

2005 New Mexico Instructions for Corporate Income and Franchise Tax Return Form CIT-1

READ THE INSTRUCTIONS CAREFULLY. They will answer most questions, save time and may save money. You may also want to read publication FYI-350 - *Corporate Income and Corporate Franchise Tax*, which explains in more detail various aspects of the New Mexico corporate income tax program. File your return as early as possible. If you have additional questions or want a copy of FYI-350, write:

New Mexico Taxation and Revenue Department
ATTENTION: Corporate Income and Franchise Tax
P. O. Box 25127
Santa Fe, New Mexico 87504-5127
or visit our website at:
www.state.nm.us/tax

GENERAL INSTRUCTIONS

CORPORATIONS REQUIRED TO FILE A NEW MEXICO CORPORATE INCOME AND FRANCHISE TAX RETURN

Every entity having income from activities or sources within New Mexico that is required to file a Federal Corporation Income Tax Return or equivalent return must file a New Mexico Corporate Income and Franchise Tax Return. These include:

- all corporations organized under the laws of the state of New Mexico whether they have New Mexico income or not;
- out-of-state corporations that derive income from business transactions, property or employment in this state;
- corporations exempt from federal income tax under the Internal Revenue Code that have unrelated business income, and
- all other business entities that are required or elect to file a Federal Corporation Income Tax Return including partnerships and limited liability companies treated as corporations by the Internal Revenue Service.

EXCEPTION: The following companies are exempt and are not required to file a New Mexico Corporate Income Tax Return:

- insurance companies and reciprocal or interinsurance exchanges that pay a premium tax to New Mexico, and

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

CORPORATIONS REQUIRED TO PAY THE NEW MEXICO FRANCHISE TAX

All corporations engaging in business in New Mexico and every domestic or foreign corporation having or exercising its corporate franchise in this state, **whether actively engaged in business or not**, must file a New Mexico Corporate Income and Franchise Tax Return and pay the \$50 franchise tax even if no income tax is due. This includes "disregarded" corporations doing business in New Mexico. The only exceptions are:

- corporations exempt from federal income tax under the Internal Revenue Code that have no unrelated business income;
- insurance companies and reciprocal or interinsurance exchanges that pay a premium tax to New Mexico, and
- rural electric cooperatives established under the Rural Electric Cooperative Act.

Limited liability companies that are not required or do not elect to file a Federal Corporation Income Tax Return are not required to pay the New Mexico Franchise Tax.

WHICH RETURN TO FILE

FISCAL-YEAR TAXPAYERS must file a 2005 return for fiscal years beginning in 2005 and ending in 2006.

If your business does not file a New Mexico Corporate Income and Franchise Tax Return, New Mexico may require you to file one of the following forms for New Mexico instead:

- New Mexico Income and Information Return for Pass-Through Entities (PTE),
- New Mexico Personal Income Tax Return (PIT-1), or
- Fiduciary Income Tax Return (FID-1)

Corporations electing to be taxed as S corporations for federal income tax purposes, or most partnerships (excluding "investment partnerships" in which income is derived solely from interest, dividends and sales of securities), or any joint venture, common trust fund, limited association, pool or working agreement, limited liability company or any other combination of persons or interests that is required to file a federal partnership return of income must file a New Mexico Income and Information Return for Pass-Through Entities (PTE) if any of the entity's income is from New Mexico.

A Real Estate Investment Trust (REIT) that does business in New Mexico and files a federal Form 1120-REIT must file a New Mexico PTE return.

A single-owner LLC or similar organization doing business in New Mexico, who is required to or elects to file a federal Form 1040 Schedule C instead of a federal corporate income tax return or a federal pass-through entity return, must file a New Mexico personal income tax return Form PIT-1. No franchise tax is due.

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

Each beneficiary of an estate or trust must include his or her share of the estate or trust income on the New Mexico personal or corporate income tax return even if the estate or trust was not required to file Form FID-1.

NOTE: All New Mexico forms are available from any New Mexico Taxation and Revenue Department district office, or you may request forms by calling 505-827-2206 (not a toll-free number). Forms, instructions and several information brochures are also available on the Department's Internet home page. Our address is: www.state.nm.us/tax. There is a search engine at the top of the page.

REQUIRED ATTACHMENTS TO FORM CIT-1

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

- **CIT-1, pages 1 and 2:** *Corporate Income and Franchise Tax Return*
- **CIT-A:** *Apportioned Income For Multistate Corporations*
- **CIT-B, CIT-C and CIT-D:** *Allocation of Nonbusiness Income, Computation of New Mexico Percentage, and Foreign Dividend Deduction Schedule*
- **Federal Form 1120** (pages 1 through 4 **ONLY**): Required of all corpora-

tions. Corporations filing under separate corporate entity or combined filing methods must attach a simulated Federal Form 1120, pages 1 through 4. The New Mexico return is **NOT** complete and will **NOT** be processed if these forms are missing.

Note: Attach only pages 1 through 4 of Federal Form 1120.

NOTE: If you include a simulated federal return or pro forma state return, write, "DO NOT PROCESS" across the face of the return.

If your return shows a balance due, complete **Form CIT-PV, Payment Voucher**, to include with your check or money order.

Other Forms or Attachments You May Have To File

Copy of automatic or approved federal **extension** or New Mexico Form RPD-41096, if applicable.

All annual information returns and withholding statements. Attach a copy of all annual information returns and withholding statements showing income and New Mexico income tax withheld. Attach Forms W-K 2005, *New Mexico Income and Withholding from Pass-Through Entity*, federal Form 1099-MISC or equivalent, or New Mexico Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds* if reporting amounts withheld on lines 20 or 21, Form CIT-1.

When you calculate New Mexico taxable income using a net operating loss carry-forward, attach a **net operating loss schedule** showing the year that each net operating loss occurred. The schedule should also list the year in which the loss (es) was carried forward.

