

2010 New Mexico Fiduciary Income Tax Instructions FORM FID-1

GENERAL INFORMATION

IMPORTANT NOTICE

For tax years beginning on or after January 1, 1997, the fiduciary of certain estates or trusts who anticipates a tax liability that exceeds withholding by \$500 or more is required to make quarterly estimated income tax payments. See the instructions for FID-ES on page 15 for details.

PLEASE READ THE INSTRUCTIONS CAREFULLY. They will answer most questions, save time and may save money. If you have additional questions, write the New Mexico Taxation and Revenue Department, P.O. Box 25127, Santa Fe, New Mexico 87504-5127 or call (505) 827-0825.

FIDUCIARIES REQUIRED TO FILE A NEW MEXICO RETURN

Every fiduciary who is required to file a U.S. Fiduciary Income Tax Return (federal Form 1041), except a fiduciary of a grantor trust who is required to file federal Form 1041 under the provisions of federal regulation 1.671-4(a), must file a *New Mexico Fiduciary Income Tax Return (FID-1)* if:

1. The trust is a "resident" of New Mexico, or
2. The estate is of a decedent who was a resident of New Mexico, or
3. The trust or estate has income from:
 - a. transaction of business in, into or from New Mexico, or
 - b. property in New Mexico, or
 - c. compensation in New Mexico.

An **estate** is **DOMICILED IN NEW MEXICO** if the decedent was domiciled in New Mexico. A **trust** is **DOMICILED IN NEW MEXICO** if the trustee is domiciled in New Mexico or if the principal place from which the trust is managed or administered is in New Mexico.

Grantor Trusts

Generally, grantor trusts are not required to file Form FID-1. However, if a grantor trust has become irrevocable upon the grantor's death, he must file Form FID-1.

If you are a grantor trust not required to file Form FID-1, but you have had tax withheld from oil and gas proceeds and you wish to distribute the tax withheld to the beneficiaries of the trust, you must file a completed Schedule FID-WD, *Withholding Tax Distributions for Simple and Grantor Trusts*. Form FID-1 is not required to be submitted with the Schedule. Attach the Grantor Trust letter listing the trust FEIN and grantor social security number. Also attach a copy of the annual statement of withholding issued to the

trust. To each of the beneficiaries, you must issue a New Mexico Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*.

The beneficiaries of the grantor trust may then claim tax withheld on behalf of the grantor trust by reporting it on his or her New Mexico income tax return and attaching a copy of the Form WT, showing the withholding passed to the beneficiary.

If you are a fiscal-year taxpayer, indicate the fiscal year beginning and ending period at the top of your Form FID-1. You must use the form for the tax year in which your fiscal year begins.

ATTACHMENTS TO FID-1

NOTE: You must complete and submit all required forms and schedules, including attachments as indicated in the instructions. Incomplete returns will delay processing and may cause the form to be returned to you without processing.

1. Attach federal tax return Form 1041, pages 1 and 2.
2. If income is received from sources both within and outside New Mexico, complete and attach Form FID-B Schedules 1 and 2.
3. If a non-refundable credit is claimed on line 11, Form FID-1, attach Schedule FID-CR. Ensure that the required documentation is attached.
4. If an approved renewable energy production tax credit is claimed on line 17, Form FID-1, attach Form RPD-41227, *Renewable Energy Production Tax Credit Claim Form*.
5. Attach Forms W-2, 1099, W-K, RPD-41285 or WT if tax was withheld.
6. If a credit is claimed for taxes paid to another state, attach a copy of the tax return(s) from the other state(s).
7. If you are a simple trust or grantor trust, you may

distribute tax withheld on oil and gas proceeds to the beneficiary(ies) by attaching Schedule FID-WD, *Withholding Tax Distributions for Simple and Grantor Trusts*.

8. If you are an electing small business trust (ESBT) with taxable income used to compute the tax on S portion of the ESBT, included on line 1, Form FID-1, also attach the ESBT calculation schedule from your federal Form 1041.

NOTE: The Department may require any taxpayer to furnish a complete, true and correct copy of the federal fiduciary income tax return, including all attachments and schedules.

WHERE TO GET FORMS, INSTRUCTIONS AND ASSISTANCE

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 office or you may request forms by calling 505-827-2206 (not a toll-free number).

File Returns on Approved State Forms. Always submit 2010 Fiduciary Income Tax Returns on official state forms provided by or approved by the Department. Never submit a photocopy of an official state form. This will cause delays in processing your return.

If you do not use the official tax form provided by the Department, any computer-generated form you use must comply with Department specifications. The Department approves companies who follow specifications and format requirements for the printed forms. To ensure the software developer or form vendor has been approved by the Department, see the list of approved software developers on the TRD website. On the Department's web site, click on *Tax Professionals* then select *Software Developers*. See "2010 New Mexico Forms Vendor List" on the TRD web site, or call (505) 827-2481. Acceptance of the software company does not imply endorsement by the Department for the quality of the services provided.

TRD does not review or approve the logic of specific software programs, nor does it confirm the calculations on the forms produced by these programs. The accuracy of the program remains the responsibility of the software developer, distributor or user.

NOTE: When downloading a form from the Internet or printing a form from an approved software product, you must comply with printing and legibility requirements. A poor quality return will delay processing. Hint: If your printer can print a logo clearly then it will print a quality tax form.

For assistance, contact the Taxation and Revenue Department in Santa Fe at (505) 827-0825. This is not a toll-free number.

DUE DATE OF THE NEW MEXICO RETURN AND TAXES

For fiduciaries that file on a calendar-year basis, the *New Mexico Fiduciary Income Tax Return*, Form FID-1 is due on or before April 15, 2011 with payment of taxes due.

For fiduciaries that file on a fiscal-year basis, the *New Mexico Fiduciary Income Tax Return*, Form FID-1 is due on or before the 15th day of the fourth month following the close of the fiscal year with payment of taxes due.

A New Mexico income tax return and tax payment are timely if the United States Post Office postmark on the envelope bears a date on or before the due date. If the due date falls on a Saturday, Sunday, state or national legal holiday, the return is timely if the postmark bears the date of the next business day. Delivery through a private delivery service is considered timely if the date recorded or marked by the private delivery service is on or before the due date.

EXTENSION OF TIME TO FILE THE RETURN

The Taxation and Revenue Department accepts an automatic extension of time granted by the Internal Revenue Service if a copy of the federal extension is attached to Form FID-1 at the time of filing. If applicable, attach a copy of the automatic extension request to your *New Mexico Fiduciary Income Tax Return*, Form FID-1.

If you need an extension of time to file the New Mexico tax return and do not require a federal extension of time to file, Form RPD-41096, *Extension of Time to File*, must be received by the Taxation and Revenue Department on or before the due date of the return.

FID-EXT Fiduciary Income Tax Extension Payment Voucher. If you expect your return to show a balance due and you have obtained either a federal automatic extension or a New Mexico extension, use Form FID-EXT to make an extension payment by mail or delivery. By obtaining an extension of time to file your return, penalty for failure to file and pay is waived through the extension period, provided you file the return and pay the tax shown on the return by the extended due date. However, interest continues to accrue even if the taxpayer obtains the extension. If you expect to owe more tax when you file your 2010 return, make a payment using the 2010 FID-EXT payment voucher and avoid the accrual of interest. Mail the payment and voucher to the address for payments and returns, also printed on the voucher. Write "2010 FID-EXT" on the check or money order.

