

STATE OF NEW MEXICO
TAXATION AND REVENUE DEPARTMENT
PASS-THROUGH ENTITY
OWNER'S QUARTERLY TAX PAYMENT

Who Must File: Owners of net income from a pass-through entity (PTE) who enter into an agreement with the PTE to pay the tax required to be withheld by the PTE, according to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act (7-3A-1 NMSA 1978) submit to the Department the tax due on this form, RPD-41356, *Pass-Through Entity Owner's Quarterly Tax Payment*. See the instructions for exceptions and adjustments. The agreement may be made by completing Form RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding on Behalf of a Pass-Through Entity or Remitter*.

When to File: The tax is due on or before the 25th day of the month following the close of the calendar quarter in which the net income was earned. If the due date of the return falls on a Saturday, Sunday or state or national legal holiday, the return is timely if the postmark bears the date of the next business day. If no withholding tax payment is due for a report period, no quarterly return is due.

Where to File: File and pay the tax due online using the Department's web site at <https://efile.state.nm.us>. First-time filers will need to create a "Login Name" and "Password". If you need additional information regarding forms or instructions, please visit www.tax.newmexico.gov. If you cannot electronically file, see the instructions.

For assistance completing this return call (505) 827-0825.

Owner FEIN or SSN:	Check one: <input type="checkbox"/> FEIN <input type="checkbox"/> SSN
Owner name:	
Street/box:	
City, state, ZIP:	Check if outside the U.S. <input type="checkbox"/>
Pass-through entity name:	
Pass-through entity FEIN:	

Quarterly report period:

Beginning (mm-dd-yy) _____ Ending (mm-dd-yy) _____

Round line 1 to nearest whole dollar.

- 1. Amount of required tax to be paid
- 2. Penalty
- 3. Interest
- 4. TOTAL

1.		.00
2.		
3.		
4.		

▽ PLEASE CUT AND RETURN BOTTOM PORTION WITH YOUR PAYMENT ▽

PASS-THROUGH ENTITY OWNER'S QUARTERLY TAX PAYMENT

Owner FEIN or SSN:	Check one: <input type="checkbox"/> FEIN <input type="checkbox"/> SSN
Owner name:	
Street/box:	
City, state, ZIP:	Check if outside the U.S. <input type="checkbox"/>
Pass-through entity name:	
Pass-through entity FEIN:	

Quarterly report period:

Beginning (mm-dd-yy) _____ Ending (mm-dd-yy) _____

Round line 1 to nearest whole dollar.

- 1. Amount of required tax to be paid
- 2. Penalty
- 3. Interest
- 4. TOTAL

1.		.00
2.		
3.		
4.		

Check if amended

Signature _____ Date _____ E-mail address _____

STATE OF NEW MEXICO
TAXATION AND REVENUE DEPARTMENT
**Pass-Through Entity Owner's
Quarterly Tax Payment Instructions**

An owner of a PTE who has entered into an agreement with the PTE that the owner pay the amount that the PTE would have been required to withhold and remit to the Department on behalf of the owner pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act, submits the withholding tax due on Form RPD-41356, *Pass-Through Entity Owner's Quarterly Tax Payment*, on the due date of this return. The PTE must have a completed Form RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding on Behalf of a Pass-Through Entity or Remitter*, on file at the time it files its annual return for the tax year to which the agreement pertains.

The owner can satisfy its requirement to file and pay the liability due on this return by:

- filing and paying the required tax due on this Form, RPD-41356, or
- timely filing its annual New Mexico personal income tax or corporate income and franchise tax return and paying the amount of tax due for the net income of the PTE, through either estimated tax payments or withholding tax payments.

Important: Effective January 1, 2011, an owner may no longer use Form PTE-TA, *New Mexico Non-resident Owner Income Tax Agreement*, to avoid withholding from the net income of a PTE.

When is an agreement required:

Beginning January 1, 2011, a PTE must remit quarterly withholding from the net income of its owners, members or partners (owners) during the quarter in which the net income was earned. Certain exceptions to the requirement to withhold are allowed, and documentation must be maintained in the PTE's records to establish that the PTE had reasonable cause for not withholding. To establish reasonable cause for not withholding, the PTE must be able to establish one of the following "Exceptions". The second bullet explains when the agreement may be used to avoid withholding from a PTE. If you are not required to be withheld from because of one of the other reasons, contact the PTE.

Exceptions to the requirement to withhold.

- If the amount to be withheld from an owner's share of net income in any calendar quarter is less than \$30.00, no withholding is required.
- 1. At the option of a PTE, a PTE may agree with the owner that the owner pay the amount that the PTE would have been required to withhold and remit to the Department on behalf of the owner pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act. The payments by the owner may be remitted on Form RPD-41356, *Pass-Through Entity Owner's Quarterly Tax Payment*, and on the due date of this return, or by another

form of payment such as estimated payments. The PTE must have a completed Form RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding On Behalf of a Pass-Through Entity or Remitter*, on file at the time it files its return for the tax year to which the agreement pertains. If the Department notifies the PTE that the owner has failed to remit the required payment, the agreement is no longer acceptable by the Department as reasonable cause for failure to withhold. The PTE is not responsible for withholding on the net income earned in quarters that ended prior to the Department's notification.

