

New Mexico Taxation and Revenue Department
Annual Statement of Pass-Through Entity Withholding

a Tax Year	b Entity federal employer identification number (FEIN)	e Owner federal identification number Mark one <input type="checkbox"/> SSN/ITIN box <input type="checkbox"/> FEIN	
c Entity New Mexico Business Tax Identification Number (NMBTIN) (optional)		f Owner name, street address, city, state, and ZIP code Mark box if address outside the U.S. <input type="checkbox"/>	
d Entity name, street address, city, state, ZIP code, and phone number Mark box if address outside the U.S. <input type="checkbox"/>			
		1 Owner New Mexico net income	2 New Mexico tax withheld
		3 Composite income tax paid	4 Credit for entity-level tax

Owners must attach this form to the New Mexico state income tax return to claim the tax withheld, credit for entity-level tax, or composite income tax paid against personal or corporate income tax due.

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Annual Statement of Pass-Through Entity Withholding Instructions

page 1 of 2

About This Form. Pass-through entities (PTEs) that are required to withhold and pay **New Mexico pass-through entity withholding tax** on a non-resident owner's share of net income allocable to New Mexico under the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act must annually submit this form, RPD-41359, *Annual Statement of Pass-Through Entity Withholding*, or Form 1099-MISC, or *pro forma* Form 1099-MISC, to report the New Mexico withholding tax to its owners.

PTEs that elect to file and pay **entity-level tax**, or have owners that elect to have **composite income tax** paid by the entity on their behalf, must also submit RPD-41359 to its owners.

Owners attach RPD-41359 to claim a New Mexico withholding credit, credit for entity-level tax, or credit for composite income tax on their personal or corporate income tax returns. Only the RPD-41359 may be used to support the credit for entity-level tax or composite income tax. Owners include partners, members, shareholders of sub-chapter S Corporations, and, for the purposes of pass-through entity withholding tax, beneficiaries of fiduciaries.

Fiduciaries and S-Corps. A fiduciary, such as an estate or trust, that distributes taxable New Mexico income to its beneficiaries, or a sub-chapter S corporation that distributes taxable New Mexico income to its shareholders, is a PTE and subject to withholding tax pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act. As a PTE, the trust, estate, or S-Corp, is also required to withhold from the non-resident recipient's share of taxable New Mexico net income. More details about these requirements are provided in the instructions for the S-Corp and FID-1 returns.

If electing to file and pay entity-level tax, the trust, estate, or S-Corp is required to use the RPD-41359 to report to each of its beneficiaries or shareholders the share of credit for entity-level tax they may claim on their income tax returns. If the recipient of a distribution elects to have the entity file composite income tax on its behalf, the amount of the tax paid by the entity is also reported on this form.

If no owners received net income from the PTE for a calendar year, no withholding statements need to be filed for that year.

An entity that has had tax withheld cannot pass a withholding statement directly to another taxpayer. The recipient of the withholding statement must file and claim the tax withheld on its own New Mexico income tax return.

For Help. To get help with this form or about filing pass-through entity tax returns, call the Santa Fe Office (505) 827-0825, or call toll free (866) 809-2335 and select option 2, or send email to cit.taxreturnhelp@tax.nm.gov.

INSTRUCTIONS FOR PASS-THROUGH ENTITIES

This section is for PTEs filing the form. If you are an owner, see page 2, *Instructions for Owners*.

What to File. To report the New Mexico net income and New Mexico withholding tax, entity-level tax, or composite income tax for an owner, you must file the applicable return for the entity with the Taxation and Revenue Department and issue a reporting document to the owner. Depending on the type of entity, you will file either PTE, *New Mexico Pass-through Entities Tax Return*, S-Corp, *Sub-Chapter S Corporate Income and Franchise Tax Return*, or FID-1, *Fiduciary Income Tax Return*.

To report New Mexico withholding tax to the owner, one of the following forms may be used:

- New Mexico Form RPD-41359
- Form 1099-MISC
- A *pro forma* Form 1099-MISC

If using the Form 1099-MISC and the net income you paid is a combination of income from multiple states, separately state the income from New Mexico and the amount of New Mexico tax withheld.

If reporting New Mexico entity-level tax or composite income tax, Form RPD-41359 is the only reporting document that may be issued to the owner.

Other Reporting Requirements. PTEs are required to provide sufficient information to enable owners to comply with the provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act with respect to an owner's share of net New Mexico income. A PTE that uses a Schedule K-1, or equivalent form, to report to owners their share of the net income, must also provide to owners the allocable New Mexico net income, as well as the amount of New Mexico withholding tax, entity-level tax paid or composite income tax paid.

Due Date to Send Forms to Owners. Send the forms (RPD-41359, Form 1099-MISC, or *pro forma* Form 1099-MISC) to owners by **February 15** of the year following the year for which you withheld New Mexico state tax from their net income. If February 15 falls on a Saturday, Sunday, or a state or national legal holiday, the form is timely if the postmark bears the date of the next business day.

Annual Statement of Pass-Through Entity Withholding Instructions

page 2 of 2

How to Complete RPD-41359

Pass-through Entity Information

- a. Enter the tax year.
- b. Enter the entity's federal employer identification number (FEIN) using hyphens in XX-XXXXXXX format.
- c. If the entity has a New Mexico Business Tax Identification Number (NMBTIN), enter it using hyphens in XX-XXXXXX-XXX format.
- d. Enter your entity's name, address, and phone number. If the address is outside the U.S., mark the box.

Owner Information

- e. Enter the owner's federal identification number. Check the box to indicate whether this is an SSN or ITIN, or an FEIN.
- f. Enter the owner's name and address. If the address is outside the U.S., mark the box.

Owner NM Net Income and Tax

1. Enter the New Mexico net income allocated to the owner.
2. Enter the New Mexico state withholding tax for the owner, if applicable.
3. Enter the composite income tax paid on behalf of the owner, if applicable.
4. Enter the share of entity-level tax paid on behalf of the owner, if applicable.

Send Each Owner a Copy. After completing RPD-41359 for all owners, send each owner a copy of the form by February 15 or the next business day, if February 15 falls on a Saturday, Sunday, or a state or national legal holiday.

For More Information. See FYI-330, *Income and Withholding Returns and Electronic Filing*.

INSTRUCTIONS FOR OWNERS

This section is for owners. If you are a PTE, see page 1, *Instructions for Pass-Through Entities*.

How to File. You must file the RPD-41359 with the New Mexico income tax return you are required to file to claim a credit for New Mexico withholding tax, a credit for entity-level tax, or a credit for composite income tax. This reporting document supports the credit you are claiming on the return. If claiming a withholding credit, Form 1099-MISC, or *pro forma* Form 1099-MISC may also be used.

IMPORTANT: Unless you are listed as the owner or the recipient of the income, do not attach this form to your income tax return. When filing your return, you cannot use an income and withholding statement that is issued to someone else.