	3	4	5	6	7	8	9	0
---	---	---	---	---	---	---	---	---	---

• Do not use dollar signs (\$), commas (,), decimal points (.) or any other punctuation marks or symbols. We have already printed the appropriate commas and the decimal points to assist you;

• For a loss on line 5, place a negative sign (-) in the box **immediately to the left** of the loss amount. **Do not use brackets or parentheses;**

• Make your money amount entries in the boxes. Allow one numeral for each box;

• Carefully enter your money so that the dollar amount **ends** in the box immediately to the **left** of the preprinted decimal point. Round all amounts up or down to the nearest whole dollar. There are no spaces on the form to enter cents;

Example: If your federal adjusted gross income is \$23,742.48, your money field entry on line 5 of your Form PIT-1 should look like this:

			2	3	,	7	4	2	.	0	0
--	--	--	---	---	---	---	---	---	---	---	---

Please leave **blank** all spaces and boxes that do not apply to you. Do not draw lines through or across areas you have left blank.

If you received a Personal Income Tax package, you may prefer to use one of the two blank forms as a worksheet.

Name and Address Box

STEP 5 on page 18 of these instructions tells you how to complete this section of your return.

LINE 1.

Social Security Number(s), Residency Status, and Deceased Taxpayer information

Enter your social security number and the social security number of your spouse in exactly the same order as on your federal return. Your spouse's social security number is necessary even if you and your spouse are "married filing separately".

If you -- or your spouse -- do not have a social security number (SSN) but do have an individual taxpayer identification number (ITIN) assigned by the Internal Revenue Service, enter the ITIN in the spaces provided. Attach a copy of the ITIN approval from the IRS to your return. If you and your spouse are filing a joint federal nonresident return, and your spouse is not required to have a SSN nor an ITIN, leave the spouse's SSN blank. Attach a copy of your federal nonresident return.

You must provide your own and your spouse's social security number or individual taxpayer identification number, or a copy of a nonresident federal return, or your return is not complete and will not be processed.

Residency:

• New Mexico full-year residents and individuals who were physically present in New Mexico for 185 days

- or more during the taxable year must mark "R" in the residency status box.
- If you were physically present in New Mexico for fewer than 185 days, and you were not domiciled in New Mexico during any part of the year, mark "N" in the residency status box.
 - If you were physically present in New Mexico for fewer than 185 days during the taxable year, and you were domiciled in New Mexico during part of the taxable year, mark "P" in the residency status box.
 - Military personnel temporarily assigned to New Mexico who have established residency outside New Mexico should enter "N".

See *Resident, Part-Year and Nonresident Defined* on page 1 for more information.

Mark the appropriate box and enter the date of death if the taxpayer or the spouse died during 2003. Include the month, day and year of death. Enter the claimant's name and social security number when the refund must be made payable to the order of a person other than the taxpayer or spouse. See *Representatives of Deceased Taxpayers* on page 2 for further details.

**LINE 2a.
Amended Return**

To amend your return put an "X" in the box. When completing the form, make sure to follow the instructions for lines 18 and 19, or see *Amended Returns* on page 5.

**LINE 2b.
Extension of Time To File**

If you are filing after the original due date, put an "X" in the box if you have a federal or New Mexico extension of time to file. It is not necessary to attach a copy of the extension request to your Form PIT-1 if the federal extension was automatic, or you have received approval for a New Mexico extension. Enter the extended due date.

Special instructions and backup are required if you qualify for a federal or state extension for military personnel deployed in a combat zone. See publi-

cation FYI-311, *Military Extensions for New Mexico Personal Income Tax*, for details. Mark in red at the top of the return the type of extension for which you qualify. Check the extension indicator box on line 2b of Form PIT-1 and enter the date the extension expires. The state extension requires you to attach **Form DD 214**.

**LINE 3.
Exemptions**

Enter the number of exemptions on your federal return for yourself, your spouse if filing a joint return, and your qualifying dependents.

If you were a dependent or qualify as a dependent of another individual for federal income tax purposes, *whether or not* you were claimed as a dependent on the other person's federal return, your allowable exemption is "00".

New Mexico uses the same definitions and qualifications as the Internal Revenue Service to determine if someone is your dependent. If you received payments on behalf of your children under Temporary Assistance for Needy Families (TANF) or a similar program, general assistance or non-taxable social security benefits, and you used the payments for more than half the cost of keeping a home, you may NOT count them as amounts you furnished. Generally, you may not claim an exemption for a dependent for federal tax purposes if more than half your income came from public assistance programs. In this case your minor children or stepchildren **may not** be claimed as dependents on your federal return OR on a New Mexico Form PIT-1. You may be able to claim them as household members on the Schedule PIT-1-RC for low-income rebate purposes ONLY.

