
2016 New Mexico Instructions for Form CIT-1 Corporate Income and Franchise Tax Return

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

Our contact information is: Telephone: (505) 827-0825 in Santa Fe or toll free (866) 809-2335, option 4
E-mail: cit.taxreturnhelp@state.nm.us
Mailing address: New Mexico Taxation and Revenue Department
ATTENTION: Corporate Income and Franchise Tax
P. O. Box 25127
Santa Fe, New Mexico 87504-5127

These Instructions Cover the Following Forms:

- CIT-1, *Corporate Income and Franchise Tax Return*
- CIT-A, *Apportioned Income for Multistate Corporations*
- CIT-B, *Allocation of Non-Business Income Schedule*
- CIT-C, *Computation of New Mexico Percentage Schedule*
- CIT-D, *Foreign Dividend Deduction Schedule*
- CIT-CR, *Tax Credit Schedule*
- Form CIT-PV, *Tax Payment Voucher*
- Form CIT-EXT, *Extension Payment Voucher*
- Form CIT-ES, *Estimated Tax Payment Voucher*

2016 Legislative Summary

For information about New Mexico tax law changes enacted during 2016, see Bulletin B-100.28, *2016 Legislative Summary*. Legislative summaries are available for each year, providing a brief description of new legislation passed during that year affecting the Taxation and Revenue Department. Visit our web page and click on "Forms and Publications", then search the "Publications" for the Legislative Summary for the year in which the legislation passed.

For More Information On . . .

Profit and Non-Profit Corporate Reporting, go to:
<http://www.sos.state.nm.us> -- Click on Business Services

Office of the New Mexico Secretary of State
Corporations Bureau
325 Don Gaspar, Suite 300
Santa Fe, NM 87501

E-mail: corporations@state.nm.us
Call (505) 827-4511 in Santa Fe or toll free (800) 477-3632

Your Electronic Services

- ◆ **File 2016 Form CIT-1 Online.** New Mexico's Taxation and Revenue Department made online filing available for Corporate Income and Franchise Tax Returns. Using Taxpayer Access Point (TAP), you may file your return online. On the Department's web site, click on **Online Services** and then **File a Return**. First-time filers will need to create a login name and password. See How-to Videos on the TAP homepage to watch the **Signing Up for TAP** video. All TAP users must add access to their CIT account. Watch the **Adding Access to Accounts** video.
- ◆ **2016 Corporate Income and Franchise Tax Returns may be electronically filed through approved third-party software.** In 2014, the Department began working with a limited set of third party tax preparation software developers to develop online filing for business income tax returns through the Federal/State filing program. You may now file the following New Mexico business income tax forms online using software:
 - Corporate Income and Franchise Tax,
 - Sub-Chapter S Corporate Income and Franchise Tax,
 - Pass-Through Entity Information Report, and
 - Form RPD-41367, *PTW Detail Report For Annual Withholding of Net Income From a Pass-Through Entity*.
- ◆ **New Mexico's Taxpayer Access Point (TAP)** is a secure resource that allows taxpayers to register for a CRS Identification number online, check the status of tax accounts, file certain returns, make payments, and change their address.

Due Dates: Corporate Income Tax is due on or before the due date of the corporation's federal corporate income tax return for the taxable year. **For tax years beginning on or after January 1, 2016, the due date for taxpayers who file and pay electronically** using a Department-approved electronic media is extended until the last day of the month in which the corporation's federal corporate income tax return is originally due for the taxable year.

GENERAL INSTRUCTIONS

Please note that dollar rounding must be used when preparing all income tax returns. Ensure that you have included all attachments required for your return to be complete. Each New Mexico General Fund recipient appreciates your cooperation and compliance.

Privacy Notification

The New Mexico Taxation and Revenue Department (TRD) requires taxpayers to furnish federal employer identification numbers as a means of taxpayer identification. All information supplied electronically by taxpayers is protected using encryption and firewalls. Taxpayer information on returns is protected in accordance with the confidentiality provisions of the Tax Administration Act, Section [7-1-8 NMSA 1978].

CORPORATIONS REQUIRED TO FILE A NEW MEXICO CORPORATE INCOME AND FRANCHISE TAX RETURN (CIT-1)

Every entity with income from activities or sources in New Mexico **and** required to file a Federal U.S. Corporation Income Tax Return or equivalent return **must file** a New Mexico Corporate Income and Franchise Tax Return (CIT-1). These entities 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 New Mexico;
- 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 entities are exempt and are not required to file a New Mexico Corporate Income and Franchise Tax Return:

- Insurance companies and reciprocal or inter-insurance exchanges that pay a premium tax to New Mexico, and
- Rural electric cooperatives established under the Rural Electric Cooperative Act, [Section 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 inter-insurance 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 required or elect to file as a corporation for federal income tax purposes and exercise its franchise in New Mexico pay the New Mexico franchise tax.

Taxpayers who have no nexus in New Mexico, pursuant to P.L. 86-272, are not immune from paying New Mexico franchise tax.

WHICH RETURN TO FILE

FISCAL YEAR FILERS AND SHORT YEAR FILERS use the CIT-1 return applicable to the tax year in which the fiscal year or short year begins. For example, if the tax year begins in June 30, 2016, use the 2016 CIT-1 return, regardless of the ending date of the tax year.

In general, the federal return that you are required or elect to file determines the New Mexico income tax return that you file. See the chart below.