PAYMENT OF YOUR FIDUCIARY INCOME TAX

Enclose your check or money order (no cash) and Form FID-PV, *Fiduciary Income Tax Payment Voucher*, with your return. Make the check payable to the Taxation and Revenue Department. Mail the return, attachments and payment to:

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

Write "2010 FID-PV" and the estate or trust's federal employer identification number on your check to avoid a misapplication of funds.

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

INTEREST AND PENALTY

Interest accrues on income tax that is not paid on or before the due date of your return. *Interest is a charge for the use of money and by law cannot be waived.* Prior to January 1, 2008, interest was calculated at the statutory rate of 15% per year, computed on a daily basis. Beginning January 1, 2008, 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 each quarter of 2010 was 4% and the daily rate is 0.010958904%. At the time these instructions were sent to the printer, the rate for the first quarter of 2011 had not been announced. The annual and daily interest rates for each quarter will be posted on our web site at www.tax.newmexico.gov.

Important: You do not need to figure the amount of penalty

or interest due on your return. Once your principal tax liability is paid, penalty and interest stops accruing and the Department will bill you for any penalty or interest due.

Interest accrues even if there is an extension of time to file the return.

The formula for calculating interest is:

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

Also, if the tax is not paid when due because of negligence or disregard of rules or regulations but without intent to defraud, the fiduciary is liable for a penalty of 2% per month or partial month from the date the return was required to be filed. The penalty cannot exceed 20% of the amount of tax. The penalty does not apply if an extension of time has been approved and if the tax is paid by the extended due date.

NET OPERATING LOSSES

If your 2010 federal tax return computation reflects a net operating loss, New Mexico allows the loss to be carried forward only. The loss carry forward is limited to a five-year carry forward from the year in which the return establishing the net operating loss is filed.

CHANGES IN FEDERAL OR NEW MEXICO TAXABLE INCOME DUE TO AN IRS AUDIT OR AN AMENDED RETURN

If the IRS changes the trust or estate's taxable income for any tax year, an amended *New Mexico Fiduciary Income Tax Return* and a copy of the Revenue Agent's Report must be filed with the New Mexico Taxation and Revenue Department within 90 days of the date the federal adjustment becomes final.

If the fiduciary files an amended New Mexico return because of an amended federal return, the fiduciary must attach a copy of the federal amended return. If an amended return is filed because of a change in New Mexico taxable income, a statement giving the reason for amending the

2010 TAX RATE TABLE

To be used for determining the amount of tax to be entered on FID-1, page 1, line 5

If the amount on line 4 is...

over	but not over	tax shall be	plus	of excess over
\$ 0	\$ 5,500	\$ 0.00	1.7%	\$ 0
\$ 5,500	\$ 11,000	\$ 93.50	3.2%	\$ 5,500
\$ 11,000	\$ 16,000	\$ 269.50	4.7%	\$ 11,000
\$ 16,000	-----	\$ 504.50	4.9%	\$ 16,000

return must be attached.

To file an amended *New Mexico Fiduciary Income Tax Return*, use the form for the year being amended. Check the "amended" box at the top of the form. Payment for any additional amount of tax due should be attached.

YOUR RIGHTS UNDER THE TAX LAW

The Tax Administration Act governs how the Income Tax Act is administered by the Department and gives you specific rights and responsibilities. Enacted in 2003, the Taxpayer Bill of Rights adds provisions to the Tax Administration Act on confidentiality, hearings, recovery of costs by a taxpayer who prevails in litigation against the Department, timeliness of the Department's audit completion and approval of credits, and administrative hearings. The Bill of Rights also requires that all taxpayers receive a copy of their rights in each Fiduciary Income Tax Packet. See page 17.

The best ways to avoid tax problems are to keep accurate tax records and to keep abreast of changes in the tax law. These instructions and other Department publications

contain information that can help you do both.

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

At any time after filing your return, the return may be subject to further review, verification or correction. If your tax return is adjusted or an assessment of additional tax is issued, you will receive a copy of publication FYI-400, *Tax Audits and Protest Procedures - Your Rights as a Taxpayer*, describing in detail how to dispute a Department action through either the claim for refund procedure or the protest procedure. Read these procedures carefully to ensure you take the necessary steps to protect your rights.

Publication FYI-400 is available on the Department's Internet home page at www.tax.newmexico.gov. Click on "Forms and Publications" and follow the links to FYI publications. You may also obtain a copy by contacting the Tax Information and Policy Office at policy.office@state.nm.us.

WORKSHEET FOR COMPUTING TAX ON LUMP-SUM DISTRIBUTIONS

Retain this worksheet for your records

- 1. New Mexico taxable income from line 4 of the Form FID-1 1. _____
- 2. Amount of lump-sum income reported for purposes of 10-year tax option or capital gains election on federal Form 4972. 2. _____
- 3. **Multiply** line 2 by .20 and enter the total 3. _____
- 4. **Add** lines 1 and 3..... 4. _____
- 5. Enter the tax from the tax rate tables for the amount on line 4 of this worksheet. 5. _____
- 6. Enter the tax from the tax rate tables for the amount on line 1 of this worksheet..... 6. _____
- 7. **Subtract** line 6 from line 5 and enter the difference 7. _____
- 8. **Multiply** the amount on line 7 by 5. (This is the additional averaged tax due on the lump-sum income.) 8. _____
- 9. If a New Mexico percentage is computed on line 16, Form FID-B, multiply that percentage by the amount on line 8 of this worksheet and enter here. If line 16, FID-B is zero or no New Mexico percentage is computed, enter the amount from line 8 on this worksheet. Also enter this amount on line 8, Form FID-1. 9. _____

Attach federal Form 4972 to the Form FID-1.

FID-1, PAGE 1 LINE INSTRUCTIONS

- **Type or print the name of the estate or trust, the name and title of the fiduciary and the address of the fiduciary in the spaces provided.**
- **Enter the federal employer identification number of the estate or trust. Returns will not be processed without this number.**
- **Check the appropriate reporting period - calendar year or fiscal year. If the return is based on a fiscal year, enter the beginning and ending dates.**
- **Check the appropriate boxes for type of return.**
- **Answer questions A through E.**
- **Check box if a New Mexico resident trust or estate.**
- **Round all dollar amounts to the nearest whole dollar.**
- **Computerized schedules will not be accepted in lieu of completing the appropriate line items on FID-1, page 2, FID-B, Schedule 1 and 2 or FID-CR.**

Question D. Put an "X" in the box if federal Form(s) 8886, *Reportable Transaction Disclosure Statement*, is required to be attached to your 2010 New Mexico Form FID-1. If federal Form(s) 8886 is required to be attached to your 2010 federal income tax return, Form 1041, then it is also required to be attached to your 2010 New Mexico fiduciary income tax return. The Internal Revenue Service (IRS) requires taxpayers to appropriately disclose participation in certain

"listed transactions" on tax returns. Listed transactions are those that the IRS has determined to be structured for the significant purpose of tax avoidance or evasion. See the instructions for your 2010 federal income tax return, Form 1041, or federal Form 8886 for details.