**LINE 4, BOXES 1 - 5.
Filing Status**

Show your filing status by marking an "X" in the box to the left of the filing status. Use the same filing status on your state return that you used on your federal return. If you did not file a federal return, use the filing status that you would have used for federal income tax purposes.

NOTE: New Mexico is a community property state. For married persons filing separately, divorced during 2003, or claiming the exemption for income of persons 100 years or older, both your New Mexico and federal returns **MUST** reflect a correct division of **community and separate income and payments**. If your income and payments are not evenly distributed, attach a copy of a statement reflecting a correct division of community and separate income and payments. Include your spouse's or former spouse's social security number on the statement. Attach the statement explaining the division of community income and payments to your Form PIT-1 even if you did not file a federal return.

If you put an "X" in box 3 of Line 4, Filing Status, enter your spouse's social security number on line 1. Include your spouse's name on the return.

If you put an "X" in box 4 of Line 4, Filing Status, enter the name of the person who qualifies you as head of household under federal regulations if the qualifying person is a child but not your dependent.

If you put an "X" in box 5 of Line 4, Filing Status, also put an "X" in the box to indicate the year of your spouse's death.

**LINE 5.
Federal Adjusted Gross Income**

Enter the federal adjusted gross income as *reported* on your federal form:

If you filed Federal form:	Enter the amount from:
1040	Line 35
1040A	Line 22
1040EZ	Line 4
TeleFile	Line I

Royalty Income of Non-residents

Nonresident taxpayers who elect to compute tax on gross royalty income under \$5,000 instead of filing a complete Form PIT-1 and the Schedule PIT-B, please see the section *Royalty In-*

come of Nonresidents, on page 2 of these instructions for completing line 5 and Form PIT-1.

LINE 6.

Additions to Federal Adjusted Gross Income

See the instructions for lines 13 through 16 on the 2003 Schedule PIT-ADJ if you:

- received interest and dividends from federally tax-exempt bonds;
- have a net operating loss;
- received a refund upon termination of a college investment agreement or a prepaid tuition contract from the New Mexico Education Trust Fund, or
- took a deduction for contributions made to a New Mexico Education Trust Board Account (Section 529 Plan) on an earlier New Mexico personal income tax return, and you are rolling the contribution over to a Section 529 Plan that has not been approved by the New Mexico Education Trust Board.

LINE 7.

Federal Deduction Amount

Enter your allowable federal itemized deductions from Form 1040 line 37 on PIT-1 line 7 if you itemized your deductions on your 2003 federal Form 1040.

If you did not itemize your deductions, enter the allowable federal standard deduction from Form 1040 line 37, or 1040A line 24, on line 7 of Form PIT-1.

Filers of federal Form 1040EZ should enter only the amount from Form 1040EZ, line 5. That amount includes both your standard deduction and your dependency exemption, so you will not have an entry on line 8 of New Mexico Form PIT-1. See line 8 below.

If you Telefiled, enter the amount from Telefile, Line J, Standard Deduction.

LINE 8.

Federal Exemption Amount

If you filed a federal income tax return, enter on line 8 the amount from line 39 of the federal Form 1040, or the amount from line 26 of federal Form 1040A. If you filed federal Form 1040EZ, leave line

WORKSHEET FOR COMPUTING MEDICAL CARE EXPENSE DEDUCTION

1. Determine your eligible medical care expenses paid during the taxable year and enter here. 1. _____
2. From the Medical Care Expenses table below, enter the correct Percentage of Paid Medical Expenses based on your filing status and your adjusted gross income. 2. _____
3. Multiply line 1 by line 2. Enter on line 10, Form PIT-1 3. _____

8 blank -- Your deduction for personal exemptions is included in the amount on line 7.

LINE 9.

Deductions/Exemption from Federal Adjusted Gross Income

See the instructions for lines 1 through 12 on 2003 SCHEDULE PIT-ADJ if you have:

- interest income on state and local bonds;
- a New Mexico net operating loss carryover;
- interest income from U.S. government securities;
- railroad retirement income not taxable by New Mexico;
- you or your spouse, or both, are members of an Indian nation, tribe or pueblo and your income was earned on the lands of that nation, tribe or pueblo;
- you or your spouse -- or both -- are

age 100 or over *and* you are not dependents of another taxpayer;

- you or your spouse -- or both -- are age 65 or over or blind and your adjusted gross income is not over \$51,000 for a joint return, \$28,500 for a single taxpayer, or \$25,500 for married taxpayers filing separately;
- you have adopted a special needs child;
- you have a New Mexico Medical Care Savings account;
- you contribute to a New Mexico Education Trust Board account, or
- you have net capital gains for which you can claim a deduction of up to \$1,000, or 10% of your net capital gains, whichever is greater.