- The owner maintains its place of business or residence in New Mexico:
 - If a corporation, a signed and notarized Form RPD-41354, *Declaration of Principal Place of Business or Residence in New Mexico*, is on file that the corporation's principal place of business is in New Mexico, or
 - If a corporation incorporated in New Mexico, the corporation's incorporation papers are on file, with sufficient portions of those papers to demonstrate incorporation in New Mexico, or information from the Public Regulation Commission web site indicating that the corporation is a New Mexico corporation in good standing and its address, or
 - If an individual, a signed and notarized Form RPD-41354, *Declaration of Principal Place of Business or Residence in New Mexico*, is on file that the individual is a resident of New Mexico and declaring the physical location of the individual's abode in New Mexico.
- Documentation is on file showing that the owner is granted exemption from the federal income tax by the United States Commissioner of Internal Revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code, including a copy of the owner's federal Form W-9, or a copy of the determination letter from the IRS;
- Documentation is on file showing that the owner is the United States, New Mexico or any agency, instrumentality or political subdivision of either;
- Documentation is on file showing that the owner is a federally recognized Indian nation, tribe or pueblo or any agency, instrumentality or political subdivision thereof;
- Documentation showing the PTE's inability to make payment of withholding from net income for the quarter due to non availability of cash or due to contracts and other binding written covenants with unrelated third parties, unless cash payments have been made to any owner during the quarter, in which case the PTE is liable for payment of the withholding amount due up to the extent of the cash payment made during the quarter;

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- The PTE made a timely election for federal income tax purposes that changes the net income of a pass-through entity in a prior quarter is reasonable cause for failure to withhold and deduct the required amounts on the change in net income due to the election, or
- With respect to tax years 2014 through 2018, the PTE has elected pursuant to 26 USC 108(i) to defer income from the discharge of indebtedness in conjunction with the reacquisition after December 31, 2008 and before January 1, 2011 of an applicable debt instrument for the period 2014 through 2018 and the entity has insufficient cash to remit the withholding amount due on the deferred income reported in the year.

Additionally, certain adjustments to the amount of tax withheld by the PTE are allowed.

Adjustments to the amount withheld:

- The amount of tax withheld from the owner's net income may be reduced, but not below zero, by the amount required to be withheld by a payor (remitter) for oil and gas proceeds, or
- If a PTE has deducted and withheld an amount pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act, from the net income of an owner that is also a PTE, the payee PTE may take credit for that amount in determining the amount the payee PTE must withhold and deduct.

INSTRUCTIONS FOR COMPLETING THIS FORM: Complete all information requested. Round the tax amount in line 1 to the nearest whole dollar; for example; enter \$10.49 as \$10 and \$10.50 as \$11.

Owner FEIN or SSN: Enter the owner's federal employer identification number (FEIN) or your social security number (SSN). Check the box to indicate whether the federal identification number entered is a FEIN or SSN.

Owner name: Enter the name and mailing address of the owner of the PTE. Mark the box if the address is outside the U.S..

Pass-through entity name: Enter the name of the PTE for whom a withholding tax payment is made for the owner's share of the PTE's net income.

Pass-through entity FEIN: Enter the federal identification number (FEIN) of the PTE for whom a withholding tax payment is made for the owner's share of the PTE's net income.

Quarterly report period: Enter a quarterly report period that is based on a calendar quarter. Enter the month, day and year of the first and last day of the calendar quarter for which you are reporting. For example, if filing for the first quarter of 2011, enter 01-01-11 to 03-31-11 in the space provided.

Line 1: Enter the amount of tax to be withheld during the quarterly report period. The PTE should provide you with the amount of withholding tax to be paid.

Line 2: Add penalty if the entity fails to file timely or to pay the amount on line 1 when due. Calculate the penalty by multiplying the unpaid amount on line 1 by 2%, then by the number of months or partial months for which the return or payment is late, not to exceed 20% of the tax due. The penalty may not be less than \$5.00.

Line 3: Interest accrues daily on the unpaid principal of tax due, and can change on a quarterly basis. The effective annual and daily interest rates are posted on the Department's web page at www.tax.newmexico.gov or can be obtained by contacting the Department.

The formula for computing interest is:

Tax Due x the daily interest rate for the quarter x number of days late = interest due.

For example, say a taxpayer owes \$5,000 for the 1st quarter of 2011, due April 25th, 2011. The daily interest rate for the 2nd quarter of 2011 is 0.010958904% (annual rate 3%). If the tax-due date is April 25th, 2011, and he is paying on April 30th, 2011, the payment is 5 days late. Using the formula -- \$5,000 x 0.010958904 x 5 = 2.74.

Line 4: Add lines 1, 2, and 3 to compute the total due. Enter the sum on line 4.

Signature: The form is not complete until the owner or owner's authorized agent has signed and dated the report. Enter the e-mail address of the owner or owner's authorized agent.

Amending: Check the amended indicator box if you are amending a previously filed RPD-41356, *Pass-Through Entity Owner's Quarterly Tax Payment*. If requesting a refund due to an overpayment of tax withheld, complete Form RPD-41071, *Application for Tax Refund*, and submit it with the amended return.

File and pay the tax due online using the Department's web site at <https://efile.state.nm.us>. First-time filers will need to create a "Login Name" and "Password". If you need additional information regarding forms or instructions please visit www.tax.newmexico.gov.

If you cannot electronically file, you may submit this form to: New Mexico Taxation and Revenue Department, P.O. Box 25127, Santa Fe, NM 87504-5127. Make the check or money order payable to New Mexico Taxation and Revenue Department. Indicate "PTW-O" and enter the owner's FEIN or SSN on the payment. PTW-O payments should not be sent with any other payments to the Department.

For assistance call (505) 827-0825.