If your business does not file a New Mexico Corporate Income and Franchise Tax Return (CIT-1), New Mexico may require you to file one of the following forms for New Mexico instead:

- PTE, *New Mexico Information Return for Pass-Through Entities*,
- S-Corp, *New Mexico Sub-Chapter S Corporate Income and Franchise Tax Return*,

If you file Federal form...	You must file New Mexico form...
1065 U.S. Return of Partnership Income	PTE Information Return for Pass-Through Entities
1120 U.S. Corporation Income Tax Return	CIT-1 Corporate Income and Franchise Tax Return
1120S U.S. Income Tax Return for an S Corporation	S-Corp Sub-Chapter S Corporate Income and Franchise Tax Return
1040 U.S. Individual Income Tax Return	PIT-1 Personal Income Tax Return
1041 U.S. Income Tax Return for Estates and Trusts	FID-1 Fiduciary Income Tax Return

- PIT-1, *New Mexico Personal Income Tax Return*, or
- FID-1, *New Mexico Fiduciary Income Tax Return*.

If You File Federal Form 1120

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 CIT-1 return. These include all corporations organized under the laws of the State of New Mexico and corporations exempt from federal income tax under the Internal Revenue Code which have unrelated business income.

If You File Federal Form 1120S

Corporations and Limited Liability Companies (LLCs) electing to be taxed as S corporations for federal income tax purposes must file a New Mexico *S Corporate Income and Franchise Tax Return* (S-Corp) if the entity is registered to do business in the state, transacts business in, into or from the state, or derives any income from property or employment within the state.

Each owner of the partnership, limited liability corporation, S corporation or similar business association must include his or her share of the pass-through entity income on the New Mexico personal or corporate income tax return.

If You File Federal Form 1120-REIT

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

If You File Federal Form 1041

Estates and trusts are subject to New Mexico personal income tax. The fiduciary for an estate or trust must file a FID-1 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 FID-1.

If You File Federal Form 1040, 1040A or 1040EZ

If you are a New Mexico resident, you CIT-1

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.

New Mexico's law says every person who has income from New Mexico sources and who is required to file a federal income tax return must file a personal income tax return in New Mexico. This includes non-residents who have income from wages, rents, royalties, businesses, estates...every New Mexico source. Even foreign nationals and persons who reside in states that do not have income taxes must file here when they have a federal filing requirement and have income from any New Mexico source whatsoever.

A single-owner LLC or similar organization doing business in New Mexico that 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 PIT-1 return. No franchise tax is due.

A non-resident owner's and remittee's requirement to file a New Mexico personal income tax return is met when the PTE or remitter withholds from oil and gas proceeds and/or pass-through entity withholding and the owner or remittee has no other income from New Mexico sources.

Obtaining Forms: All New Mexico Taxation and Revenue Department forms, instructions and information brochures are available on the Department's Internet home page. Our address is:

www.tax.newmexico.gov. Forms are also available at any New Mexico Taxation and Revenue Department district offices listed on page 28 of these instructions. You may also request forms by calling (505) 827-2206 in Santa Fe or toll free (866) 809-2335, select option 4.

REQUIRED ATTACHMENTS TO CIT-1 RETURN

IMPORTANT: 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:** *Allocation of Non-business Income*;
- **CIT-C:** *Computation of New Mexico Percentage*;
- **CIT-D:** *Foreign Dividend Deduction Schedule*;
- **CIT-CR:** *Tax Credit Schedule* and required attachments, **if applicable**;
- **Federal Form 1120** (pages 1 through 5 **ONLY**): Required of all corporations. Corporations filing under separate corporate entity or combined filing methods must attach a simulated federal Form 1120, pages 1 through 5. The New Mexico return **IS NOT** complete and **WILL NOT** be processed if these forms are missing; and finally
- **Other attachments** as required by instruction.

Important: Attach only pages 1 through 5 of federal Form 1120.

NOTE: If you include a simulated or pro forma federal return, write, "PRO FORMA" across the top of the return. If you attach a copy of a state form as backup for an amended return, write "DO NOT PROCESS" across the face of the return.

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

Other Forms or Attachments You May Have to File

A copy of the **approved federal extension or the approved New Mexico extension** if the return is filed after the original due date of the return. If

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a copy is omitted, a late-filing penalty will be assessed.

Form RPD-41367, PTW Detail Report For Annual Withholding of Net Income From a Pass-Through Entity, if you are a personal services business required to withhold on payments for certain services. A “**personal services business**” means a business organization that receives payments for the services of a performing artist for purposes of the film production tax credit.

All annual information returns and withholding statements issued to the corporation. Attach a copy of all annual information returns and withholding statements showing income and New Mexico income tax withheld, if reporting amounts withheld on lines 20 or 21 of the CIT-1 return. Attach New Mexico Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*; Form RPD-41359, *Annual Statement of Pass-Through Entity Withholding*; or federal Form 1099-Misc or equivalent.

IMPORTANT: To receive proper credit for withholding, all annual statements must be issued to the entity filing the New Mexico income tax return. A Schedule K-1 or equivalent is not sufficient evidence of New Mexico income tax withheld.

When you calculate New Mexico taxable income using a net operating loss carryforward, attach Form RPD-41379, *New Mexico Net Operating Loss Carryforward Schedule for Corporate Income tax*, 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

- have no business activity in New Mexico other than sales;
- do not own or rent real estate in New Mexico; and
- 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.

Schedule CC must be attached to the return. See the instructions for line 12 of the CIT-1 return.

Corporations with seasonal or annualized income may be able to reduce penalty and interest on underpayment of estimated tax by completing **Form RPD-41287, 2016 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.

See *the line instructions for completing Schedule CIT-CR* on page 16 for a description of the **attachments required to claim any non-refundable or refundable credits**. For more information on business-related credits, also see Publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*.