Schedule CC, Alternative Tax Schedule. Corporations that 1) have no business activity in New Mexico other than sales, 2) do not own or rent real estate in New Mexico and 3) have annual gross sales in New Mexico of \$100,000 or less qualify to use the alternative tax for computing New Mexico corporate income tax.

Corporations with seasonal or annualized income may be able to reduce penalty and interest on underpayment of estimated tax by completing **Form RPD-41287, 2005 Calculation of Penalty and Interest on Underpayment of Estimated Tax**.

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

Attach **Form CIT-3, Corporate Child Care Credit**, to claim the corporate-supported child care tax credit.

Attach **Form CIT-4, Preservation of Cultural Properties**, and related **Historic Preservation Division Certification** to claim the preservation of cultural properties tax credit.

Form CIT-5, Qualified Business Facility Rehabilitation Credit, and the **approval from the New Mexico Enterprise Zone Program Officer** are required to claim the business facility rehabilitation credit for building renovations within New Mexico enterprise zones.

To claim the intergovernmental business tax credit, attach a **statement establishing entitlement to this credit with proof of payment of the tax paid to an Indian nation, tribe or pueblo**. A manufacturer, processor or grower who has established a new business on Indian land after July 1, 1997, may be entitled to a credit for 50% of the taxes paid to the Indian nation, tribe or pueblo.

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

To claim the rural job tax credit, attach the **Rural Job Tax Credit Claim Form, RPD-41243**.

The technology jobs additional tax credit requires the **Technology Jobs Tax Credit Claim Form, RPD-41244**.

To claim the credit for electronic identification card reader attach **Form RPD-41246, Income Tax Credit for Elec-**

tronic Identification Card Reader, Purchase and Use Statement.

To claim the credit for produced water, attach **Form RPD-41221, Credit for Produced Water Claim Form** and a copy of the **Interstate Stream Commission’s confirmation of receipt of the water.**

To claim the renewable energy production tax credit, attach **Form RPD-41227, Renewable Energy Production Tax Credit Claim Form** with **documentation of electricity produced.**

To claim the job mentorship tax credit, attach **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 tax year.

To claim the land conservation incentives tax credit, attach **Form RPD-41282, Land Conservation Incentives Tax Credit Claim Form** and the **letter received from the Energy Minerals and Natural Resources Department** certifying treatment as a qualified donation.

To claim approved film production tax credit, attach **Form RPD-41228, Film Production Tax Credit Claim Form.** This credit is refundable.

Refundable Approved New Mexico Filmmaker Tax Credit requires **Form RPD-41303, New Mexico Filmmaker Tax Credit Claim Form.**

See *Available Credits* beginning on page 6 for a description of the non-refundable credits listed. For more information on business-related credits, see Publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*, download the forms from the TRD web site at www.state.nm.us/tax or call (505) 827-0867.

PAYMENT OF THE CORPORATE INCOME AND FRANCHISE TAXES

Complete Form CIT-PV, attach your payment and mail the return, payment

voucher CIT-PV, payment and required attachments to:

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

Make your check or money order payable to the Taxation and Revenue Department. Do not mail cash to pay your corporate income and franchise taxes.

To avoid misapplication of funds write “2005 CIT-1” and your federal employer identification number on the check or money order.

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

DUE DATE

For corporations that file on a calendar-year basis, the 2005 New Mexico corporate income and franchise tax return is due on or before March 15, 2006, together with payment of taxes due.

For corporations that file on a fiscal-year basis, or a short-year return, the New Mexico corporate income and franchise tax return is due on or before the 15th day of the third month following the close of the fiscal year with payment of taxes due.

A New Mexico income tax return and tax payment are timely if the United States Post Office 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 return is timely if the postmark bears the date of the next business day. Delivery through a private delivery service is timely if the date recorded or marked by the private delivery service is on or before the due date.

EXTENSION OF TIME TO FILE

The Taxation and Revenue Department

accepts an extension of time granted by the Internal Revenue Service if a copy of the automatic or approved federal extension accompanies the CIT-1 at the time of filing.

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

INTEREST AND PENALTIES

If the corporation does not pay its New Mexico corporate income or franchise tax when due, interest is assessed at the rate of 15% per year, calculated at a daily rate of .041% per day on the amount of tax due. **Interest accrues even if the corporation obtains an extension of time to file a return.** The formula for calculating interest is:

$$\text{Tax due} \times .00041 \times \text{number of days late} = \text{interest due.}$$

In addition, if a return is not filed or tax remains unpaid when due because of negligence or disregard of rules or regulations, but without intent to defraud, the corporation is liable for a penalty of 2% per month or partial month from the date the return was due, not to exceed 10% of the amount of tax due or a minimum of \$5.00, whichever is greater. The penalty does not apply if there is an extension of time and the tax is paid by the extended due date. Calculate this penalty by multiplying the tax due by 2% times the number of months (including any partial month as a full month) past the due date or extended due date.

ESTIMATED TAX PAYMENTS

Every corporation may be required to pay estimated corporate income tax if its tax after applicable credits is \$5,000 or more in the current year. Form CIT-ES is used for making estimated pay-

ments. See instructions for preparing the CIT-ES on page 12.

AMENDED RETURNS

Use Form CIT-1 for the year being amended and check the box at the top of page 1 of the form to indicate the type of amended return. Attach all required schedules.

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

Amended-R.A.R.: Report changes resulting from an Internal Revenue Service audit within 90 days of the date the federal adjustments are final. Attach a copy of the R.A.R. (Revenue Agent's Report) inclusive of spreadsheets detailing federal adjustments by company name.

Amended-Capital Loss: You may carryback a federal capital loss as allowed by the Internal Revenue Code only to the extent it does not increase or create a net operating loss in the tax year to which it is carried. A schedule showing the application of the capital loss for each carryback and carryover year must accompany the amended return. The New Mexico return is not complete and will not be processed without it.