Question E. Mark this box only if you have elected to use an alternative method of computing estimated tax due. If you do not elect to use an alternative method, do not mark this box and the Department will compute your liability, if any, using the standard method. See the instructions for Form FID-ES for a description of the standard and alternative estimated tax calculation methods. To elect to use an *alternative method* of calculating estimated tax, you must enter 1, 2, 3, 4 or 5 in the checkbox to indicate the method used and attach Form RPD-41272, Calculation of Estimated Personal Income Tax Underpayment Penalty, to Form FID-1. Enter 1 if you wish to compute estimated payments based on the actual dates on which all amounts of withholding tax were withheld for the applicable tax year. If you have annualized income and are required to file estimated payments beginning with the 2nd, 3rd or 4th quarter estimated installment due date, enter 2, 3 or 4, respectively. If you qualify for special rules because you have farm or ranch income, enter 5. See the instructions for FID-ES on page 15 of these instructions for an explanation of the special rules.0

Line 1. Federal taxable income of the estate or trust. Enter the federal taxable income of the estate or trust from federal Form 1041. For electing small business trusts (ESBT), federal taxable income also must include the

WORKSHEET FOR COMPUTATION OF ALLOWABLE CREDIT FOR TAXES PAID TO OTHER STATES BY NEW MEXICO RESIDENT ESTATE OR TRUST

NOTE: Complete a separate worksheet for each state that imposed tax on income taxed in New Mexico.

Name of state: _____

- | | |
|---|----------|
| 1. Enter amount of tax paid to the other state. | 1. _____ |
| 2. Enter total gross income (see note) on which the tax on line 1 was figured. (When the other state applies an allocation and apportionment percentage, enter the other state's taxable income multiplied by the other state's percentage of income.)..... | 2. _____ |
| 3. DIVIDE line 1 by line 2. (This is the average effective tax rate on total other state income.) Round to four decimal places - e.g. 0.0463. | 3. _____ |
| 4. Enter the smaller of line 3 or 0.0550. (5-1/2% maximum)..... | 4. _____ |
| 5. Enter that portion of income that is subject to tax in both New Mexico and the other state. If this amount is more than line 2, enter the amount from line 2. | 5. _____ |
| 6. MULTIPLY line 5 by line 4..... | 6. _____ |
| 7. Enter the lesser of line 6 and line 1. This is the credit allowed for tax paid to the other state. | 7. _____ |

Enter the amount from line 7 of this worksheet (or the sum of line 7 amounts from worksheets completed for each state) on line 10 of 2010 Form FID-1.

federal taxable income used to compute the tax on the S portion of an ESBT, included on line 7 of federal Form 1041, Schedule G. Enter the federal taxable income on the S portion of an electing small business trust (ESBT) in the space provided to the right of line 1, preceded by "Sec. 641(c) federal taxable income". Include the amount in the federal taxable income of the fiduciary reported on line 1. Attach the ESBT calculation schedule from your federal Form 1041.

The S portion of an ESBT is the portion of the trust that consists of stock in one or more S corporations and is not treated as a grantor trust. For federal tax purposes, the tax on the S portion is figured separately from the tax on the remainder of the ESBT. For New Mexico state tax purposes, the tax on the S portion income is calculated in the same manner as all other federal taxable income of the fiduciary.

Line 2. Enter additions to federal taxable income from FID-1, page 2, line 3 (federal net operating loss and non-New Mexico municipal bond interest).

Line 3. Enter deductions from federal taxable income from FID-1, page 2, line 7 (New Mexico net operating loss, interest income from U.S. government obligations, and net capital gain deduction).

Line 5. Tax. Using the tax rate table on the bottom of page 3, calculate and enter the tax on the income reported on line 4. Enter the tax computed on line 5.

Line 6. An estate or trust which has income from both within and outside New Mexico should complete and file Form FID-B, Schedules 1 and 2. Enter the New Mexico percentage from line 16 of Form FID-B Schedule 1.

Line 7. New Mexico income tax. Multiply line 5 by the percentage on line 6. If FID-B is not required, enter the amount from line 5.

Line 8. If the estate or trust is a resident New Mexico estate or trust which received a lump-sum distribution and used the federal special 10-year averaging tax option on federal Form 4972, it must complete the worksheet on page 4 of the instructions to compute the New Mexico averaged additional tax.

Line 10. Credit for taxes paid to another state(s). A resident New Mexico trust or estate that is liable for income tax to another state on income also taxable in New Mexico and included in taxable income on line 4 may take a credit on line 10 against its New Mexico tax liability for an amount of tax imposed by the other state on the portion of income also included in New Mexico taxable income. If the specific item is not subject to taxation in both states, no credit is available. This credit may not exceed the New Mexico tax liability on line 9; it also may not exceed five and one-half percent (5-1/2%) of the income taxable in the other state. Also, the amount of the credit may not exceed the amount of tax paid to the other state. Attach a copy of the completed income tax return(s) from the other state(s). Calculate the credit on the worksheet on page 5.

"State" includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and states and provinces of foreign countries. Do not include in the calculation of the credit those income taxes paid to any municipality, county or other political subdivision of a state or to any central government of a foreign country. "State" does not include central governments.

Line 11. Total Non-refundable Credits: If you are eligible

NET OPERATING LOSS WORKSHEET	
CARRY FORWARD COMPUTATION & ADJUSTMENT	
<i>Net operating losses available for carry forward (do not include capital losses)</i>	
1. Enter the amount of NOL carry forward claimed on the 2010 federal return for years 2003 through 2009.	1. _____
2. Enter the amount of any 2010 federal NOL.	2. _____
3. ADD lines 1 and 2.	3. _____
4. Enter the total of New Mexico base income, U.S. government obligations & non-New Mexico municipal bonds for 2003 through 2009.	4. _____
5. Subtract line 4 from line 3. <i>This is the available net operating loss carry forward. (Enter this amount, but not less than zero, as a deduction for New Mexico taxable income on FID-1, page 2)</i>	5. _____
6. Enter the total of New Mexico base income, U.S. government obligations & non-New Mexico municipal bonds for 2010.....	6. _____
7. SUBTRACT line 6 from line 5. This is the amount of carry forward available for 2011. You must utilize the NOL carry forward amounts in order of oldest tax year.	7. _____

to claim one or more of the following non-refundable credits, complete and attach Schedule FID-CR, *New Mexico Non-refundable Credit Schedule*. See lines 1 through 18, Schedule FID-CR. Enter the total amount of the credit(s) from line 18, Schedule FID-CR, on line 11, Form FID-1.

The non-refundable credits listed below require submission of supplemental documentation and may require advance approval. See publication FYI-106, *Claiming Tax Credits for CRS Taxes & Business-Related Income*, for details on eligibility qualifications and requirements.

Attach **Form PIT-4**, *Preservation of Cultural Properties Credit*, and related **Historic Preservation Division Certification** to claim the **Cultural Property Preservation Credit** on Schedule FID-CR.

Form PIT-5, *Qualified Business Facility Rehabilitation Credit*, and **approval from the New Mexico Community Development Team Leader**, is needed to claim the **Business Facility Rehabilitation Credit** for building renovations within New Mexico enterprise zones.

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

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

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

Credit for Electronic Card-Reading Equipment requires certification by the taxpayer. Complete **Form RPD-41246**, *Income Tax Credit for Electronic Card Reader Statement*.