Publications and forms may be downloaded from the TRD website at www.tax.newmexico.gov. For assistance call (505) 827-0825 in Santa Fe or toll free (866) 809-2335, select option 4; send us an e-mail at cit.taxreturnhelp@state.nm.us; or visit your local district office.

PAYMENT OF CORPORATE INCOME AND FRANCHISE TAXES

Making Payment Through the Internet. Using the Department website, you may pay by electronic check at no charge. Your electronic check authorizes the Taxation and Revenue Department to debit your checking account in the amount and on the date you specify. Directions are available on the website. Pay your tax due online using the Department’s website at <https://efile.state.nm.us/uls2/Logon.aspx>.

You may also make tax payments by using any of these credit cards--Visa, MasterCard, American Express, or Discover Card--for your online payment. A convenience fee of 2.40% is applied for using a credit card. The State of New Mexico uses this fee, calculated on the transaction amount, to pay charges

from the credit card companies.

Making Payment by Check. Whether you submit your return payment with or without your tax return, complete CIT-PV, *Corporate Income and Franchise Tax Payment Voucher*. Write your federal employer identification number (FEIN) and “2016 CIT-1” on your check or money order. Make the check or money order payable to New Mexico Taxation and Revenue Department.

When you provide a check as payment, you authorize the Department to use information from your check to make a one-time electronic fund transfer from your account. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day you make your payment.

If making an extension payment, complete CIT-EXT, *Corporate Income and Franchise Tax Extension Payment Voucher*, and submit the payment voucher and your payment. Write your federal employer identification number (FEIN) and “2016 CIT-EXT” on the check or money order.

If you make an estimated payment, complete CIT-ES, *Corporate Income and Franchise Estimated Tax Payment Voucher*, and submit the payment voucher and your payment. Write your federal employer identification number (FEIN) and “CIT-ES” on the check or money order. **Important: The CIT-ES and the check or money order must indicate the correct tax year that the estimated payment should be applied to.**

The Department receives a large amount of payment vouchers WITH-OUT the check or money order. **Please ensure that you submit the payment voucher only when a payment is included.**

SUBMIT ONLY HIGH-QUALITY PRINTED, ORIGINAL FORMS TO THE DEPARTMENT. Because the Department uses high-speed scanners when processing payment vouchers, a quality form helps ensure accuracy. Do not photocopy. The scanners can read only one page size to process vouchers;

therefore, it is important that you **cut on the dotted line only**. When printing the voucher from the Internet or a software product, prevent resizing by setting the printer's page scaling function to **none**. If your payment voucher has a scanline (a very long row of numbers) within the bottom 1 and 1/2 inch of the voucher do not write in the area around the scanline.

Separate Payments of Tax Due and Estimated Payments. DO NOT combine payments for tax due on your 2016 return and payments for your 2017 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.

Mail payments and payment vouchers to:

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

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 2016 New Mexico Corporate Income and Franchise Tax Return is due on or before April 18, 2017, 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 fourth month following the close of the tax year with payment of taxes due.

NEW: If you file your 2016 CIT-1 return and pay your tax online, your filing deadline is **May 1, 2017**, or on or before the last day of the fourth month following the end of the tax year. To avoid penalty or interest, you must electronically file your return **and** electronically pay your tax due. All other taxpayers must file by **April 18, 2017**,

or on or before the last day of the fourth month following the end of the tax year.

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

TRD 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 return 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.

EXTENSION PAYMENT

An extension payment is made when either a federal automatic extension or a New Mexico extension has been obtained, and a payment towards the tax liability is made to avoid the accrual of interest. An extension of time to file your return does not also extend the time to pay. If tax is due, interest continues to accrue.

To make an extension payment see *Payment of Corporate Income and Franchise Taxes* on page 4 of these instructions. The CIT-EXT payment voucher is used to make an extension payment by mail.

INTEREST AND PENALTIES

Interest: Interest accrues on 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 computed on a daily basis at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC).

The IRC rate changes quarterly. The IRC rate for each quarter is announced by the Internal Revenue Service in the last month of the previous quarter. The annual rate for the prior two years, has been 3%-4%. The annual and daily interest rates for each quarter will be posted on our website at <http://www.tax.newmexico.gov>. Search for "Effective interest rates".

If the entity does not pay its New Mexico income or franchise tax when due, interest is assessed. **Interest accrues even if the entity obtains an extension of time to file a return.** The formula for calculating interest is:

$$\text{Tax due} \times \text{the daily interest rate} \\ \text{for the quarter} \times \text{number of} \\ \text{days late} = \text{interest due.}$$

Important: Once your principal tax liability is paid, penalty and interest stops accruing.

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 (for current year returns only), if the interest is less than \$1, or if your return cannot be processed. For processing to take place, your return must show your name, address, federal employer identification number or New Mexico Corporate Entity ID, signature and the information needed to mathematically verify your tax liability. The CRS identification number should also be included unless the entity is not required to have one.

Negligence Penalty for Late Filing or Late Payment: If a return is not filed or tax remains unpaid when due because of negligence or disregard of rules or regulations, but without intent

to defraud, the entity is liable for a penalty of 2% of the tax due for each month, or partial month, from the date the return was due, not to exceed 20% of the amount of tax due. 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. The CIT-ES payment voucher is used for making estimated payments by mail. To make an extension payment see *Payment of Corporate Income and Franchise Taxes* on page 5 of these instructions. Also see instructions for **How to determine the amount of your quarterly estimated payment** on page 24.

AMENDED RETURNS

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

NOTE: Generally, you do not need to attach a copy of the originally filed state CIT-1 return as backup for the amended return. If you do attach a copy of a state return as backup, write "DO NOT PROCESS" across the face of the return.