LINE 10.

Medical Care Expenses

Any taxpayer who files a New Mexico PIT-1 Personal Income Tax Return, including out-of-state residents with in-

MEDICAL CARE EXPENSES

Surviving Spouses, Married Individuals Filing Joint Returns

<u><i>If Adjusted Gross Income Is:</i></u>	<u><i>Percentage of Paid Medical Expenses:</i></u>
Not over \$30,000	25%
Between \$30,000 and \$70,000	15%
Over \$70,000	10%

Single Individuals and Married Persons Filing Separate Returns

<u><i>If Adjusted Gross Income Is:</i></u>	<u><i>Percentage of Paid Medical Expenses:</i></u>
Not over \$15,000	25%
Between \$15,000 and \$35,000	15%
Over \$35,000	10%

Head of Household

<u><i>If Adjusted Gross Income Is:</i></u>	<u><i>Percentage of Paid Medical Expenses:</i></u>
Not over \$20,000	25%
Between \$20,000 and \$50,000	15%
Over \$50,000	10%

come tax responsibility to New Mexico, may claim a deduction for medical care expenses paid during the taxable year for medical care of the taxpayer, the taxpayer's spouse or a dependent. Use the worksheet on page 14 to determine your deduction amount.

Caution: You may claim only unreimbursed and uncompensated medical expenses NOT already itemized on the federal Form 1040 return for the same year. If you have subtracted a medical care expense from your income in determining federal adjusted gross income, you cannot subtract it a second time here. Reimbursed and compensated insurance premiums like those paid with pre-tax dollars under cafeteria and similar benefit plans are also ineligible. Some of the expenses you may include are:

1. Medical expenses otherwise allowed as itemized deductions for federal purposes but excluded because they are below a floor amount and not deducted elsewhere;
2. Amounts paid as premiums under Part B of Title XVIII of the Social Security Act (Medicare);
3. Amounts paid for a qualified long-term care insurance contract defined in Section 7702B(b) of the Internal Revenue Code, and
4. Unreimbursed insurance premiums and co-payments not deducted for federal purposes.

For purposes of this deduction:

1. "Health Care Facility" means a hospital, outpatient facility, diagnostic and treatment center, rehabilitation center, free-standing hospice, physician's office, or other similar facility, regardless of location, where medical care is provided and which is licensed by any governmental entity;
2. "Medical Care" means the diagnosis, cure, mitigation, treatment or prevention of disease, or care for the purpose of affecting any structure or function of the body;

3. "Medical Care Expenses" means amounts paid for:

- a. The diagnosis, cure, mitigation, treatment or prevention of disease, or care for the purpose of affecting any structure or function of the body, if **provided by a physician or in a health care facility**. Cosmetic surgery is not eligible;
- b. Prescribed drugs or insulin, and oxygen. A "prescribed drug" is a drug or biologically active substance for use in or on humans that requires a prescription or administration by a person licensed to do so. Costs for over-the-counter drugs are not eligible. Prescribed drugs for animals are not eligible;
- c. Qualified long-term care services as defined in Section 7702B (c) of the Internal Revenue Code;
- d. Insurance covering medical care, including amounts you paid as premiums under part B of Title XVIII of the Social Security Act (Medicare) or for a qualified long-term care insurance contract defined in Section 7702B (b) of the Internal Revenue Code, if the insurance or other amount is income for the taxable year;
- e. Nursing services, regardless of where the services are rendered, if provided by a practical nurse or a professional nurse licensed to practice in the state according to the Nursing Practice Act;
- f. Specialized treatment or the use of special therapeutic devices if a physician prescribes the treatment or device, and the patient can show that the expense was incurred primarily for the prevention or alleviation of a physical or mental defect or illness. "Special therapeutic devices" include corrective eyeglasses, contact lenses and hearing aids prescribed by a physician. Expenses for guide dogs, however, are excluded;
- g. Care in an institution other than a hospital, such as a sanitarium or rest home, if the principal reason for the presence of the person in the institu-

tion is to receive the medical care available. If the meals and lodging are a necessary part of such care, the cost of the meals and lodging are "medical care expenses."

4. "Physician" means a medical doctor, osteopathic physician, dentist, podiatrist, chiropractic physician or psychologist licensed or certified to practice in New Mexico.

Physicians licensed or certified to practice in New Mexico are recognized. Also qualified are licensed practical nurses and registered professional nurses licensed in New Mexico. Costs of care provided by such other health care professionals as physical therapists, acupuncturists and others licensed by the New Mexico Department of Health are deductible only if the care was provided in their offices or at other qualified health care facilities.