The capital loss of any taxpayer may not be carried back or forward to any other taxpayer. If in a prior year the members of a consolidated or combined group had filed a New Mexico corporate income and franchise tax return, only the capital losses of the members of that particular consolidated or combined group may be carried back to its own prior year's New Mexico income tax returns. The loss may not be carried back to offset any other group's or corporation's taxable income.

When amending a return to carry back a capital loss, attach a copy of the federal Form 1139 or 1120X filed with the Internal Revenue Service.

Amended-Other: Other Changes

If the New Mexico amended return reports changes resulting from filing an amended federal return, attach copies of all applicable federal forms or schedules. If amending for any other reason, attach an explanation for all changes.

**Line Instructions
for Completing the Corporate
Income and Franchise Tax
FORM CIT-1**

FORM CIT-1, PAGE 1

Computerized schedules will NOT be accepted in lieu of completing the appropriate forms. All applicable line items on Form CIT-1, CIT-A, CIT-B, CIT-C and CIT-D must be completed for the return to be processed.

On the appropriate lines of Form CIT-1:

- Type or print the corporation's registered name, address and zip code in the space provided. Verify the information and correct if necessary.
- Check the box indicating an original or amended return.
- Type or print the corporation's New Mexico CRS identification number, federal employer identification number (required) and New Mexico Public Regulation Commission number.
- Fiscal-year or short-year filers should enter the beginning and ending dates (month and year only) from their federal return. No entry is required for calendar-year filers.

- If the due date has been extended, **write in the extended due date.** A copy of the extension must be attached to the return.

- Enter a contact telephone number for the taxpayer. This number may be the same number as the taxpayer phone number on page 2 of Form CIT-1.

Complete Questions A through J.

Question D. NAICS Code (North America Industrial Classification System). The business activity code reported for New Mexico filing purposes would be the same as reported for federal purposes. If you don't know your NAICS code, refer to the instructions for federal Forms 1120 and 1120-A. Federal forms and instructions can be downloaded from the IRS web site, www.irs.gov.

Question E. Method of Reporting. New Mexico recognizes three corporate income tax reporting methods:

1. Separate Corporate Entity.
2. Combination of Unitary Domestic Corporations (includes all unitary corporations incorporated in the United States and all unitary foreign corporations doing business in the United States).
3. Federal Consolidated Group.

A corporation may change its reporting method subject to the following limitations: a corporation may change its method of reporting without prior permission from the Department if the new reporting method chosen has a higher number on the above list than the previous reporting method. If a corporation wishes to change to a reporting method

Line 10.	
CORPORATE INCOME TAX RATES	
Net Taxable Income	Tax
Not over \$500,000	4.8% of net taxable income
Over \$500,000 but not over \$1,000,000	\$24,000 plus 6.4% of the excess over \$500,000
Over \$1,000,000	\$56,000 plus 7.6% of the excess over \$1,000,000

with a lower number, e.g., from Federal Consolidated Group to Separate Corporate Entity, it must obtain written permission PRIOR TO the start of the tax year from the Taxation and Revenue Department. Permission will be granted only after it demonstrates that the prior method would materially misrepresent the corporation's income in New Mexico. **Retroactive election of a different reporting method is not permitted.**

Please request Publication FYI-350, *Corporate Income and Corporate Franchise Tax*, for more information about allowable New Mexico reporting methods.

Question F. Method of Accounting. The corporation must indicate its method of accounting. "Other" includes such accounting methods as "completed contract" and "percentage of completion" and must be specified in the space provided.

New Mexico requires a corporation to use the same method of accounting for both New Mexico and federal corporate income tax purposes.

Question I. This question must be completed if you are:

- filing a combined or consolidated return,
- paying the franchise tax for more than one corporation,
- applying any payments or credits of members of the group to this return.

The total of column 3 must equal line 19 of CIT-1 and the total of column 4 must equal line 15 of CIT-1.

Refund Express

If you request an amount to be refunded to you on line 24B, 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 1 of the Form CIT-1. All fields are required. Complete the bank routing number and the account number. 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 — 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.

You *must* indicate the **type of account**. Enter "C" if the account is a checking account, and "S" if the account is a savings account. This field is required.

Caution: Verify that the information you enter is correct and that your financial institution will accept a direct deposit payable to the name on the CIT-1 return. **Note:** 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 and notify you.

FORM CIT-1, PAGE 2

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

NOTE: Round all dollar amounts to the nearest whole dollar. The forms do not

CORPORATION'S NAME
123 Main Street
Anyplace, NM 87000

PAY TO THE ORDER OF _____ \$ _____

ANYPLACE BANK
Anyplace, NM 87000

For _____

Routing Number: 211500151
Account Number: 2015551517

1540

15-00000000

DOLLARS

Do not include the check number

allow the entry of cents.

Line 1. Enter the federal taxable income before NOL and special deductions from federal Form 1120. Corporations exempt from federal income tax that have unrelated business income must enter unrelated business taxable income from Federal Form 990-T Part II.

NOTE: If you had no nexus in New Mexico or all of your New Mexico activities were immune from corporate income tax under P.L. 86-272 for the 2005 tax year, enter zero on this line and write "nexus" at the bottom of the page, after line 25 but before the signatures.

Line 2. Enter interest income from non-New Mexico municipal bonds and other obligations not subject to federal income tax under IRC Section 103.

Line 5. New Mexico does not allow net operating loss (NOL) carrybacks for losses incurred in tax years beginning on or after January 1, 1991. Net operating losses for tax years beginning on or after January 1, 1991, may be carried forward for five years. The New Mexico NOL carryover deduction is limited to the sum of (a) the amount of any federal NOL carryover claimed and allowed for losses incurred in tax years beginning prior to January 1, 1991, and (b) the amount of any NOL (as defined by Section 172(c) of the Internal Revenue Code) incurred in tax years beginning on or after January 1, 1991. For New Mexico reporting purposes, the amount of the net operating loss may only be increased by the income, if any, from U.S. government obligations, less related expenses. **A schedule of claimed NOL deductions must accompany the return.**

Line 6. Interest from U.S. government obligations or federally taxed New Mexico bonds. Interest or dividend income from U.S. government obligations is deductible from the corporation's taxable income only if, and to the extent that, it was included in taxable income on line 1. Expenses related to income from U.S. obligations must be subtracted and the net amount entered.