If additional tax is due, include payment for the full amount. You may include interest calculated from the date the original return was due and any applicable penalty. If you wish the Department to compute penalty and interest for you, leave lines 24 and 25 blank.

Amended - R.A.R.: Report changes resulting from an Internal Revenue Service audit within 180 days of the date the federal adjustments are final. Attach a copy of the Revenue Agent's Report (RAR) inclusive of spreadsheets detailing federal adjustments by company name.

IMPORTANT: If the New Mexico amended return shows changes as the result of a Revenue Agent's Report, the changes must be reported within 180 days of the date the federal adjustments are final.

Amended - Capital Loss: You may carry back 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 CIT-1 RETURN

Computerized schedules WILL NOT be accepted in lieu of completing the appropriate forms or schedules. All applicable line items on the CIT-1 return and Schedules CIT-A, CIT-B, CIT-C, CIT-D, CIT-CR and federal Form 1120, pages 1 through 5, must be completed for the return to be processed.

NOTE: References to federal form line numbers correspond to the most recent federal forms available as of the date these instructions were finalized. If the references do not correspond to the federal form, use the applicable line from the federal form for the item described.

Round all dollar amounts to the nearest whole dollar.

Complete the taxpayer information at the top of the CIT-1. Type or print the corporation's registered name, address and ZIP code in the space provided. Verify that the information is correct. Mark the checkbox indicating an original or amended return.

If you have a foreign address, enter the street address, city name and postal code in the appropriate line. Also complete the spaces for the foreign province and/or state and country. Follow the country's practice for entering the foreign postal code, the province or state, and country. Do not abbreviate the country name.

Type or print the corporation's federal employer identification number (required), New Mexico CRS identification

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

number, and New Mexico Corporate Entity ID.

NOTE: The Department cannot process a return without the Federal Employer Identification Number (FEIN). Failure to provide the FEIN will result in processing delays and may cause the return to be rejected.

If the corporation does not have a New Mexico CRS identification number, you may register the business online at <https://tap.state.nm.us>, to obtain a CRS identification number. If the corporation does not require a New Mexico CRS identification number because the entity has no gross receipts, withholding or compensating tax reporting requirements, the New Mexico CRS identification number may be left blank.

Fiscal year or short year filers should enter the beginning and ending dates (month, day and year) from their federal return. No entry is required for calendar year filers. Use the CIT-1 return applicable to the tax year in which the short year or fiscal year begins. For example, if the tax year begins on June 30, 2016, use the 2016 CIT-1, regardless of the ending date of the tax year.

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 the CIT-1.

Complete Questions A through L.

Question D. NAICS (North America Industrial Classification System) Code. 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 your federal return. Federal forms and instructions can be downloaded from the IRS website 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 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. 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.**

See 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. If completing Question I, the total of column 3 must equal line 19 of the CIT-1 return and the total of column 4 must equal line 15 of the CIT-1.

Question K. If the reporting entity is taxed as a corporation but is an entity other than a corporation, enter the legal entity type in the space provided. Examples of legal entity types are LLC

and partnership. For example, a New Mexico partnership elects or is required to file federal Form 1120, thus required to file a New Mexico CIT-1 return. The partnership answers Question K by entering the legal entity type "partnership" in the space provided.

Question L. Immune from Nexus. If you had no nexus in New Mexico (your New Mexico activities were immune from New Mexico corporate income tax under P.L. 86-272) for the 2016 tax year, enter zero on line 1 and mark the box on Question L. You must also complete and attach Schedule CIT-A.

Refund Express

If you request an amount to be refunded to you on line 29, you may wish to have your refund deposited directly into your bank account through Refund Express. To choose Refund Express, complete the "Refund Express" portion on page 1 of the CIT-1 return. **All fields are required.** Complete the bank routing number, the account number, and you must mark the appropriate box to indicate the type of account. Failure to complete all fields will cause your Refund Express request to be denied, and the Department will mail you a paper check.

Refund Express - Question 4 is required: A direct deposit of your refund, "Refund Express", may not be made to a bank account located at a financial institution outside the territorial jurisdiction of the United States. In order to comply with federal banking rules, anyone wishing to have their refund directly deposited into their account must answer an additional question when completing the Refund Express portion of their return. If you do not answer the question, your refund will be mailed to you in the form of a paper check. If you answer the question incorrectly, your refund may be delayed, rejected or frozen by the National Automated Clearing House Association (NACHA) or the Office of Foreign Assets Control (OFAC). The question asks whether the refund will go to or through an account located outside the United States. The question also warns you that if the answer is "yes", you should not choose the

Refund Express method of delivering your refund. Your options are to use a different bank account or to leave the Refund Express portion of your return blank and a paper check will be mailed to the address on the return.

A financial institution is located within the territorial jurisdiction of the United States if it is:

- located within the United States;
- located on a United States military base; or
- located in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico or the U.S. Virgin Islands.

The Department will mail you a paper check if your bank does not accept your Refund Express information.

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.**

TRD is not responsible for the misapplication of a direct deposit refund that is caused by the error, negligence or malfeasance on the part of the taxpayer. Verify that you enter the correct bank information.

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 at the top of this page, 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**. Place an "X" in the "Checking" box if it is a checking account, or in the "Savings" box 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:** TRD is not responsible if a financial institution refuses a direct deposit.

You must answer whether the funds for this payment will go to or through an account located outside the territorial jurisdiction of the United States. The required response is "No". Federal banking rules require that you answer this question. See "Refund Express - Question 4 is required" on the previous page.

Collection of Debts From Your Refund

TRD 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.