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

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

The **Affordable Housing Tax Credit** requires **Form RPD-41301**, *Affordable Housing Tax Credit Claim Form*, and a **copy of the voucher issued by the Mortgage Finance Authority**.

The **Solar Market Development Tax Credit** requires **Form RPD-41317**, *Solar Market Development Tax Credit Claim Form*, and **certification from the Energy, Minerals and Natural Resources Department**.

The **Blended Biodiesel Fuel Tax Credit** requires **Form RPD-41340**, *Blended Biodiesel Fuel Tax Credit Claim Form*. Must be a registered New Mexico supplier who files **Form RPD-41306**, *Combined Fuel Tax Report*, reporting qualifying biodiesel fuel receipts.

The **Sustainable Building Tax Credit** requires **Form RPD-41329**, *Sustainable Building Tax Credit Claim Form*.

The **Angel Investment Credit** requires **Form RPD-41320**, *Angel Investment Credit Claim Form*, and **certification from the Economic Development Department**.

The **Rural Health Care Practitioners Tax Credit** requires **Form RPD-41326**, *Rural Health Care Practitioner Tax Credit Claim Form*, and **certification from the Department of Health**.

The **Agricultural Water Conservation Tax Credit** requires **Form RPD-41319**, *Agricultural Water Conservation Tax Credit Claim Form*.

The **Advanced Energy Tax Credit** requires **Form RPD-41334**, *Advanced Energy Tax Credit Claim Form*. Also attach the **approval from the New Mexico Economic Development Department**.

The **Geothermal Ground-Coupled Heat Pump Tax Credit** requires **Form RPD-41346**, *Geothermal Ground-Coupled Heat Pump Tax Credit Claim Form*, and **certification from the Energy, Minerals and Natural Resources Department**.

Line 12. Add lines 10 and 11, then subtract from line 9. Net New Mexico income tax cannot be less than zero.

Line 13. Enter the total amount of 2010 estimated tax payments and other payments made for 2010. These payments are submitted to the Department with Forms FID-ES FID-EXT or FID-PV.

Line 14. Enter the total of all New Mexico income tax withheld as shown on your annual withholding statements Form(s) W-2, 1099, 1099-MISC other than income from oil and gas proceeds, or Form W-K if tax was withheld on Form PTE, *New Mexico Income and Information Return for Pass-Through Entities*. Include a copy of the forms with your FID-1 return.

Line 15. 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 RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*. Also include tax withheld and reported on New Mexico Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*, if any. Be sure to include a copy of the forms with your FID-1.

Except for simple and grantor trusts, an entity filing a New Mexico Form PIT-1, CIT-1, PTE or FID-1 that has had tax

withheld may not pass the tax withheld directly to its owners, members, partners or beneficiaries. The entity must file and report the tax withheld on its New Mexico income tax return.

The beneficiary of a simple trust or a grantor trust may claim tax withheld on behalf of the simple or grantor trust if the simple or grantor trust reports the withholding passed to the beneficiary to the Department and then issues the beneficiary a Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*, showing the withholding passed to the beneficiary. See the instructions to line 18, Form FID-1, for details on how to report the withholding passed to the beneficiary.

Line 16. Enter the amount of approved film production tax credit. Any amount in excess of the trust or estate's tax liability will be refunded.

The film production tax credit provides a credit for an eligible film production company. The amount of the credit is equal to 25% of direct production and direct postproduction expenditures. Direct production expenditures must be directly attributable to the production in New Mexico of a film or commercial audiovisual and both direct and post production expenditures must be subject to taxation by the State of New Mexico. Excluded from the credit are costs for which the film production company has already issued a nontaxable transaction certificate under Section 7-9-86 NMSA 1978. To obtain approval for the credit, first apply to the New Mexico Film Office of the Economic Development Department (EDD). When it receives approval from EDD, the film production company may apply for Taxation and Revenue Department approval of the credit. See Form RPD-41229, *Application for Film Production Tax Credit*.

Line 17. Enter the amount of approved renewable energy production tax credit claimed on Form RPD-41227, *Renewable Energy Production Tax Credit Claim Form*.

Personal and corporate income taxpayers may receive a credit for producing electricity by solar light or heat, wind or biomass power at a penny per kilowatt hour up to the first 400,000 megawatt hours of electricity produced yearly per taxpayer for 10 years. For a qualified energy generator using a solar-light-derived or solar-heat-derived qualified energy source, the credit is a variable rate for each year beginning with \$.015 per kilowatt hour in the first year in which the qualified energy generator produces electricity, increasing in increments of 1/2 cent each of the next five years, to a maximum of four cents, and then will decline by 1/2 cent per year in the next four years to two cents in the tenth year of operation. Unused credits may be carried forward, or if the qualified energy generator first produced electricity on or after October 1, 2007, may be refunded.

To qualify, the taxpayer must either hold title to a qualified energy generator that first produced electricity on or before January 1, 2018, or lease property upon which a qualified energy generator operates from a county or municipality,

under the authority of an industrial revenue bond, and if the qualified energy generator first produced electricity on or before January 1, 2018. The Energy, Minerals and Natural Resources Department (EMNRD) must first approve the business as eligible.

When approval is received from EMNRD, you may claim the credit by attaching to Form FID-1, a completed Form RPD-41227, *Renewable Energy Production Tax Credit Claim Form*, the certificate of eligibility issued by EMNRD, the Allocation Notice approved by EMNRD if applicable, and documentation of the amount of electricity produced by the facility in the tax year.

Line 18. For simple and grantor trusts only, enter the total of all New Mexico income tax withheld from oil and gas proceeds distributed to beneficiaries and reported on Schedule FID-WD, *Withholding Tax Distributions for Simple and Grantor Trusts*. You must attach Schedule FID-WD and the annual information return reporting the withholding paid to the Department on behalf of the simple or grantor trust.

IMPORTANT: To receive proper credit for withholding, all annual statements must be issued to the estate or trust filing the New Mexico income tax return. An entity filing a New Mexico Form PIT-1, CIT-1, PTE or FID that has had tax withheld may not pass the withholding statement directly to its owners, members, partners or beneficiaries.

Only a grantor trust or simple trust may distribute its withholding of oil and gas proceeds to its beneficiaries. To distribute the withholding, the simple or grantor trust must first report the withholding paid to the Department and then issue New Mexico Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*, to the beneficiaries. To report the withholding tax distributed, attach a completed Schedule FID-WD, *Withholding Tax Distributions for Simple and Grantor Trusts*, to Form FID-1. If you are a grantor trust not required to file Form FID-1, simply submit a completed Schedule FID-WD and the Grantor Trust letter listing the trust FEIN and grantor social security number. Also attach a copy of the annual statement of withholding issued to the trust. **NOTE:** If a grantor trust has become irrevocable upon the grantor's death, it must file Form FID-1.

The beneficiary of a simple trust or a grantor trust may claim tax withheld on behalf of the simple or grantor trust simply by reporting it on his or her New Mexico income tax return and attaching a copy of Form WT, showing the withholding passed to the beneficiary.

Lines 20 through 20B. If line 19 is more than line 12, you have an overpayment. Enter the difference on line 20 and see *Refund Express* on page 9 of these instructions. Your overpayment can be:

- applied to your 2010 tax liability (enter on line 20A), or
- refunded to you (enter on line 20B), or
- a combination of these.