Keep full documentation of all medical care expenses for which you claim a deduction on this line. **Do not send the documentation with your tax return.** Keep your receipts in case you are selected for audit or verification of deductions claimed.

Married couples filing separately may claim only those expenses personally incurred. They may not claim any expenses the spouse has already claimed or plans to claim.

Do not claim payments to a veterinarian or veterinary clinic or any other expenses for family pets or other animals.

You may claim the medical care expense deduction in an amount equal to the percentage of medical care expenses paid during the taxable year based on the filing status and adjusted gross income. (See Chart on page 14.)

LINE 11. New Mexico Taxable Income

Subtract lines 7, 8, 9, and 10 from the sum of lines 5 and 6. Enter zero if negative. This is your New Mexico taxable income. On line 12 you will calculate your New Mexico tax due based on the New Mexico taxable income amount on line 11.

LINE 12.
New Mexico Tax

Calculate your tax. Use either the rate tables beginning on page 33 or Schedule PIT-B. Mark "R" in the rate table box or "B" in the Schedule PIT-B box to indicate the method used to calculate your tax. When using the rate table method, please be very careful. **MAKE SURE** you use the taxable income amount on line 11.

New Mexico residents, part-year residents and nonresidents must complete Schedule PIT-B to calculate their tax if they have income from sources inside and outside New Mexico.

Taxpayers whose taxable year ends on a date other than December 31 (fiscal-year filers) are required to compute tax on the taxable income in a special manner. Using the tax rates for both years in which the fiscal year falls, compute your tax on the taxable income for the entire fiscal year. The final tax equals the sum of the "old" tax proportionate to that part of the taxable year before the effective date of the "new" tax, and that part of the "new" tax proportionate to the part of the taxable year that begins with the effective date of the new tax rates. See the example immediately below.

For example: A taxpayer files a fiscal-year return beginning October 1, 2003, and ending September 30, 2004. The taxable income for the entire fiscal year is \$20,000. The taxpayer computes the tax due on the entire \$20,000 based on the 2003 tax table and also computes the tax due on the entire \$20,000 based on the 2004 tax table. Because three months were in 2003 and nine months were in 2004, the final tax is 1/4 of the tax computed based on the 2003 tax table plus 3/4 of the tax computed based on the 2004 tax table.

If you are a fiscal-year taxpayer, indicate the fiscal year beginning and ending period at the top of your Form PIT-1. Enter the result of the above tax computation on line 12.

WORKSHEET FOR COMPUTING TAX ON LUMP-SUM DISTRIBUTIONS	
1. Taxable income from line 11 of Form PIT-1	1. _____
2. Amount of lump-sum income reported for purposes of 10-year tax option or capital gains election on federal Form 4972	2. _____
3. MULTIPLY line 2 by .20 and enter	3. _____
4. ADD lines 1 and 3	4. _____
5. Enter the tax from the tax rate tables on the amount on line 4	5. _____
6. Enter tax from line 12 of Form PIT-1	6. _____
7. SUBTRACT line 6 from line 5 and enter difference	7. _____
8. MULTIPLY the amount on line 7 by 5. (This is the additional averaged tax due on the lump-sum income.) Enter on line 13 of Form PIT-1	8. _____

LINE 13.
Tax on Lump-Sum Distributions

If you are a *resident* of New Mexico who received a lump-sum payment and are using the federal special ten-year tax option on federal Form 4972, use the worksheet on this page to compute your New Mexico averaged tax. You are not eligible to use the New Mexico averaging method if you did not use the federal averaging methods available.

If you are a *nonresident* of New Mexico, pension or annuity income is not taxable by New Mexico. If you are a part-year resident, pension or annuity income is taxable by New Mexico during any portion of the taxable year in which your domicile was established in New Mexico. Allocate to New Mexico the pension or annuity income you received while a resident.

NOTE: If you used Schedule PIT-B to calculate your New Mexico tax liability on line 11 and also used the federal special tax option and New Mexico averaging methods to calculate your tax on a lump-sum distribution on line 13, DO NOT add lines 12 and 13 when completing line 15, form PIT-1. Refer instead to instructions for line 14 of Schedule PIT-B.

LINE 14.
Non-refundable Credits

See the instructions for lines 17 through 25, Schedule PIT-ADJ, if you are:

- a New Mexico resident or part-year resident who may claim a credit for taxes paid to another state;
- eligible to claim a Cultural Properties Preservation Credit;
- eligible to claim a Qualified Business Facility Rehabilitation Credit;
- eligible to claim a credit for the Welfare-to-Work Program;
- eligible to claim the Rural Job Tax Credit;
- eligible to claim the Technology Jobs Tax Credit;
- eligible to claim the Credit for Electronic Identification Card Reader;
- eligible to claim the Credit for Produced Water, or
- eligible to claim the Job Mentorship Tax Credit.