The law also requires TRD to transfer all or part of your overpayment if you owe amounts due under the Unemployment Compensation Law or the Workers' Compensation Administration Act. Any amount over your liability and debt will be refunded.

CIT-1 RETURN, PAGE 2

NOTE: References to federal form line numbers correspond to the most recent federal forms available 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.

Round all dollar amounts to the nearest whole dollar. The forms do not allow the entry of cents.

Line 1. Taxable income before federal NOL & special deductions. Enter the federal taxable income before net operating loss (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 (your New Mexico activities were immune from New Mexico corporate income tax under P.L. 86-272) for the 2016 tax year, enter zero on line 1 and mark the indicator box on the first

Line 10.

CORPORATE INCOME TAX RATES

For tax years beginning 1/1/2016, but prior to 1/1/2017.

<u>Net Taxable Income</u>	<u>Tax</u>
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 6.6% of the excess over \$1,000,000

page of the CIT-1 return, Question L. You must also complete and attach Schedule CIT-A.

Line 1a. Federal net operating loss incurred. If the taxable income on your federal Form 1120 is zero or less, enter any federal net operating loss incurred for the tax year. See the instructions for the federal return to determine the amount of the federal net operating loss incurred. The amount to be entered must not be negative.

Line 2. Interest income from municipal bonds. 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 NOL carryover. Enter the New Mexico net operating loss (NOL) carryover that may be applied to the liability on your CIT return. Attach Form RPD-41379, *New Mexico Net Operating Loss Carryforward Schedule for Corporate Income Tax*, to your return showing the tax year when each New Mexico net operating loss occurred. The schedule also should list each loss for each tax year for which it was carried forward, including 2016.

All New Mexico net operating losses must flow from a federal net operating loss. You cannot have a New Mexico NOL without first having a federal NOL. The New Mexico NOL can be increased by the income, if any, from U.S. government obligations less related expenses. See Form RPD-41379 to compute the New Mexico NOL incurred and applied.

Unlike a federal net operating loss carryforward, a New Mexico net operating loss incurred cannot be carried back and if incurred on or after January 1, 2013, may be carried forward for 19 years or until the total amount of the loss carryover has been used, whichever occurs first. For a net operating loss that was incurred in tax years beginning before January 1, 2013, a New Mexico net operating loss may be carried forward for only five years. Refer to Regulation 3.4.1.9(E) NMAC, if the net operating loss was incurred in a tax year beginning prior to January 1, 1991.

You cannot apply a New Mexico net operating loss carryforward until the following tax year -- provided you have filed a timely return -- or until the first tax year that begins after the date you file a return establishing the loss.

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.

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 of the CIT-1 return. Expenses related to income from U.S. obligations must be subtracted and the net amount entered.

NOTE: Income from Fannie Mae, Ginnie 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 the income was included in federal taxable income (CIT-1, line 1).

Line 8. Deduction for foreign dividends. Enter the total New Mexico foreign dividend deduction from line 5 of Schedule CIT-D. You must also attached Schedule CIT-D

Line 12. New Mexico Income Tax. Multiply line 10 by the percentage on line 11. However, if you qualify to file Schedule CC, because you have no business activity in New Mexico other than sales, you do not own or rent real estate in New Mexico, and you have annual gross income from sales in or into New Mexico of \$100,000 or less, then enter only the amount from line 3 of Schedule CC.

Line 13. Total tax credits applied against the income tax liability on line 12. If you may claim any of the tax credits listed below, complete Schedule CIT-CR and attach the applicable form(s), statements or other required back-up. Enter the sum of the credits claimed and applied against tax due from Schedule CIT-CR, line A. The supporting documentation required to claim any of the tax credits is described in the section "Schedule CIT-CR Line Instructions" beginning on page 17 of these instructions. The required documentation 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 tax credit. The sum of credits claimed on Schedule CIT-CR may not exceed the income tax claimed on line 12 of CIT-1.

A corporation with income subject to New Mexico income tax may be eligible for the following corporate income tax credits:

- Affordable Housing Tax Credit,
- Agricultural Water Conservation Tax Credit,
- Advanced Energy Tax Credit,
- Agricultural Biomass Tax Credit,
- Business Facility Rehabilitation Credit,
- Blended Biodiesel Fuel Tax Credit,
- Corporate-supported Child-Care Credit,
- Electronic Card-Reading Equipment Tax Credit,
- Geothermal Ground-Coupled Heat Pump Tax Credit,
- Intergovernmental Business Tax Credit,
- Job Mentorship Tax Credit,
- Land Conservation Incentives Credit,
- Preservation of Cultural Property Credit,
- Rural Job Tax Credit,
- Sustainable Building Tax Credit,
- Technology Jobs (Additional) Tax Credit, or
- Veterans Employment Tax Credit.

These credits may be claimed against the liability due only.

You may also claim on this form any portion of the following approved credits that may be refunded:

- Film Production Tax Credit,
- Renewable Energy Production Tax Credit, and
- Technology Jobs and Research and Development (Additional) Tax Credit.

These credits may be applied against tax due in column C and refunded in column D. The refundable portion of these credits are reported on line 28 of the CIT-1 return.

For more information on business-related credits, see Publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*. Publications and forms may be downloaded from the TRD website at <http://www.tax.newmexico.gov>. For assistance call (505) 827-0825 in Santa Fe or toll free (866) 809-2335, select option 4; send us an e-mail at cit.taxreturnhelp@state.nm.us; or visit your local district office.

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

- Transacts business in, into or from New Mexico;
- Derives income from property or employment within this state;
- Has or exercises its corporate franchise in New Mexico, whether engaged in active business or not; or
- 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.