NOTE: Income from Fannie Mae, Ginnie
CIT-1

Mae, Freddie Mac and other U.S. guarantee entities is not deductible. Income from repurchase agreements of U.S. obligations (REPOs) is not deductible. Interest on notes issued by the Federal Home Loan Bank obligations is deductible, but not dividends issued by the Federal Home Loan Bank. That portion of income paid by mutual funds, unit investment trusts and a simple trust that is derived from investments in U.S. obligations may be deducted.

Interest income from bonds issued by the state of New Mexico or its political subdivisions may also be deducted on this line to the extent that income was included in federal taxable income (CIT-1, line 1).

Line 13. Total Non-refundable Credits. If any of the credits below are claimed, attach the applicable form(s) or statements, check the applicable box (es) and enter the total amount of the credit(s) on line 13. The supporting documentation required to claim any of the non-refundable credits is described in the next section and must accompany the return, or the claim for the credit will not be allowed.

To calculate the amount that may be claimed for any tax year, refer to the claim form or supporting instructions for the non-refundable credit.

For more information on business-related credits, see publication FYI-106, *Claiming Tax Credits For CRS Taxes & Business-Related Income*, download related forms from the TRD web site at www.state.nm.us/tax, or call (505) 827-0867 or your local district office.

AVAILABLE CREDITS

Child Care Tax Credit: Attach Form CIT-3, *Corporate Child Care Credit*. Corporations that operate a child care facility primarily for dependent children of employees or pay for outside child care services may claim a credit for up to 30% of the net cost incurred, not to exceed \$30,000. An amount exceeding the tax liability will not be refunded but may be carried forward for three years.

Preservation of Cultural Properties

Credit. Attach the Historical Preservation Division Certificate and Form CIT-4, *Preservation of Cultural Properties Credit*. The credit for preservation of cultural property is 50% of the costs of a project for the restoration, rehabilitation or preservation of cultural property listed on the official New Mexico Register of Cultural Properties. The credit may not exceed \$25,000. Any amount exceeding the tax liability may be carried forward for four years.

Business Facility Rehabilitation Tax

Credit: Attach Form CIT-5, *Qualified Business Facility Rehabilitation Credit*, and the approval from the New Mexico Enterprise Zone Program Officer. The credit for rehabilitation of a qualified business facility is 50% of the costs, not to exceed \$50,000, of a project to restore, rehabilitate or renovate a qualified business facility in a New Mexico enterprise zone. An amount exceeding the tax liability may be carried forward for four years.

Intergovernmental Business Tax

Credit: The intergovernmental business tax credit is 50% of the lesser of: (a) the aggregate amount of tax not eligible for other credits imposed by and paid to an Indian nation, tribe or pueblo or (b) the amount of New Mexico corporate income tax from activity on Indian land. Only a manufacturer, processor or grower that began new operations on Indian land after July 1, 1997, can qualify for this credit. Attach a statement establishing your entitlement to this credit with proof of payment of the tax on which the credit is based.

Welfare-to-Work Credit:

The amount of the credit allowed is 50% of the amount of the Welfare-to-Work credit claimed and allowed under 26 U.S.C. Section 51A with respect to that employee in that job. To apply for the credit please attach a certificate from the New Mexico Department of Labor.

Rural Job Tax Credit:

Eligible employers may earn the Rural Job Tax Credit for each qualifying job created after July 1, 2000, and apply it to taxes due on the CRS return or to corporate or personal income tax. For a complete list of qualifications, requirements, and a description of the pre-approval process, see

FYI-106. Download the application RPD-41238 from the web at www.state.nm.us/tax, or call (505) 827-0867.

Corporations may claim *approved* credits by completing RPD-41243, *Rural Job Tax Credit Claim Form*. Indicate the amount claimed on line 13, Form CIT-1 and attach to your return. You may claim the credit against corporate income taxes filed on Form CIT-1. An amount exceeding the tax liability may be carried forward for three years.

Technology Jobs Additional Tax

Credit: A taxpayer conducting qualified research and development at a qualified facility in New Mexico may claim the basic credit equal to 4% of qualified expenditures purchased after July 4, 2000. Additional credit is allowed for a taxpayer who increases annual payroll expense by \$75,000 over base payroll for every \$1,000,000 in qualified expenditures claimed by the taxpayer. The basic and additional credits double if the qualified facility is in a rural area. For a complete list of qualifications, requirements, and a description of the pre-approval process, see FYI-106. Download the application RPD-41239 from the TRD web site at www.state.nm.us/tax, or call (505) 827-0867.

Corporations may claim approved credits by completing RPD-41244, *Technology Jobs Tax Credit Claim Form*. Indicate the amount claimed on line 13, Form CIT-1, and attach the claim form to your return. You may claim additional tax credits against corporate income taxes filed on Form CIT-1. An amount exceeding the tax liability is not refundable but may be carried forward to future returns.

Credit for Electronic Identification

Card Reader: Beginning with tax year 2001, a one-time credit is available for businesses that purchase electronic identification card readers. A business may qualify to claim this credit on its New Mexico personal income tax or corporate income and franchise tax return if:

- 1) the business is licensed to sell cigarettes, tobacco products or alcoholic beverages, and
- 2) the business has purchased and has in use equipment that electronically

reads identification cards to verify age.

The amount of the credit is \$300 for each business *location* using electronic identification card readers. A partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or association. The total credit claimed by all members of the partnership or association may not exceed three hundred dollars (\$300) for each business location.

This non-refundable credit must be claimed in the tax year the equipment was purchased and put into use. Excess amounts cannot be carried forward or back into another tax year.