Line 21. If line 12 is more than line 19, you have tax due. Enter the difference on line 21.

Line 22. Add penalty if you file late and owe tax, or you do not pay the tax on or before the date the return is due. Calculate penalty by multiplying the unpaid amount on line 21 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. You may leave this line blank if you wish the Department to compute the penalty for you. The Department will send you a bill for any penalty due.

Line 23. Add interest if the amount of tax due on line 21 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 send you a bill for any interest due.

Calculate interest at the daily interest rate for the quarter of the unpaid amount for each day the payment is late. The formula for calculating daily interest is:

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

Beginning January 1, 2008, 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 web site at www.tax.newmexico.gov.

Important: Once your principal tax liability is paid, interest and penalty stop accruing. Therefore, you do not need to figure the amount of interest or penalty due on your return to avoid additional charges.

FID-1, PAGE 2 LINE INSTRUCTIONS

ADDITIONS TO FEDERAL INCOME FOR FIDUCIARY: NON-DISTRIBUTED SHARES

Line 1. Enter that portion of the federal net operating loss carry forward which has not been distributed to beneficiaries.

Line 2. You may exclude only federally tax-exempt interest or dividend income from municipal obligations from the State of New Mexico, its agencies, institutions, instrumentalities or political subdivisions, or income from the obligations of the Commonwealth of Puerto Rico, Guam, Virgin Islands, American Samoa or Northern Mariana Islands. Enter that portion of municipal bond income from sources other than those listed above which has not been distributed to beneficiaries.

DEDUCTIONS FROM FEDERAL INCOME FOR FIDUCIARY: NON-DISTRIBUTED SHARES

Line 4. Enter the New Mexico net operating loss from line 5 of the worksheet on page 6.

Line 5. Interest on obligations of the United States may be deducted only if the interest was included in federal taxable income reported on FID-1, page 1, line 1.

Line 6. Net Capital Gain Deduction. A taxpayer may deduct up to \$1,000 of the net capital gains reported and claimed on federal Form 1041 or 50% of the net capital gains, whichever amount is greater.

DISTRIBUTION SCHEDULE:

Enter the total distributions of income to beneficiaries during the tax year.

The schedule of beneficiaries receiving distributions of income during the tax year **MUST** be completed or the return will not be accepted for processing. List the name, address, social security number or federal employer identification number and distributive share for each beneficiary receiving a distribution of income from the estate or trust during the tax year.

NOTE: The fiduciary should furnish each beneficiary with a statement detailing the amount of income allocable or apportionable to New Mexico for each type of income shown on the federal Schedule K-1. In addition, this statement should show the amount of each beneficiary's share of interest from obligations of the United States government and federally tax-exempt interest distributed from the estate or trust and the portion of such items allocable to New Mexico.

If the estate or trust does not have income from activities both within and outside New Mexico, skip the instructions for Form FID-B and continue with the instructions for "COMPLETING FORM FID-1" on page 14. Otherwise, continue with the instructions for Form FID-B on page 11.

Refund Express

If you request an amount to be refunded to you on line 20B, you may wish to have your tax refund deposited directly into your bank account through Refund Express. To choose Refund Express, complete the "Refund Express" portion on page 2 of the Form FID-1. All fields are required. Complete the bank routing number and the account number. You *must* indicate the type of account and you must answer "No" to question 4. Failure to complete all fields correctly will cause your Refund Express request to be denied, and the Department will mail you a paper check. The Department will mail you a paper check if your bank does not accept your Refund Express information.

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.

Important Changes Affecting Refund Express - Direct Deposit

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 new 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 will ask 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.

Reminder: The Department will mail you a paper check if your bank does not accept your Refund Express 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, however — only that when the check is issued, it will reach the bank more quickly.

- Payment is more secure. There is no check to get lost.
- More convenient. No trip to the bank to deposit your check.
- Saves tax dollars. A refund by direct deposit costs less than a check.

What is the Routing Number?

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

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

Entering Your Account Number

Your account number can be up to 17 characters. Include hyphens, but omit spaces and special symbols. Enter the number from left to right. Leave unused boxes blank. On the sample check below, the account number is 2015551517. **Do not** include the check number.

You *must* indicate whether the account is a checking or a savings account by entering an "X" in the appropriate box.

Caution: Verify that the information you enter is correct and that your financial institution will accept a direct deposit made payable to the name on the FID-1 return. **NOTE:** Taxation and Revenue is not responsible if a financial institution refuses a direct deposit.

Signature: The return must be signed by the fiduciary or his authorized representative.

Paid Preparer's Use Only: Any person or firm, except an employee of the fiduciary, preparing a return for compensation must enter the paid preparer's identifying information

NAME OF ESTATE OR TRUST
123 Main Street
Anyplace, NM 87000

PAY TO THE ORDER OF _____ \$ _____

_____ DOLLARS

ANYPLACE BANK
Anyplace, NM 87000

For _____

Routing Number: 211500151
Account Number: 2015551517 C
1540

1540
15-000000000

Do not include the check number

in the space provided at the bottom of Form FID-1, page 2, *Paid preparer's use only*. Enter the preparer's New Mexico CRS identification number, if the preparer has one, the Federal Employer Identification Number (FEIN), if applicable, social security number (SSN), or Preparer's Taxpayer Identification Number (PTIN). Include the phone number of the paid preparer. **Paid preparers must sign your return.**

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

FID-B GENERAL INSTRUCTIONS COMPUTATION OF NEW MEXICO PERCENTAGE AND BUSINESS INCOME APPORTIONMENT FORMULA

FID-B should be used by fiduciaries who are filing returns for trusts or estates having income from activities both within and outside New Mexico.

For purposes of these instructions, an **estate** is **DOMICILED IN NEW MEXICO** if the decedent was domiciled in New Mexico. A **trust** is **DOMICILED IN NEW MEXICO** if the trustee is domiciled in New Mexico or if the principal place from which the trust is managed or administered is in New Mexico.

FID-B SCHEDULE 1 GENERAL INSTRUCTIONS FOR COLUMNS 1-4, LINES 1-7

Column 1, Gross: Amounts entered in this column are the same as those from federal Form 1041, except for line 2 and line 6, which include amounts reported on lines 2 and 3 of FID-1.

Column 2, Less Related Expenses/Distributions: Amounts entered in this column include deductions and exclusions from federal Form 1041 that apply to the specific types of income reported in column 1 on lines 1-7. Subtract these deductions from the type of income (lines 1-7) to which they apply. Related expenses in column 2 must include distributions to beneficiaries. If the deduction cannot be applied to a specific type of income, enter it on line 12, Other deductions.

EXAMPLES:

- Taxes on rental property are deducted from rents and royalties, line 4.
- State income taxes, fiduciary fees, attorney fees and accountant fees are included as other deductions, line 11.
- Charitable deductions arising from a specific type of income such as capital gains are subtracted from profit or loss from the sale or exchange of assets, line 5. If it is a charitable deduction arising from general income, it is subtracted on line 11.