Taxpayers who have no nexus in New Mexico pursuant to P.L. 86-272, are not immune from paying the New Mexico franchise tax.

REMINDER: It is your responsibility to comply with all additional filing requirements imposed by the New Mexico Secretary of State, Corporations Bureau. For information call (888) 477-3632 or visit their website at www.sos.state.nm.us; click on Business Services.

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 franchise tax. If you file using a combined unitary or consolidated group method, the total amount must equal the amount on CIT-1, page 1, Question I, column 4.

Line 19. Total Payments. Enter the total amount of all extension and quarterly 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. Mark the appropriate box(es) to indicate the source of the tax payments.

NOTE: If any amounts on line 19 were paid using a federal employer identification number (FEIN) other than the one entered at the top of the CIT-1 return, a schedule indicating the name and FEIN under which the payment was made is required. If you file using a combined unitary or consolidated group method, Question I on CIT-1, page 1 satisfies the requirement for the statement. Ensure that the total amount in column 3 equals the amount on line 19, page 2 of the CIT-1.

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, *2016 Calculation of Estimated Corporate Income Tax Penalty and Interest on Underpayment*. If you elect to file using method 4, you must mark the checkbox 19a, below line 19, on page 2 of the CIT-1 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, line 19a 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 using the lower of methods 1, 2 or 3 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 24 for a description of the calculation methods.

LINE 20. New Mexico income tax withheld from oil and gas proceeds.

Enter the total of all New Mexico income tax withheld from oil and gas proceeds as shown on your annual withholding statements, 1099-Misc or Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*. Be sure to include a copy of the forms with your CIT-1.

On this line, only report New Mexico tax withheld on oil and gas proceeds you received. The tax withheld must be reported on one of the annual withholding statements mentioned above, and must be issued to you.

An entity that has had tax withheld cannot pass a withholding statement directly to any other taxpayer. Generally, the recipient must file and report the tax withheld on its New Mexico income tax return. However, if the recipient is also a remitter the tax withheld on the oil and gas proceeds may be passed to the remitees by issuing the remitees an annual withholding statement, Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*. The remitees may then claim the withholding on their income tax return.

LINE 21. New Mexico income tax withheld from a pass-through entity.

Enter the total New Mexico income tax withheld from the net income of pass-through entities (PTE) as shown on your annual withholding statements, 1099-Misc or Form RPD-41359, *Annual Statement of Pass-Through Entity Withholding*. Include a copy of the form(s) with your CIT-1 return.

On this line, only report New Mexico tax withheld on net income from a pass-through entity that you received. The tax withheld must be reported on one of the annual withholding statements mentioned above, and must be issued to you.

An entity that has had tax withheld
CIT-1

cannot pass a withholding statement directly to its owners, members, partners or beneficiaries (owners). Generally, the recipient must file and report the tax withheld on its New Mexico income tax return. However if the owner is also a PTE, the tax withheld on the owner's share of net income of the PTE may be passed to the owners by issuing the owners an annual withholding statement, Form RPD-41359, *Annual Statement of Pass-Through Entity Withholding*. The owners may then claim the withholding on their income tax return.

Line 22. Total payments and tax withheld. Enter the sum of lines 19 through 21 to compute the total payments and tax withheld.

Line 23. Tax due. If line 18 is greater than line 22, subtract line 22 from line 18 and enter the difference on line 23. This is the amount of tax you owe.

Line 24. Penalty. Add penalty if you file late and owe tax, or you do not pay the tax on or before the due date of the return, or the extended due date of the return. Calculate penalty by multiplying the unpaid amount on line 23 of the CIT-1 by 2%, then by the number of months or partial months for which the payment is late, not to exceed 20% of the tax due or a minimum of \$5, whichever is greater. You may leave this line blank if you wish the Department to compute the penalty for you. The Department will send you a bill.

Line 25. Interest. Add interest if the amount of tax due on line 23 was not paid by the original due date, **even if an extension of time to file was obtained**. You may leave this line blank if you wish the Department to compute the interest for you. The Department will bill you for any interest due.

Important: Once your principal tax liability is paid, penalty and interest stops accruing.

Interest is computed on a daily basis at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC). The IRC rate changes quarterly. The IRC rate for each quarter is announced by the

Internal Revenue Service in the last month of the previous quarter. The annual and daily interest rate for each quarter will be posted on our website at www.tax.newmexico.gov. Search for "Effective interest rates".

The formula for calculating daily interest is:

$$\text{Tax due} \times \text{the daily interest rate for the quarter} \times \text{number of days late} = \text{interest due.}$$

Line 27. Overpayment. If line 22 is greater than line 18, subtract line 18 from 22 and enter the difference on line 27. This is your overpayment. All or part of an overpayment may be applied to the 2016 liability. Indicate the amount of overpayment you want applied to your 2016 liability on line 27a, and/or the amount of overpayment you wish to be refunded on line 27b.

Line 28. Total portion of tax credits to be refunded. Enter the portion of approved tax credits that may be refunded to you, reported on line B of Schedule CIT-CR.

Any portion of these credits to be applied to the amount of tax due on this return is entered on Schedule CIT-CR, line A, and is included in the amount reported on line 13 of the CIT return.

NOTE: The amount of film production tax credit you may claim against your tax due on this return and the amount that you may receive as a refund are subject to certain limitations governing the payment of film production tax credit claims. See the instructions for Form RPD-41228, *Film Production Tax Credit Claim Form*, for details regarding these limitations and how your return may be impacted.

For a description of the credits, see "Schedule CIT-CR Line Instructions" beginning on page 16 of these instructions.