To claim the credit against corporate income tax, complete and notarize Form RPD-41246, *Income Tax Credit for Electronic Identification Card Reader, Purchase and Use Statement*. Enter the amount of credit claimed on Line 13, Form CIT-1 and submit the statement with the return. When the credit (\$300) is split between spouses, owners, partners, or other business associations, each claimant must indicate the division of the total credit (\$300 per business location) on page 2 of form RPD-41246.

Credit for Produced Water: Through December 31, 2005, operators who clean water produced from oil-and-gas drilling and production, crude-oil refining, and natural-gas processing can apply to the Department for an income tax credit of \$1,000 per acre foot of water - limited to \$400,000 per operator annually - but they must first deliver and transfer title to the clean water to the Interstate Stream Commission at the Pecos River. The credit is available for corporate and personal income taxpayers. State and federal water quality laws apply.

To claim the credit complete RPD-41221, *Credit for Produced Water Claim Form* and attach it to your CIT-1 form. Attach the copy of the Interstate Stream Commission's confirmation of receipt of the water. The credit may be carried forward for three years.

Renewable Energy Production

Credit: Corporate income taxpayers receive credit for producing electricity by solar, wind or biomass power at a penny per kilowatt hour for up to the first 400,000-megawatt hours yearly per taxpayer for ten years. To qualify the taxpayer must either hold title to a qualified energy generator or lease from a county or municipality, under authority of an industrial revenue bond, the property on which the generator operates. The Energy, Minerals and Natural Resources Department (ENMRD) must first approve the business as eligible.

A taxpayer with at least a 5% interest in a qualifying energy-generating business may be allocated all or part of the right to claim the credit, but only if the business is taxed federally as a partnership and EMNRD has approved the allocation.

Corporations may claim credit by completing RPD-41227, *Renewable Energy Production Tax Credit Claim Form*. Also attach documentation of electricity produced. Indicate the amount claimed on line 13, Form CIT-1 and attach to your return. Excess credit may be carried forward for five consecutive tax years.

Job Mentorship Tax Credit: A taxpayer who is an owner of a New Mexico business may claim a job mentorship tax credit for employing qualified students participating in a career preparation education program. The amount of the job mentorship tax credit is equal to 50% of gross wages paid to not more than 10 qualified students employed by the business for up to 320 hours of employment for each student during the tax year. A taxpayer may not claim a credit for any single qualified student for more than three tax years. The maximum credit claimed by a taxpayer in a tax year is \$12,000.

You must obtain a Form RPD-41280, Job Mentorship Tax Credit Certificate, from the secondary school operating the career preparation education program for each qualified student you employ.

Complete Form RPD-41281, *Job Mentorship Tax Credit Claim Form*, and attach it to your CIT-1 form. Enter the amount of the credit claimed on line 13,

and indicate the type of non-refundable credit claimed. Also attach a *Job Mentorship Tax Credit Certificate* for each qualified student employed during the tax year. Any portion of the credit that remains unused may be carried forward for three consecutive years.

A partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or association.

Land Conservation Incentives Credit. Corporations who donate land or interest in land to private or public conservation agencies for conservation purposes may claim a credit from corporate income tax, equal to 50% of the fair market value of the land or interest in land up to \$100,000. The Secretary of Energy, Minerals and Natural Resources certifies the donations for eligibility.

To claim the credit complete Form RPD-41282, *Land Conservation Incentives Credit Claim Form*. Attach it to your CIT-1 Form. Enter the amount of the credit claimed on line 13 and indicate the type of non-refundable credit claimed. Also attach the letter received from the Energy Minerals and Natural Resources Department certifying treatment as a qualified donation. Unused credit may be carried forward for a maximum of 20 consecutive years. Only one credit can be claimed per tax year.

Line 15. Franchise Tax. Every domestic or foreign corporation must pay a franchise tax of \$50 if it:

1. transacts business in, into or from New Mexico;
2. derives income from property or employment within this state;
3. has or exercises its corporate franchise in New Mexico, whether engaged in active business or not, or
4. is an otherwise tax-exempt corporation with unrelated business income.

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

Corporations that are exempt from federal income tax, such as homeowners' associations and 501(c)(3) organizations, are subject to the franchise tax if the corporation has unrelated business income. Insurance companies and reciprocal or inter-insurance exchanges that pay a premium tax to New Mexico are exempt from franchise tax, as well as rural electric cooperatives established under the Rural Electric Cooperative Act.

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

NOTE: Each corporation that is a member of a combination of unitary corporations or a member of a consolidated group that meets any one of the above requirements must pay the \$50 corporate franchise tax. If you file on a combined unitary or consolidated group method, the total amount must equal the amount on CIT-1, page 1, line I, column 4.

Line 19. Enter the total amount of all tentative and estimated tax payments and any amount applied from the prior year. For amended returns include additional tax paid on or after the due date of the return. Check the appropriate box(es) to indicate the source of the tax payments.

NOTE: If any amounts on line 19 were paid using a New Mexico CRS identification number other than the one on the top of CIT-1, question I on page 1 must be completed.

If you owe penalty and interest for underpayment of estimated corporate income tax, and you qualify to use the special penalty calculation (method 4), you may be able to reduce the amount of penalty and interest on underpayment of the estimated tax payments by filing Form RPD-41287, 2005 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment. If you elect to file using method 4, you must mark the indicator box below line 19 on Form CIT-1, page 2 and attach a completed Form RPD-41287.

Generally, taxpayers who pay penalty and interest on underpayment of estimated tax do not need to mark the indicator box on line 19 or file form RPD-41287. If estimated tax is due, the Department will calculate the penalty and interest on underpayment of estimated corporate 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 the special penalty calculation method 4.

See *How to determine the amount of your quarterly estimated tax payment* on page 13 for a description of the calculation methods.

LINE 20: Enter amounts withheld from a pass-through entity, if any. Attach copy(ies) of Form W-K 2005, *New Mexico Income and Withholding from a Pass-Through Entity*.