- Income distribution deductions should be subtracted from either dividends, interest or profit or loss from the sale or exchange of assets (capital gains) according to the allocations on federal Form 1041, Schedule K-1. Other taxable income distributions on Schedule K-1 are included in the deductions on line 11. Amounts for depreciation and depletion from Schedule K-1 are subtracted from the type of income to which they apply, lines 3-7.
- Dividend and interest exclusions are subtracted from gross dividends, line 1, and gross interest, line 2.

Column 3, Net: The net amounts in this column equal column 1 less column 2.

Column 4, Allocation to New Mexico: Use this column to allocate net income to New Mexico according to the following line instructions.

FORM FID-B SCHEDULE 1 LINE INSTRUCTIONS

NOTE: If you have a net operating loss or net operating loss carry-forward, attach a separate statement identifying the name and operating location of the business or property creating the loss, and a complete copy of your federal tax return.

Lines 1 and 2 - Dividends and Interest. Dividend and interest income is allocated in column 4 to New Mexico if the estate or trust is domiciled in New Mexico.

Line 3 - Income From Other Fiduciaries, S Corporations, Partnerships and Limited Liability Entities: An estate or trust receiving income from another estate, trust, or other pass-through entity that allocated and apportioned its New Mexico income must obtain copies of all allocation and apportionment schedules. The income from these sources must be allocated and apportioned in the same way each estate, trust, or other pass-through entity allocated and apportioned its income. Enter the amount of income allocated or apportioned in column 4.

Example: X, a New Mexico trust, reports \$4,000 of net income as its distributed share from a partnership. Since the partnership allocated and apportioned 50% of its taxable income to New Mexico, the fiduciary will allocate 50% of the \$4,000 amount, or \$2,000, to New Mexico in column 4.

Line 4 - Rents and Royalties. Allocate to New Mexico in column 4 the following rent and royalty income:

- income from real property in New Mexico,
- income from tangible personal property located or used in New Mexico, or
- income from intangibles used in New Mexico.

Trusts or estates that are domiciled in New Mexico and receive income from real property, tangible personal property

or intangibles located or used in New Mexico (including rents and royalties from oil and gas interests) must allocate that income to New Mexico in column 4. Intangibles are copyrights, patents, franchises, trademarks and licenses.

In addition to the above, trusts or estates domiciled in New Mexico must allocate income from intangible and tangible personal property used in another state if the trust or estate is not subject to tax in the other state.

A patent is used in New Mexico to the extent it is employed in production, fabrication, manufacturing or other processing in New Mexico or when a patented product is produced in New Mexico.

A copyright is used in New Mexico when the printing or other production is accomplished in New Mexico.

If the fiduciary's records do not reflect the extent to which tangible personal property is used within New Mexico, use the following calculation:

Compute the percentage of time the property was located in New Mexico during the tax year by dividing the number of days the property was physically located in New Mexico during the rental or royalty period by the total number of days the property was physically located everywhere during the rental or royalty period.

Multiply the net rents or royalties received for the taxable year by the percentage calculated above. The result is the amount of rental or royalty income allocable to New Mexico.

If the physical location of the tangible personal property during the rental or royalty period is unknown or unascertainable, enter the amount of rental or royalty income from property delivered to a lessee in New Mexico.

Line 5 - Profit or Loss From the Sale or Exchange of Assets. Allocate to New Mexico in column 4 profits or losses from the sale or exchange of:

- real property in New Mexico,
- tangible personal property located in New Mexico at the time it was sold,
- tangible personal property if the estate or trust is domiciled in New Mexico and the gain was not taxable in the state where the tangible personal property was located,
- intangible personal property if the estate or trust is domiciled in New Mexico.

Line 6 - Net Business and Farm Income. An estate or trust reporting business and farm income earned solely within New Mexico enters in column 4 the entire amount of net income from column 3. If the business and farm income is from activities within and outside New Mexico, **complete lines 1-5 on FID-B Schedule 2 to determine the percentage of income apportionable to New Mexico.**

Calculate the business and farm income apportioned to

New Mexico by multiplying the amount of net business and farm income in column 3, line 6, by the average percent from line 5 of FID-B, Schedule 2.

Separate Accounting Method for Business Income.

The separate accounting method may *not* be used by any business. Businesses beginning before January 1, 1991 who elected the separate accounting method were required to elect another method for taxable years beginning on or after January 1, 1995.

Line 7 - Other Income. All income from sources other than those already described is allocated to New Mexico in column 4 if the estate or trust is domiciled in New Mexico. Attach a schedule of other income.

If the estate or trust is not domiciled in New Mexico, other income is allocated to New Mexico when it is from transacting business in, into or from New Mexico or when income is received from property in New Mexico or as compensation for services in New Mexico.

Line 8a - Calculate Allocation Percentage for Deduction. Divide line 8 column 4 by line 8 column 3. To complete column 4 for lines 9-11, multiply the amounts in column 3, lines 9, 10 and 11 by the resulting fraction to determine the portion of each deduction applicable to New Mexico income.

Line 9 - Deduction for Exemption. Enter on line 9, column 3 the exemption amount from federal Form 1041. To complete column 4, multiply line 8a by line 9, column 3.

Line 10 - Deduction for Distributions. Enter on line 10, column 3 any deductions for distributions which were not entered on lines 1 through 7 above. To complete column 4, multiply line 8a by line 10, column 3.

Line 11 - Other Deductions. Enter on line 11, column 3 any deductions claimed on the federal Form 1041 which were not entered in column 2 of lines 1 through 7 above. (Refer to the Form FID-B general instructions on page 11, for column 2 instructions.) Attach a schedule of other deductions. To complete column 4, multiply line 8a by line 11, column 3.

Line 13 - Taxable Income of the Estate or Trust. Subtract line 12 from line 8 to arrive at the estate's or trust's taxable income. The amount in column 3 should equal the sum of the taxable income of the fiduciary reported on federal Form 1041 plus the additions to federal income for fiduciary, from FID-1, page 2, line 3.

Line 14 - Lump-Sum Distributions. Enter in column 1, the ordinary income reported on federal Form 4872, Tax on Lump-Sum Distributions. Enter the federal taxable portion of any lump-sum distribution from federal Form 4972 you earned the right to receive while a New Mexico resident, in column 2.

Line 16 - New Mexico Percentage. Divide line 15, column

4 by line 15, column 3. This is the New Mexico percentage of net income. Enter here and on line 6 of FID-1. The percentage cannot be less than zero. If you are allocating or apportioning losses out of New Mexico, the percentage may not exceed 100%.

FORM FID-B SCHEDULE 2 LINE INSTRUCTIONS

NOTE: Each time the term “everywhere” is used, it means everywhere within the United States.

Lines 1 through 5 - Determination of Apportionment Factors. The amount of business and farm income apportioned to New Mexico is determined by multiplying the net amount shown on line 6, column 3 of FID-B Schedule 1, by the following fraction if all factors are present:

Divide: The property factor + payroll factor
+ sales factor
By: 3*

Calculate each percentage to two decimal places (example: 22.46%.)

*If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may without prior approval or the Department may require - if reasonable - the exclusion of any one or more of the factors (property, payroll or sales). This would include removal of one or more of the factors whose factor is insignificant. A factor is insignificant if the denominator (column 1) is from between 0% and 3% of net income). Use the number of significant factors included to compute the average.