Line 29. Total refund of overpaid tax and refundable credit due to you. Enter the sum of lines 27b and 28. This is your total refund of overpaid tax and refundable credit due to you.

SIGNATURE. The return must be signed and dated by an officer of the corporation. Complete all information, including a phone number and e-mail address.

Any person, other than an employee of the corporation, preparing the return for compensation must also sign and date the return. A preparer other than an employee of the corporation must enter the paid preparer's identifying information in the section, "Paid preparer's use only", next to the taxpayer's signature. Enter the preparer's New Mexico CRS identification number, if the preparer has one, and the Federal Employer Identification Number (FEIN), if applicable. All paid preparers must enter the Preparer's Taxpayer Identification Number (PTIN).

An improperly signed or unsigned return will be considered invalid for filing purposes, and penalty and interest may be assessed.

LINE INSTRUCTIONS FOR COMPLETING SCHEDULE CIT-A

Schedule 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.

Complete lines 5 through 9 of Schedule CIT-A before completing lines 1 through 4 of CIT-A. If applicable, complete Schedule CIT-B before completing Schedule CIT-A.

Round each percentage to four decimal places (example, 26.6270%).

All filers who have business activity outside New Mexico, including:

- those who have no nexus in New Mexico;
- those whose activities in New Mexico are immune from corporate income tax under P.L. 86-272, and
- those who have no business activity in New Mexico during the tax year, must complete Schedule CIT-A in its entirety in order for your return to be processed.

On lines 5 through 9, columns 1 and 2, all entries must be either a positive number or a zero. Negatives are not allowed. For sales factor only, if you have either a federal taxable income or loss, you must have a positive number in the denominator (column 1, Gross Receipts line) of the sales factor.

You must complete column 1, *Total everywhere*, if you complete column 2, or the Department will process the return apportioning 100% of the income to 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 if held within the regular course of the corporation's trade or business.

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

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 before the allowance for depreciation amount at the time of acquisition by the taxpayer and adjusted by the taxpayer and adjusted by subsequent capital additions, improvements and partial dispositions.

Value property rented from others 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 TRD 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 non-business 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 FOB point or other conditions of the sale, or
- Shipped from an office, store, warehouse, factory or other place of storage in this state and:
 - the purchaser is the United States government, or
 - 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 and Average New Mexico Percentage.

New Mexico uses an evenly weighted three-factor formula. The three-factor formula is for all taxpayers except taxpayers who are:

- Qualifying manufacturers who elect to use the special manufacturers apportionment formula, or
- A taxpayer whose principal business activity in New Mexico is a headquarters operation and who elects to use the single weighted sales factor apportionment for-

mula, or

- Allowed or required to eliminate one or more factors because the three-factor formula does not fairly represent the extent of their business activity in New Mexico.

Taxpayers using the three-factor formula, complete lines 8 and 9 as described on Schedule CIT-A. Taxpayers electing to use the manufacturers apportionment formula or required to use one of the exclusions described above, must follow the instructions below.

Exclusion 1 Electing Manufacturers Apportionment Formula

Taxpayers whose principal activity is manufacturing may elect to use a special apportionment formula. For tax years beginning on or after January 1, 2014, the election allows taxpayers to apportion the business income to New Mexico using an alternative method which, over a five-year period, phases in a single weighted sales factor.

See the chart on the next page for the apportionment formula.

The election for the special factor method applies to the tax year in which the manufacturer notifies the Department of their election, until the manufacturer notifies the Department, in writing, that the election is terminated. The manufacturer, however, shall not terminate the election until the method of apportioning business income has been used by the taxpayer for at least three consecutive tax years, covering at least 36 calendar months. The election will apply to the separately filed return of the taxpayer or the combined or consolidated return the taxpayer has elected to be included in.

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

Definition of Manufacturing

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

- (a) construction;

(b) farming;

(c) power generation, except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act [Articles 1 through 6 and 8 through 13 of Chapter 62 NMSA1978] or

(d) processing natural resources, including hydrocarbons.

How to Make the Election

To elect to use the electing manufacturers apportionment formula, you must notify the Department in writing no later than the filing date of the first return to which your election applies.

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

On CIT-A, line 9, use the formula in the chart that corresponds to the tax year of your return to calculate the apportionment percentage. Also complete lines B and C on Schedule CIT-A.

Exclusion 2 Electing Headquarters Operation Apportionment Formula

Taxpayers whose principal business activity in New Mexico is a headquarters operation may elect to use a single weighted sales factor apportionment formula. For tax years beginning on or after January 1, 2015, the election allows the taxpayer to apportion the business income to New Mexico using a single weighted sales factor. If elected, the taxpayer apportions taxable income by multiplying it by a fraction, the numerator of which is the total

sales of the business in New Mexico during the tax year and denominator of which is the total sales of the taxpayer from any location within or outside of the state during the tax year.

The election for the special factor method applies to the tax year in which the business notifies the Department of their election, until the business notifies the Department, in writing, that the election is terminated. The taxpayer, however, shall not terminate the election until the method of apportioning business income has been used by the taxpayer for at least three consecutive tax years, covering at least 36 calendar months.

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

Definition of Headquarters

"Headquarters operation" means:

(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where centralized functions are performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including a call center; 3) the function and purpose of which is to manage and direct most aspects and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or

(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued.

How to Make the Election

To elect to use the headquarters operation apportionment formula, you

must notify the Department in writing no later than the filing date of the first return to which your election applies.

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

Use the instructions below to calculate the apportionment percentage on Schedule CIT-A, line 9.