LINE 16.
Rebates and Credits

Complete and attach the Schedule PIT-1-RC if you claim any of the special New Mexico rebates or credits.

LINE 17.
New Mexico Income Tax Withheld

Enter the total of all New Mexico income tax withheld as shown on your annual withholding statements, Form(s) W-2, 1099, 1099-MISC, 1099-R, 1099-Q, W-2G, W-K, *New Mexico Income and Withholding from Pass-Through Entities* and RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*. Be

sure to include a copy of the forms with your PIT-1.

**LINE 18
New Mexico Estimated Tax Payments Made**

Enter the total of New Mexico estimated tax payments made for 2003 as shown in your records. Include your last installment even if it was paid in 2004. Also be sure to include any 2002 overpayments you had applied to your 2003 estimated taxes.

If any estimated payments were made using different name(s) or social security number(s), attach a schedule to your return showing how each estimated payment was made.

EXAMPLE: Prior to her marriage in August 2003, a taxpayer made two estimated tax payments in her name and social security number only. She made two additional estimated tax payments after the wedding, but they showed the name of the taxpayer and her new spouse and both social security numbers. The total of the estimated payments should be entered on line 18, and a schedule attached that shows the name(s) and social security number(s) reported with each payment.

If amending your return, include the tax paid with the original return with your total estimated income tax payments.

If you owe penalty for underpayment of estimated personal income tax, and you qualify for a special penalty calculation, enter 1, 2, 3, 4 or 5 in the indicator box below line 18 on Form PIT-1 to indicate the method you used to calculate your underpayment penalty. Generally, taxpayers who pay penalty on underpayment of estimated tax do not need to mark the indicator box on line 18 or file form RPD-41272, *2003 Calculation of Estimated Personal Income Tax Underpayment Penalty*. If estimated tax is due, the Department will calculate the penalty on underpayment or estimated personal income tax and send you a bill. However, if you owe penalty for underpayment of estimated payments, you may reduce or eliminate penalty if you qualify for a special penalty calculation method.

See Form RPD-41272, *2003 Calculation of Estimated Personal Income Tax Underpayment Penalty* or the instructions for PIT-ES, *Estimated Income Tax Payment Voucher*, for a description of the calculation methods. Attach Form RPD-41272 to your 2003 New Mexico Personal Income Tax Return to be allowed the special penalty calculation.

**LINE 19.
Total Payments and Credits**

Add lines 16 through 18. Enter total here.

If amending your return, please follow these instructions carefully. Record the total amount of Income Tax Withheld (PIT-1, line 17) and Total Estimated Income Tax Payments (PIT-1, line 18) as reported on your original return. Add income tax payments made with the original return to your total estimated income tax payments. *Do not reduce the payment amount by any refund you received, refund donation (PIT-D), or amount you requested to be applied to year 2003 Estimated Tax. Do not adjust the total payments reported on this form to reflect the adjusted tax due or the adjusted refund due.* The Department will adjust the tax due or calculate the adjusted refund for you based upon your prior return information.

**LINE 20.
Tax Due/Amount You Owe.**

If line 15 is larger than line 19, the difference is the amount you owe. Complete the PIT-PV Payment Voucher if you owe one dollar or more. Include full payment with the voucher. Make your check or money order payable to **New Mexico Taxation and Revenue Department**. Please write your social security number and "2003 PIT-1" on your payment. **DO NOT SEND CASH.**

Please do NOT combine payment for the amount due on your return with payment for any other tax or estimated payments for 2004. Your payments cannot be separated and credited as you would wish.

A \$20 penalty will be assessed for any check that is not honored by the bank on which it is drawn. This penalty is in

addition to any other late filing and late payment penalties that may be assessed.

**LINES 21 through 24.
Overpayment and Refund**

If line 15 is less than line 19, you have an overpayment. Your overpayment can be:

- used for voluntary fund contributions (see *New Mexico Voluntary Contributions Form*, Form PIT-D), or
- applied to your 2004 estimated tax (enter on line 23), or
- refunded to you (enter on line 24), or
- any combination of these.

An overpayment credited toward your 2004 estimated tax cannot be refunded until you have filed your 2004 tax return. The Department will not refund an amount of one dollar or less unless you attach to your return a signed statement asking for it.

Refund Express

If you request an amount to be refunded to you on line 24, you may wish to have your tax refund deposited directly into your bank account through Refund Express. To choose Refund Express, complete the "Refund Express" portion on page 2 of the Form PIT-1. All fields are required. Complete the bank routing number, the account number, and you *must* complete the type of account. Failure to complete all three fields will cause your Refund Express request to be denied, and the Department will mail you a paper check.