LINE 21: Enter amounts withheld from a remitter (payer) of oil and gas proceeds, if any. Attach copy(ies) of federal Form 1099-MISC or equivalent, or New Mexico Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*.

LINE 22: Enter the total of refundable approved film production tax credit from Form RPD-41228 or New Mexico filmmakers tax credit from Form RPD-41304. You must attach Form RPD-41228, *Film Production Tax Credit Claim Form* or Form RPD-41304, *New Mexico Filmmakers Tax Credit Claim Form*, or your claim will be denied. An amount in excess of the company's tax liability will be refunded.

The film production tax credit is available for 15% of direct production expenses subject to state taxation in New Mexico for films and commercial audiovisual productions made in New Mexico. Excluded from the credit are costs for which the film production company has already issued a nontaxable transaction certificate under Section 7-9-86 NMSA 1978. The credit covers postproduction expenditures directly attributable only to services performed in New Mexico and subject to taxation here. To obtain approval for the credit, first apply to the New Mexico Film Office of the Economic Development Depart-

ment. Once approved, the film production company may apply to the Taxation and Revenue Department for approval of the credit. See the *Application for Film Production Tax Credit*, Form RPD-41229.

Beginning on January 1, 2005, the New Mexico filmmaker tax credit is available for 5% of certain direct production expenditures made in New Mexico and directly attributable to the production in New Mexico of a film. Excluded from the credit are costs for which the film production company has already issued a nontaxable transaction certificate under Section 7-9-86 NMSA 1978. To obtain approval for the credit, first apply to the New Mexico Film Office of the Economic Development Department. When it receives approval from EDD, the film production company may apply for Taxation and Revenue Department approval of the credit. See the *Application for New Mexico Filmmakers Tax Credit*, Form RPD-41303, for details.

Line 24A. All or part of an overpayment on an original return may be applied to the 2006 liability.

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

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

CIT-A INSTRUCTIONS

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

“Apportionable income” means income arising from transactions and activities in the regular course of a corporation’s trade or business. Apportionable income includes income from both tangible and intangible property if the acquisition, management or disposition of the property constitutes integral parts of the corporation’s regular trade or business. It includes investment income related to or used in the corporation’s overall business operations. The following sources of income are apportionable and must be included:

- Dividend income from the investment of working capital or dividend income from an investment that is functionally connected to the corporation’s trade or business.
- Interest income from the investment of working capital, or interest income from capital investments used in the overall business operations, or interest income from an investment that is functionally connected to the corporation’s trade or business.
- Royalty income and fees from patents, copyrights, franchises, trademarks and licenses developed in the regular course of the corporation’s trade or business, or royalty income and fees from a product or mineral interest used in the regular course of the corporation’s trade or business.
- Rental or subrental income from property purchased, leased or used in the regular course of the corporation’s trade or business.
- Gains or losses from the sale of assets used in the regular course of the corporation’s trade or business or assets sold which had been treated as business assets in prior years.
- Income from a partnership or non-corporate entity engaged in a related business activity.

Complete lines 5 through 9 of CIT-A and, if applicable, CIT-B before completing lines 1 through 4 of CIT-A.

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

Construction contractors, railroads, airlines, trucking companies and financial institutions are subject to special apportionment rules. Taxpayers electing the combined or consolidated methods of reporting must apply these apportionment rules to each qualifying entity included on the return.

Line 5. Property Factor. This factor is a percentage determined as follows:

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

By: the average value of all real and tangible personal property owned or rented everywhere and used during the tax year to produce apportionable income (column 1). If the percentage is negative, enter zero.

PROPERTY SHALL BE VALUED according to the following rules:

Inventory shall be valued according to the valuation method used for federal income tax purposes.

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

Value property rented from others at eight (8) times the net annual rental rate. The net annual rate is the annual rent paid less any annual rent received from subrental of the same property. If property owned by others is used by the corporation at no charge or rented by the corporation at a nominal rate, the net annual rental rate is determined on the basis of a reasonable market rental rate for the property.

Determine the average value of property by adding the total value of property held by the taxpayer at the beginning of the tax period to the total value of property

held at the end of the tax period. Divide by two.

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

Line 6. Payroll Factor. This factor is a percentage determined as follows:

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

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

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

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

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

Line 7. Sales Factor. This factor is a percentage determined as follows:

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

By: the total gross receipts everywhere during the tax year, excluding returns, allowances and allocated income (column 1). If the percentage is negative, enter zero.

"Gross receipts," means all income from transactions and activities in the regular

course of business, including income from licensing of intangible personal property.

Sales of tangible personal property are New Mexico sales if:

- The property is delivered or shipped to a purchaser other than the United States government within New Mexico regardless of the f.o.b. point or other conditions of the sale, or
- The property is shipped from an office, store, warehouse, factory or other place of storage in this state and:
 1. the purchaser is the United States government, or
 2. the taxpayer is not taxable in the state of the purchaser.

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

- The income-producing activity was performed in New Mexico; or
- The income-producing activity was performed both inside and outside New Mexico, but a greater proportion was performed within New Mexico than in any other single state (the proportion shall be determined by the cost of performance in each state); or
- The gross receipts were from the rental, lease, licensing or any other use of either real or tangible personal property during the time the property was in New Mexico, or
- The gross receipts were from the performance of personal services in New Mexico.

Lines 8 and 9. Total Factors. New Mexico uses an evenly weighted three-factor formula for all taxpayers except manufacturers. Taxpayers whose principal activity is manufacturing may use a four-factor formula (sales x 2, plus property plus payroll) for tax years beginning on or after January 1, 1995, and before January 1, 2011. Once elected, the manufacturer must continue to use the four-factor method for a total of three consecutive tax years covering at least 36 calendar months. "Manufacturing," means for the purposes of electing the four-factor apportionment method, com-

bining or processing components or materials to increase their value for sale in the ordinary course of business. Manufacturing does not include construction, farming, processing natural resources and most power generation. Taxpayers filing a combined or consolidated return may elect to use the four-factor formula for each corporation principally engaged in manufacturing and included on the return. A taxpayer may not use this option unless: (a) its tax liability is greater than it would have been for the previous year if the same apportionment method was used, or (b) the taxpayer has increased its combined property and payroll factor percentages in the state over its 1991 levels.