For tax years beginning on or after January 1, 1995 and before January 1, 2011, qualified manufacturers may elect a different apportionment method where the sales factor is multiplied by 2 and added to the property and payroll factors, and the sum is divided by 4. The election must be made in writing no later than the filing date of the first return to which the election will apply. Generally, the election cannot be terminated until the taxpayer has used the method for at least three tax years covering at least 36 calendar months. Qualifications to use this method of apportionment are in Section 7-4-10(B) NMSA 1978.

Qualified manufacturers should make the following adjustments when completing FID-B Schedule 2:

- line 3, *sales factor*. Divide column 2 by column 1 and multiply the result by 2.
- line 5, *average percent*. Divide the total percent on line 4 by 4.

Procedures to determine each of the three factors are:

FID-1

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 for the production of business or farm income during the tax period

By: The average value of all real and tangible personal property owned or rented everywhere and used everywhere for the production of business or farm income during the tax period.

Property shall be valued according to the following rules:

- Property owned during the tax period is valued at its original cost.
- Property rented from others and used for business or farm purposes is valued at eight (8) times the net annual rental rate. The net annual rate is the annual rent paid less any annual rent received from subleases of the same property.
- The average value of property is determined 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 and dividing by two.
- A fiduciary may be required to compute an average value on a monthly basis if the Department determines that a monthly average is necessary to correctly reflect the average value of the property.

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 period

By: The total amount paid as compensation to employees everywhere during the tax period.

Compensation was paid in New Mexico if any one of these conditions is present:

- the employee's service was performed entirely inside New Mexico, **or**
- the employee's service was performed both inside and outside New Mexico, but the service performed outside New Mexico was incidental to the service performed inside New Mexico, **or**
- some of the employee's service was performed in New Mexico, **and**
- New Mexico was the base of operations or the place from which the service was directed or controlled, **or**
- the employee who received payment for performing the service was a resident of New Mexico during the taxable period, whether or **not** the service was performed within a state other than New Mexico which was the base of operations or the state from which the service was directed or controlled.

SALES FACTOR

This factor is a percentage determined as follows:

Divide: The total sales in New Mexico during the tax period (excluding non-business income)

By: The total sales everywhere during the tax period (excluding non-business income).

“Sales” means all gross receipts from transactions and activity in the regular course of business.

Tangible personal property is sold in New Mexico when any of the following applies:

- the property was delivered or shipped to a purchaser other than the U.S. government within New Mexico (regardless of the FOB point or other conditions of the sale), **or**
- the property was shipped from an office, store, warehouse, factory or other place of storage within New Mexico, **and**
- the purchaser was the U.S. government, **or**
- the business was not subject to income tax in the state where the property was sold, **or**
- sales other than sales of tangible personal property are made in New Mexico 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 inside 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.

PETITION PROCEDURE OPEN TO TAXPAYER

If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may without prior approval or the department may require - if reasonable - the exclusion of any one or more of the factors (property, payroll or sales). This would include removal of one or more of the factors whose factor is insignificant. A factor is insignificant if the denominator (column 1) is from between 0% and 3% of net income. Use the number of significant factors included to compute the average. If you include an insignificant factor, attach an explanation.

COMPLETING FORM FID-1 (FILING CHECKLIST)

Before you mail your return, a quick check will help you avoid common errors that may delay the processing of your return. Complete the following checklist.

- Are name(s) and address complete, correct and legible?
- Is the federal employer identification number legible, accurate and entered where indicated on the form?
- Are all forms W-2, 1099, W-K, or New Mexico Form RPD-41285 attached, if New Mexico tax was withheld?
- Is distribution schedule on page 2 of the FID-1 form complete?
- If required, is Form FID-B included?
- Is a copy of federal Form 1041 pages 1 and 2 attached?
- Is the return properly signed and dated?
- Is a contact telephone number and e-mail address included on the bottom of the form?
- Did you submit an original form and make a copy of ALL documents for your records?
- If tax is DUE, did you mail Form FID-PV and check or money order for the full amount to P O Box 25127, Santa Fe, NM 87504-5127? Are the federal employer identification number and "2010 FID-PV" written on your check or money order? Make your check or money order payable to New Mexico Taxation and Revenue Department.

IMPORTANT: File Returns on Approved State Forms. Always submit 2010 Fiduciary Income Tax Returns on official state forms provided by or approved by the Department. Never submit a photocopy of an official state form. This will cause delays in processing your return.

WHERE TO FILE.

Mail the completed FID-1 Form, attachments and payment (if any) to:

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

INSTRUCTIONS FOR FID-ES

ESTIMATED FIDUCIARY INCOME TAX PAYMENT VOUCHER

WHO MUST MAKE ESTIMATED PAYMENTS?

Certain trusts and estates who are required to file a New Mexico fiduciary income tax return under the Income Tax Act are required to pay estimated income tax through either withholding or estimated tax payments. **A penalty is imposed for underpayment or nonpayment of estimated tax.**

Exception: Any trust subject to the tax imposed by Section 511 of the Internal Revenue Code or that is a private foundation **IS NOT** required to make estimated payments. With respect to any tax year ending before the date two years after the date of the decedent's death, **NO** estimated payments are required of the estate of the decedent or of any trust all of which was treated under Subpart E of Part I of Subchapter J of Chapter 1 of the Internal Revenue Code as owned by the decedent and to which the residue of the decedent's estate will pass under the decedent's will.

No penalty for underpayment of estimated income tax is due if:

- you are a first-year resident trust or estate;
- your tax for the current year less any amounts withheld is less than \$500;
- the tax liability for the tax year is less than \$500, or
- you are a full-year New Mexico resident trust or estate whose previous tax year was a tax year of 12 months, and you owed zero tax for the preceding tax year.

The amount of New Mexico income tax deducted and withheld by an employer is a payment of estimated tax. An equal amount of the tax withheld shall be considered as paid on each installment due date unless the taxpayer established the dates on which all amounts were actually withheld. This provision may be applied separately to wage and pension withholding and any other amounts withheld under the Withholding Tax Act.

HOW MUCH ESTIMATED TAX SHOULD BE PAID?

To calculate how much estimated tax should be paid, you must first determine the "**required annual payment**" or the total amount of estimated tax to be paid during the tax year. Once you have determined the required annual payment, then determine the amount and timing for each estimated installment tax payment.

What is the required annual payment? The required annual payment is the lesser of:

1. 90% of the tax shown on the current year return (or the tax for the year, if no return is filed), or
2. 100% of the tax shown on the prior year return, provided

a return was filed and the prior year was a full 12-month year.

WHAT IS THE AMOUNT OF THE ESTIMATED INSTALLMENT PAYMENTS AND WHEN ARE THEY DUE?

Generally, four equal installments of the "required annual payment" are due on or before the 15th day of the fourth, sixth, and ninth months of the tax year and the first month following the tax year. For calendar-year taxpayers those dates are:

April 15	June 15
September 15	January 15

If any due date for making an estimated payment falls on a Saturday, Sunday, state or national legal holiday, the estimated payment is filed timely if the postmark bears the date of the next business day. Delivery through a private delivery service is considered timely if the date recorded or marked by the private delivery service is on or before the required mailing date.

SPECIAL RULES APPLY TO CERTAIN TRUSTS OR ESTATES.