The Department will mail you a paper check if your bank does not accept your Refund Express information, or if your return or refund requires adjustment.

Refund express is available for deposits to the taxpayer's account *only*. **Taxpayers may not request the funds to be deposited into the account of another payee.**

Why Use Refund Express?

- Avoid delays that may occur in mailing a check. Refund Express does not guarantee that you will receive your refund check earlier, however --

- only that when the check is issued, it will reach the bank more quickly.
- Payment is more secure. There is no check to get lost.
 - More convenient. No trip to the bank to deposit your check.
 - Saves tax dollars. A refund by direct deposit costs less than a check.

What is the Routing Number?

The routing number is for bank identification and **must be nine digits**. If the first two digits are not 01 through 12 or 21 through 32, the system will reject the direct deposit and you will receive a check. On the sample check below the routing number is 211500151.

Your check may state that it is payable through a bank different from the financial institution where you have your checking account. If so, do not use the routing number on that check. Instead, contact your financial institution for the correct routing number to enter on this line.

Entering Your Account Number

Your account number can be up to 17 characters. Include hyphens but omit spaces and special symbols. 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.

Caution: Some financial institutions will not allow a joint refund to be deposited into an individual account. Taxation and Revenue is not responsible if a financial institution refuses a direct deposit.

Collection of Debts from Your Refund

The Department will keep all or part of your overpayment if you owe other taxes to the Department. We will apply that amount to the liability.

The law also requires the Department to transfer all or part of your overpayment if you owe money for past-due child support, educational assistance loans, unemployment compensation, medical support, public assistance or food stamp overpayments, or fines, fees and costs owed to district, municipal, magistrate or metropolitan courts.

Any amount over your liability and debt will be refunded to you.

If you receive notification that all or part of your refund was transferred to one of these agencies, and you wish to protest that action, contact that agency at the address listed below. If your refund was transferred to a claimant agency in error, that agency must correct the error and issue you your refund.

EDUCATIONAL ASSISTANCE

NM Educational Assistance Foundation
 Contract Servicing Department
 Default Collections
 P.O. Box 25136
 Albuquerque, NM 87125-0136
 (505) 345-3371 ext. 1286

CHILD SUPPORT

Human Services Department
 Child Support Enforcement Division
 P.O. Box 25110
 Santa Fe, NM 87504-5110
 1(800) 288-7207 Instate
 1(800) 585-7631 Out of State

FINANCIAL ASSISTANCE

Human Services Department
 Office of the Inspector General
 Restitution Unit
 P.O. Box 2348
 Santa Fe, NM 87504-2348
 1(800) 431-4593

DEPARTMENT OF LABOR

New Mexico Department of Labor
 Unemployment Insurance Benefit
 Payment Control
 P.O. Box 1928
 Albuquerque, NM 87103
 (505) 841-8417

For information on specific courts, contact:

ADMINISTRATIVE OFFICE OF THE COURTS

Administrative Office of the Courts
 Warrant Enforcement Division
 237 Don Gaspar, Room 25
 Santa Fe, NM 87501
 (505) 827-4813 or 827-4754

Now continue with **Step 4**.

STEP 4

Check the figures on your return and on the attachments.

Transfer the figures accurately from your working copy if you prepared one. Check your arithmetic one more time. Enter all items in blue or black ink. **Please do not use pencil.**

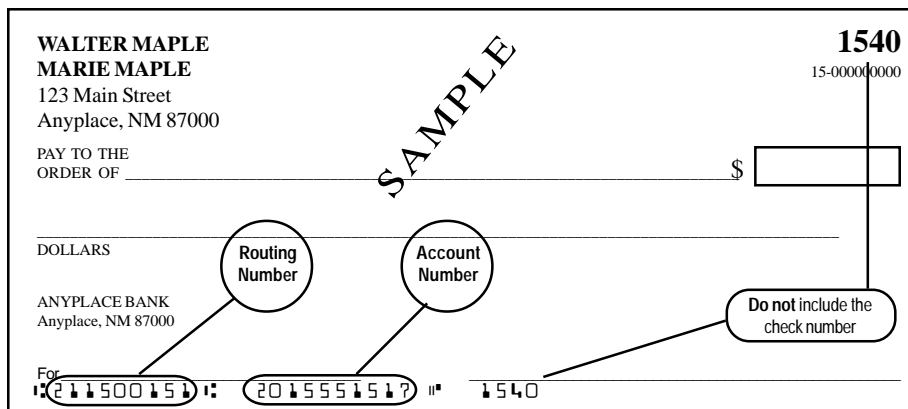
STEP 5

Complete the top of page 1 of the Form PIT-1.

Make sure your name(s); address and social security number(s) are legible, complete and correct.