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

Qualified manufacturers electing the four-factor method should complete question B on CIT-A and make the following adjustments when calculating the New Mexico apportionment percentage on the Form CIT-A:

- Line 7, Sales Factor. Divide column 2 by column 1 and multiply the result by 200, not 100.
- Line 9, Average Percent. Divide the total factors on line 8 by 4.

Elimination of Factor(s)

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

CIT-B INSTRUCTIONS

CIT-B must be used by corporations to allocate **income not connected to the**

corporation's regular trade or business.

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

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

Enter the following information on the appropriate lines of CIT-B to allocate income:

Line 1. Allocated Nonbusiness Dividends. Column 4: Total amount in Column 3 is allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

Line 2. Allocated Nonbusiness Interest. Column 4: Total amount in Column 3 is allocated to New Mexico if the taxpayer's commercial domicile is in New Mexico.

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

1. Income from real property in New Mexico;
2. Income from all tangible personal property if the taxpayer's commercial domicile is in New Mexico and the corporation is not organized under the laws of or taxable in the state where the property is used;
3. Income from tangible personal property used in New Mexico;
4. Income from intangibles (patents, copyrights, franchises, trademarks and licenses) used in New Mexico, and
5. Income from intangibles if the taxpayer's commercial domicile is in New Mexico but the income from the intangible is not taxable in the state where the intangible is used.

A patent is used in New Mexico if it is used in production, fabrication, manufacturing or other processing in New Mexico.

A copyright is used in New Mexico if printing or other production occurs in New Mexico.

Line 5. Allocated Net Profit or Loss on the Sale or Exchange of Nonbusiness Assets. Column 4: The net gain or loss from the sale or exchange of the following is allocated to New Mexico if it is nonbusiness income:

1. Real property in New Mexico;
2. Tangible personal property located in New Mexico at the time it was sold;
3. Tangible personal property not located in New Mexico at the time it was sold if:
 - a) the corporation's commercial domicile is within New Mexico, and
 - b) the gain was not taxable in the state where the tangible personal property was located, and
4. Intangible personal property if the corporation's commercial domicile is in New Mexico.

Line 6. Allocated Nonbusiness Partnership Income. Column 4: Nonbusiness partnership income is allocated to New Mexico to the extent the partnership conducts business in this state.

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

CIT-C INSTRUCTIONS

Complete lines 1 through 4.

Line 5. Divide the amount on line 4 by the amount on line 1, multiply by 100 and enter the New Mexico percentage here and on line 11 of CIT-1, page 2. If the percentage is negative, enter zero. Round the percentage to four decimal places (example, 26.9658%). This percentage cannot be less than zero.

CIT-D INSTRUCTIONS

All corporate taxpayers may deduct foreign dividend gross-up amounts. Only taxpayers electing the separate corporate entity filing method may deduct foreign-source dividend payments on lines 2 through 4 on Form CIT-D. *Combined and consolidated filers may elect to adjust their apportionment percentages by inclusion of the factors of their foreign-source dividend payers.* Please call 505-827-0825 for further information on this election.

Line 1. Enter foreign dividend gross-up from federal Form 1120, Schedule C, line 15, net of any applicable expenses.

Separate Corporate Entity Filers Only

Line 2. Enter 70% of dividends listed on federal Form 1120, Schedule C, lines 13 and 14, received from less-than 20% owned foreign corporations. Do this only if those dividends would have been subject to a 70% deduction under IRC Section 243(a)(1) had the dividend payers been domestic corporations.

Line 3. Enter 80% of dividends listed on federal Form 1120, Schedule C, lines 13 and 14, received from 20% to 80% owned foreign corporations, but do so only to the extent those dividends would have been subject to an 80% deduction under IRC Section 243(c) had the dividend payers been domestic corporations.

Line 4. Enter 100% of dividends listed on federal Form 1120, Schedule C, lines 13 and 14, received from more than 80% owned foreign corporations, but do so only to the extent those dividends would have been subject to a 100% deduction under IRC 243(a)(3) had the dividend payers been domestic corporations.

CONSISTENCY IN REPORTING

A corporation is required to be consistent in:

- classifying income as allocable or apportionable;
- the valuation of property and its

inclusion in the property factor;

- the treatment of compensation for the payroll factor, and
- the exclusion or inclusion of receipts in the sales factor for returns filed in all states.

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

PETITION PROCEDURE OPEN TO TAXPAYER

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

AFTER YOU FILE YOUR RETURN

If your return shows an overpayment and you have requested that all or a portion of the overpayment be refunded to you, please allow at least 12 weeks for processing before contacting the Department. Processing time varies according to when you file your return. Occasionally, computation errors in a tax return delay processing or result in adjustments to your refund or the amount you owe. If you disagree with any ad-

justment made by the Department, you should follow the procedures in Publication FYI-400, *Tax Audits and Protest Procedures - Your Rights as a Taxpayer*.

At any time after filing your return, the return may be subject to further review, verification or correction. The state of New Mexico, pursuant to reciprocal information exchange agreements, exchanges information with the Internal Revenue Service, certain other state agencies, and taxing authorities in other states. If your tax return is adjusted or an assessment of additional tax is issued, you will be provided a description of your rights as a taxpayer. Our publication FYI-400, *Tax Audits and Protest Procedures - Your Rights as a Taxpayer*, describes in detail how to dispute an adjustment or assessment made by the Department through either the claim-for-refund procedure or the protest procedure. Publication FYI-400 is available by contacting your local district tax office or by downloading from the Department website at www.state.nm.us/tax. Click on "publications".