Complete the property factor and payroll factor on lines 5 and 6 even if you elect to report by sales factor. Compute the sales factor on line 7. Transfer the amount in line 7 to line 8 and 9. Also complete lines B and C on Schedule CIT-A.

Exclusion 3

Eliminating one or more factors. If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of your business activity in New Mexico, you may without prior approval, or the Department may require if reasonable, the exclusion of any one or more insignificant factors—property, payroll, or sales.

LINE INSTRUCTIONS FOR COMPLETING SCHEDULE CIT-B

Schedule CIT-B must be used by corporations to allocate **income not connected to the corporation's regular trade or business.**

Important: You must complete column 1, *Gross Amount*, if you complete columns 2, 3 or 4.

Direct and indirect expenses related to allocated income must be deducted from the related income. Expenses related to allocated income are deter-

Single Weighted Sales Factor For Electing Manufacturers

For tax years beginning:

The apportionment formula is:

January 1, 2016 through December 31, 2016

$$\frac{7x \text{ sales factor} + 1.5x \text{ property factor} + 1.5x \text{ payroll factor}}{10}$$

mined 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.

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

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

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

Line 2. Allocated Non-business 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 Non-business Rents and Royalties. Column 4: The following net rent and royalty income is allocated to New Mexico if it is non-business 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 Non-business Assets. Column 4: The net gain or loss from the sale or exchange of the following is allocated to New Mexico if it is non-business 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 Non-business Partnership Income. Column 4: Non-business partnership income is allocated to New Mexico to the extent the partnership conducts business in this state.

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

LINE INSTRUCTIONS FOR COMPLETING SCHEDULE CIT-C

Complete lines 1 through 4.

Line 5. New Mexico Percentage. 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, page 2 of the CIT-1. If the percentage is negative, enter zero. Round the percentage to four decimal places (for example, 26.9658%). This percentage cannot be less than zero or more than 100%.

LINE INSTRUCTIONS FOR COMPLETING SCHEDULE CIT-D

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 Schedule CIT-D. **Combined and consolidated filers may elect to adjust their apportionment percentages by inclusion of the factors of their foreign-source dividend payers.** For assistance on this election, call (505) 827-0825 or toll free: (866) 809-2335, option 4. Or, e-mail: cit.taxreturnhelp@state.nm.us

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--Complete Lines 2 Through 4

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 at least 20% but less than 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 80% or more 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 adjustment made by the Department, you should follow the procedures in Publication FYI-406, *Your Rights Under the Tax Laws*.

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-406, *Your Rights Under The Tax Laws*, describes in detail how to dispute an adjustment

or assessment made by TRD through either the claim-for-refund procedure or the protest procedure. Publication FYI-406 is available by contacting the Department or by downloading from the Department website at www.tax.newmexico.gov. Click on "Forms and Publications" and navigate to publications.

LINE INSTRUCTIONS FOR COMPLETING SCHEDULE CIT-CR

Use Schedule CIT-CR to claim any of the business-related tax credits listed in these instructions that may be taken against New Mexico corporate income tax reported on the CIT-1 return. You may also claim on this schedule any portion of approved Film Production Tax Credit, Renewable Energy Production Tax Credit, or Technology Jobs and Research and Development Tax Credit that may be refunded to you. Transfer the totals to the CIT return as instructed on the schedules. Be sure to attach the appropriate backup documentation to support the credit taken and attach Schedule CIT-CR to your CIT, *2016 New Mexico Corporate Income and Franchise Tax Return*.

If you are claiming more than 5 credits to be applied to your tax liability or to be refunded, complete and attach the Supplemental Schedule CIT-CR. Attach the supplemental to the Schedule CIT-CR, reporting the additional credits. You must report the first 5 credits on Schedule CIT-CR. Only credits claimed in excess of 5 will be reported on the supplemental Schedule CIT-CR.

To calculate the amount that may be claimed, refer to the claim form or supporting instructions for the credit. The sum of tax credits applied to the tax due on the return may not exceed the income tax claimed on line 12 of the CIT return.

For a complete description of the credits, see Publication FYI-106, *Claiming Tax Credits for CRS Taxes and Business Related Income*.

Lines 1 through 5

For each credit claimed, enter:

- the credit type code,

- the credit approval number, if applicable,
- the amount to be applied to the tax liability on the return, and
- any amount of the credit that may be refunded to you.

Note: Only the Renewable Energy, Film Production, and Technology Jobs and Research and Development (Additional) Tax Credits may be refunded.

Column A

The **credit type** code is the number in front of the credit listed on Schedule CIT-CR. You must complete this field.

Column B

The **credit approval number** may not be available for all credits, and for some credits the credit approval number is not required. If your business credit does not have a credit approval number as described in the next section, *Tax Credit Types*, leave the credit approval number field blank.

If you are claiming multiple credits for the same credit type, list each credit separately.

For example: Taxpayer X has received investment vouchers 123456-1 and 123456-2 for two separate affordable housing tax credits. X's return shows a liability of \$80 before applying any tax credits. X wants to use the remaining \$50 from available carry forward on voucher 123456-1, and \$30 from voucher 123456-2. On line 1, X enters A01 in the credit type column, enters 123456-1 in the credit approval number column, and \$50 in the amount claimed column. The fourth column is left blank because the affordable housing tax credit cannot be refunded. On line 2, X enters A01 in the credit type column, enters 123456-2 in the credit approval number column, and \$30 in the amount claimed column. A separate entry is made for each credit.

Column C

Enter the sum of column C on line A, Schedule CIT-CR. Enter the sum of column D on line B, Schedule CIT-CR.

If you are claiming more than 5 credits to be applied to your tax liability or to be refunded, lines A and B of the Schedule