Enter names on a joint return in the same order as on the federal return.

If you changed your last name during the year, put your former last name in parentheses after your current last name. Taxpayers filing a joint return should enter their names and social security numbers in the same order each year to avoid processing delays.



Mark the box above the name and address block if you moved or changed your address since your last filing.

NOTE: If you move after filing your return and you expect a refund, you should notify by mail both the post office serving your old address and the Department of your change of address. This will help in forwarding your refund to your new address as quickly as possible. Always include your social security number in any correspondence with the Taxation and Revenue Department. Sign your letter with a pen. **Your original signature is mandatory for a change of address.**

STEP 6

Sign and date your return. Please include telephone number at the bottom of page 2 of the Form PIT-1. Complete the PIT-PV Payment Voucher if your return shows tax due on Line 21. Go through the checklist on the page 2 of the Form PIT-1.

Sign and date your original return. If you are married and filing a joint return, both spouses must sign it. Your return cannot be processed if you do not sign it.

Submit only original, official state forms. Copies cause a delay in processing your return. **Keep a copy of your original return and attachments** in a safe place in case you need to refer to them at a later date. If someone prepares your return for you, **be sure to get a copy for your records.**

Parents of minor children, guardians of dependent taxpayers, surviving spouses, or estate administrators must sign the tax return on behalf of the minor child, dependent or deceased taxpayer. Print or type the relationship under the signature.

Paid preparers must sign your return. Anyone you pay to prepare your return must sign it and fill in the other blanks in the preparer's section of the return. The preparer must sign it by hand; signature stamps are not acceptable. If someone prepares your return and does not charge you, that person should not sign it. You should, however,

record the name of the person who prepared the return and how to contact the preparer in case there are questions after the return is filed. Paid preparers are subject to certain requirements. For more information, see *Penalties and Interest* on page 9.

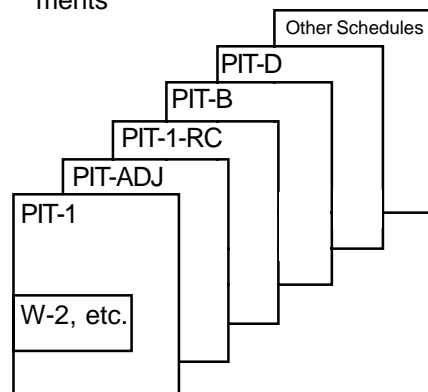
A preparer with an 11-digit New Mexico CRS identification number enters it in the appropriate box on the bottom of page 2 of Form PIT-1. An out-of-state preparer enters either a nine-digit social security number or an IRS-issued Preparer Tax Identification Number (PTIN) in the space provided at the bottom of page 2 of Form PIT-1.

STEP 7

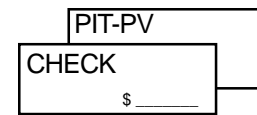
Assemble your return (and Payment Voucher if your return shows tax due).

Refer to the correct way to assemble your return and the various attachments on this page for the most efficient handling. You can help ensure that your return (and your refund, if you are entitled to one) is processed as quickly as possible by taking a few moments to assemble your forms as shown:

- 2003 Form PIT-1
- 2003 Schedule PIT-ADJ, if required
- 2003 Schedule PIT-1-RC, if required
- 2003 Schedule PIT-B, if required
- 2003 Schedule PIT-D, if desired
- Other required schedules or attachments



- Payment (check or money order)
- PIT-PV Payment Voucher
- Please do not staple your payment to your payment voucher.



Insert your return and attachments including copies of your annual statements of income and withholding forms W-2 or other annual income or withholding statement.

STEP 8 Checklist

Before you mail your return, a quick check will help you avoid common errors that may delay your refund. Complete the Filing Checklist on Form PIT-1, page 2, and then go to step 9.

STEP 9

Use the preaddressed mailing envelope.

To speed your refund, use the preaddressed envelope that came with your tax package. If you do not have a preaddressed envelope, address your envelope as follows:

Taxation & Revenue Department
P.O. Box 25122
Santa Fe, NM 87504-5122

Do not submit a photocopy of the Form PIT-1 and schedules to the Department. Submit only original forms. Keep a copy for your records.

NOTE: When To Call About Your Refund. Generally, electronically filed returns claiming a refund are processed within four weeks or less. A paper return received in the Department before April 1, takes 6 to 8 weeks. If you file after April 1, you may not receive your refund check for up to 12 weeks. If you have to call to ask where your refund check is, please wait until sufficient time has passed for the Department to process your refund claim, then call (505) 827-0827. Have a copy of your tax return available when you call and be prepared with your social security number(s).