ESTIMATED CORPORATE INCOME TAX, FORM CIT-ES

WHO MUST FILE - Every corporation subject to the corporate income tax may be required to pay estimated corporate income tax if its tax after applicable credits is \$5,000 or more in the current tax year. If the tax

liability for the tax year is less than \$5,000, estimated quarterly payments are not required.

NOTE: For tax years beginning on or after January 1, 2003, taxpayers may use a fourth method of computing estimated tax based on 80% of the estimated amount of tax due, less credits, for each fiscal quarter. Method 4 allows taxpayers with seasonal or varied income throughout the year an annualized option to calculate the amount of estimated quarterly payments. See *How to determine the amount of your quarterly estimated tax payment* on the next page.

How to make an estimated quarterly payment: Complete Form CIT-ES and submit the form with your payment to:

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

Write the tax year and CIT-1 on your check or money order.

When completing the Form CIT-ES, enter the corporation's name, address and federal employer identification number (FEIN). Enter the quarter and the amount of the estimated payment. Enter the last day of the tax year of the return which you are applying the payment. For calendar-year returns, enter December 31 of the year of the return, or "12/31/2006". If filing a fiscal-year return, enter the last day of the fiscal year.

ESTIMATED TAX PAYMENT CHART

If your tax year ends in:	Your estimated tax payments for this tax year are due on the 15th of:			
	1st Period	2nd Period	3rd Period	4th Period
December	June	September	December	March
January	July	October	January	April
February	August	November	February	May
March	September	December	March	June
April	October	January	April	July
May	November	February	May	August
June	December	March	June	September
July	January	April	July	October
August	February	May	August	November
September	March	June	September	December
October	April	July	October	January
November	May	August	November	February

For example, if filing a return for July 1, 2005 through June 30, 2006, enter "06/30/2006".

If the corporation making the estimated tax payment joins other corporations in filing the 2005 Form CIT-1, enter the name, address and FEIN of the corporation that will be responsible for filing the CIT-1 return.

If you submit one or more payments to the Department under an incorrect FEIN, you must submit a schedule of payments with your CIT-1 return. Provide the company name and FEIN as originally submitted on the CIT-ES or CIT-PV. Include the check number, date and amount of each payment.

How to determine the amount of your quarterly estimated tax payment: To avoid penalty or interest for underpayment of estimated tax, calculate the estimated tax by one of the following methods:

METHOD 1 - 80% of the current year's estimated tax liability;

METHOD 2 - 100% of the previous year's tax liability if a full 12-month year;

METHOD 3 - 110% of the liability for the year immediately preceding the previous tax year if it was a full 12-month tax year and the return for the previous tax year has not been filed, and the extended due date for filing the return for the previous tax year has not occurred at the time the first estimated payment installment of the current tax year is due, or

METHOD 4 - 80% of the estimated tax liability for each quarter of the current tax year.

When using methods 1, 2 or 3, estimated tax must be paid in four installments equal to 25% of the estimated tax. Method 4 requires an installment of 100% of the estimated tax payment

calculated for the quarter. Any remaining liability is due with the return. Penalty at the rate of 2% per month (maximum 10%) and interest at the rate of 15% per year, calculated on a daily rate of 0.041%, are imposed on any amount not paid when due.

Penalty and interest are assessed on the difference between the estimated payments and the amount of estimated tax due using the lowest amount of METHOD 1, METHOD 2, METHOD 3. If you choose to use METHOD 4, then filing Form RPD-41287, *2005 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment* with Form CIT-1, and marking the indicator box under line 19 on page 2 of Form CIT-1, may adjust penalty and interest.

- Use the corporate income tax rates on page 4 to estimate your income tax liability.

Generally, for each estimated tax installment payment the lowest amount of Methods 1, 2, 3 or 4 may be used. Method 2 can only be used: (a) if a corporate tax return was filed for the immediate prior year and (b) such prior year was a full 12-month or a 52/53-week year. Method 3 may be used only if the tax year immediately preceding the previous tax year was a full 12-month year, the return for the previous tax year has not been filed, and the extended due date for filing that return has not occurred at the time the first installment is due.

Taxpayers whose corporate income tax less credits for the current tax year is \$5,000 or greater and whose income is seasonal or varied throughout the year may use Method 4 to adjust required payments due for each fiscal quarter based on actual income received. If you

owe penalty and interest on underpayment of estimated corporate income tax using the lowest of Methods 1, 2 or 3, and Method 4 applies, complete Form RPD-41287, *2005 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment* and attach it to your CIT-1 Return. You must also mark the box under line 19 indicating that you qualify for special underpayment penalty and interest calculation methods. You must both mark the box under line 19 and attach Form RPD-41287 to be allowed any adjustment to your underpayment penalty or interest due to Method 4. Do not submit Form RPD-41287 if you do not qualify for any adjustment.

When to pay estimated tax: The estimated tax shall be paid in installments as follows: the estimated tax for the first, second and third quarter of the year is due on or before the 15th day of the sixth, ninth and twelfth month of the tax year. The fourth installment payment is due on the 15th day of the third month following the close of the tax year. This is also the due date of the return and the tax due; therefore no penalty or interest will be calculated for the fourth quarter. Calendar-year taxpayers' estimated installment payment due dates are June 15, September 15, December 15, and March 15. See the chart on page 12.

Estimated income tax payments are timely if the United States Post Office 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 payment is timely if the postmark bears the date of the next business day. Delivery through a private delivery service is timely if the date recorded or marked by the private delivery service is on or before the due date.

Reminder:
Write your correct federal identification number (FEIN) on ALL forms, schedules, payments and correspondence.

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 Sections 7-1-4.1 through 4.3 NMSA 1978:

- The right to available public information and prompt and courteous tax assistance;
- The right to representation and advice by counsel or other qualified representatives at any time during your interactions with 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.

Confidentiality Provisions:

Statutes regulating the confidentiality of your taxes continue to be strict. Sec. 7-1-8 NMSA 1978 requires 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. 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.

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.

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 "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. The department may make a di-

rect 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.