New Mexico Taxpayer Bill of Rights

Most tax transactions happen without incident. In an imperfect world, however, occasional disagreements occur through misunderstanding, mathematical error, missed deadlines, misplaced papers, high volume of transactions and many other situations. Over the years the Legislature and the department have established ways to handle difficulties according to the provisions of the state tax code. Following are some of your rights. Should you wish to consult the law itself, you will find it in House Bills 64 and 283 passed in the 2003 Legislative session:

- 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 us according to provisions of Section 7-1-24 NMSA 1978;
- The right to have audits, inspections of records and meetings conducted at a reasonable time and place according to Sec. 7-1-11 NMSA 1978;
- The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest and collection proceedings under the Tax Administration Act;
- The right to receive an explanation of audit results and the basis for audits, assessments or denials of refunds that identify tax, interest or penalty due;
- The right to seek review through formal or informal proceedings of findings or unfavorable decisions arising from determinations during audit or protest procedures according to Sec. 7-1-24 NMSA 1978;
- The right to have your tax information kept confidential unless otherwise specified by law in Sec. 7-1-8 NMSA 1978;
- The right to an abatement of an assessment of taxes incorrectly, erroneously or illegally made (Sec. 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 (Sec. 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 Sec. 7-1-16 NMSA 1978. If you become a delinquent taxpayer, upon notice of delinquency you have the right to timely notice of collection actions that require sale or seizure of your property under the Tax Administration Act, and
- The right to pay your tax obligations by installment payment agreements according to the provisions of Sec. 7-1-21 NMSA 1978).

New Confidentiality Provisions:

Statutes regulating the confidentiality of your taxes continue to be strict. This year the Legislature included language in Sec. 7-1-8 NMSA 1978 requiring the department to answer questions about whether a taxpayer is registered to do business in this state or is registered for other tax programs, but it does not allow employees to reveal whether you have filed a return. A hearing officer's written ruling on questions of evidence or procedure according to Sec. 7-1-24 NMSA 1978 may be made public, but not the name and identification number of the taxpayer requesting the ruling. [HB-283]: Now included in public record are the monthly gasoline tax reports of numbers of gallons of gasoline and ethanol-blended fuels received and deducted, and the tax paid by each filer or payer of the tax. Identities of rack operators, importers, blenders, suppliers or distributors and the number of gallons of gasoline and other fuels are public record. The department may make known to the Gaming Control Board the tax returns of license applicants and their affiliates.

New Audit Provisions:

We must provide you with written, dated notice that an audit is about to begin on a specific date, and the notice must tell you which tax programs and reporting periods will be covered. We must issue a second notice, which states any outstanding records or books of account requested and not yet received, between 60 and 180 days after the audit begins. If you do not produce the records within 90 days, the department can issue an assessment of tax on the basis of the information as it stands. If you need additional time, you must submit a specific request in writing. Interest on outstanding liabilities accrues if the department does not issue an assessment within 180 days of the notice of outstanding records or books, or within 90 days after time has expired under your request for additional time; however, you are entitled to an abatement of interest for the period of time after you have complied with department requests and the department has not acted on the audit.

New Administrative Hearing Procedures:

A department hearing officer may not engage as an employee in enforcing or formulating general tax policy other than to conduct hearings. You may request the Secretary to determine if a hearing officer's activities have affected his or her impartiality, and the Secretary may assign the case to another hearing officer. Hearing officers may not communicate unilaterally about a matter you have protested while that matter is still pending. The Secretary may appoint another hearing officer if that occurs. You may request a written ruling on any contested question of evidence in matters in which you have filed a pending written protest. You also may request that two or more protests on related issues be combined and heard jointly, and the hearing officer shall grant the request unless it creates an unreasonable burden on the department.

Credit Claims:

The department has 180 days from the filing date to approve or deny a statutory tax credit. If it does not act, the credit is approved. The Secretary decides whether a refund of tax due you may be offset against your other tax liabilities, and you will receive notice that the refund will be made accordingly. You are entitled to interest until the tax liability is credited with the refund amount. Please see the paragraph above on "New Audit Provisions" for interest due you if the department does not offset a refund or credit against your other tax liabilities within the prescribed time. [HB-283]: 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 will receive 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 Sec. 7-1-53 the department may enjoin a taxpayer from continuing in business after a hearing and until the delinquency is cleared.

***ELECTRONIC PAYMENTS
CAN BE MADE THROUGH
THE INTERNET.***

INTERNET SERVICES:

- 1. ELECTRONIC FILING***
- 2. ELECTRONIC CHECK***
- 3. TAX PAYMENTS USING
VISA, MASTERCARD OR
AMERICAN EXPRESS****

Visit the Department website at www.state.nm.us/tax

Click on *Electronic Services*

*** 2.5% convenience fee added for credit card payments**