There are exceptions to the general rules for determining the timing and amount of each estimated installment payment and for determining receipt of estimated payments. Each exception is described below under *Alternative Methods* for calculation of estimated income tax. Trusts and estates electing to calculate the underpayment penalty using one of these alternative methods must complete question E at the top page 1, FID-1. You need to complete this line *only* if you have elected to use an alternative method for computing estimated tax due. Also see the instructions for completing question E.

ALTERNATIVE METHODS for calculation of estimated income tax.

Annualized income. Trusts and estates with seasonal income can use a modified annualization method to determine the amount and timing of their estimated payments. If a taxpayer does not have annualized income based on actual income received through March 31 sufficient to cause a required payment, then no payment is required. The test dates for subsequent payments are May 31, August 31 and December 31. Based on actual income received, if an estate or trust is not required to make a payment for a specific period, the trust or estate may have to make up later in the year for not paying the earlier installment.

Farm and Ranch income. The law provides a special

rule, identical to the federal rule, for a trust or estate when at least two-thirds of GROSS income is from farming or ranching in the prior year. A trust or estate that meets the gross income test may:

- make one estimated payment in the amount of the "required annual payment" on or before January 15 of the year following the tax year of the return, or
- file and pay in full on or before March 1 of the year following the tax year of the return.

Trusts or estates who wish to compute estimated installment payments based on the actual dates on which all amounts of withholding tax were withheld for the applicable tax year. The New Mexico income tax deducted and withheld by an employer is a payment of estimated tax. An equal amount of the tax withheld shall be considered as paid on each installment due date unless the taxpayer establishes the date on which all amounts were actually withheld. This provision may be applied separately to wage and pension withholding and other amounts withheld under the Withholding Tax Act.

HOW DO I CALCULATE PENALTY FOR UNDERPAYMENT OR NONPAYMENT OF ESTIMATED TAX?

Once you have determined the timing and amount of each estimated installment payment, calculate your underpayment. Underpayment or nonpayment of estimated tax is subject to penalty on the difference between the estimated tax payment made and the amount of estimated tax computed to be due. Penalty accumulates from the due date of the estimated tax payment until the earlier of:

1. the date the payment is made, or
2. the 15th day of the fourth month following the close of the tax year.

New Mexico calculates penalty on underpayment of estimated tax at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC)*, computed on a daily basis. The penalty is the daily interest rate for the quarter of the unpaid estimated payment due for each day the payment is late. For each quarter during the 2010 tax year, the annual rate was 4% and the daily rate was 0.010958904%. The formula for calculating daily penalty is:

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

*Beginning January 1, 2008, interest is computed on a daily basis, at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC). Prior to that date, interest accrued at the statutory rate of 15% per year, computed on a daily basis.

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 web site at www.tax.newmexico.gov.

No penalty will be imposed on the fourth estimated payment if the taxpayer files a return and pays the full amount due on or before January 31 following the close of the tax year.

If the balance due is \$500 or more, the Department first determines if the required annual payment was made. If it was, no penalty is assessed. If it was not, the Department will calculate the underpayment penalty and issue an assessment. The amount of the assessment can be protested and additional information provided if you believe the assessment is in error.

COMPLETING THE FID-ES FORM.

Please type or print all entries in blue or black ink. Do not use pencil. Enter the tax year end for which you are making the estimated payment, e.g. 12/31/2010. Please mark the appropriate box for the period to which the estimated payment applies. If the trust or estate is a fiscal-year filer, mark the box for the appropriate comparable period. For example, if the trust has a September 30 year end, the first estimated payment is due on the fifteenth day of the fourth month or January 15. The comparable payment date for a calendar-year trust or estate is 1st quarter, April 15. Mark that box. Enter the identifying information for the trust or estate where indicated. Enter the amount of payment remitted with the FID-ES Form.

Do not cut or resize the bottom portion of the payment voucher in any way. When printing the document from the Internet, the printer setting "Page Scaling" should be set to 'none' to prevent resizing.

WHERE TO FILE.

Mail the completed FID-ES Form with your check or money order to:

**Taxation and Revenue Department
Attn: 2010 FID-ES
P.O. Box 25127
Santa Fe, NM 87504-5127.**

Please write the federal identification number of the trust or estate and "2010 FID-ES" on the check or money order made payable to New Mexico Taxation and Revenue Department. Please do not mail cash. Please DO NOT combine a payment of estimated tax with any other payment.

New Mexico Taxpayer Bill of Rights

Most tax transactions happen without incident. In an imperfect world, however, occasional disagreements occur through misunderstanding, mathematical error, missed deadlines, misplaced papers, high volume of transactions and many other situations. Over the years the Legislature and the Department have established ways to handle difficulties according to the provisions of the state tax code. Following are some of your rights. Should you wish to consult the law itself, you will find it in Sections 7-1-4.1 through 4.3 NMSA 1978:

- The right to available public information and prompt and courteous tax assistance;
- The right to representation and advice by counsel or other qualified representatives at any time during your interactions with us according to provisions of Section 7-1-24 NMSA 1978;
- The right to have audits, inspections of records and meetings conducted at a reasonable time and place according to Sec. 7-1-11 NMSA 1978;
- The right to simple, nontechnical information explaining procedures, remedies and rights during audit, protest and collection proceedings under the Tax Administration Act;
- The right to receive an explanation of audit results and the basis for audits, assessments or denials of refunds that identify tax, interest or penalty due;
- The right to seek review through formal or informal proceedings of findings or unfavorable decisions arising from determinations during audit or protest procedures according to Sec. 7-1-24 NMSA 1978;
- The right to have your tax information kept confidential unless otherwise specified by law in Sec. 7-1-8 NMSA 1978;
- The right to an abatement of an assessment of taxes incorrectly, erroneously or illegally made (Sec. 7-1-28 NMSA 1978) and a right to seek a compromise of an asserted tax liability. When the Secretary of Taxation and Revenue in good faith doubts that you owe us what we claim you owe, you also have the right to seek a compromise if one exists in your particular case (Sec. 7-1-20 NMSA 1978);
- The right to clear information of the consequences if a tax assessment is not paid, secured, protested or otherwise provided for according to Sec. 7-1-16 NMSA 1978. If you become a delinquent taxpayer, upon notice of delinquency you have the right to timely notice of collection actions that require sale or seizure of your property under the Tax Administration Act, and
- The right to pay your tax obligations by installment payment agreements according to the provisions of Sec. 7-1-21 NMSA 1978).

Confidentiality Provisions:

Statutes regulating the confidentiality of your taxes

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

Audit Provisions:

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

Administrative Hearing Procedures:

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

Credit Claims:

The department has 180 days from the filing date to approve or deny a statutory tax credit. If it does not act, the credit is approved. The Secretary decides whether a refund of tax due you may be offset against your other tax liabilities, and you will receive notice that the refund will be made accordingly. You are entitled to interest until the tax liability is credited with the refund amount. Please see the paragraph above on "Audit Provisions" for interest due you if the department does not offset a refund or credit against your other tax liabilities within the prescribed time. The department may make a direct refund of overpaid taxes to the taxpayer without requiring the taxpayer to file a refund claim. The department does not have to pay interest on credits or refunds if it applies the amount to a tax interception program, to an estimated payment, or to offset prior liabilities of the taxpayer.

Awarding of Costs and Fees:

If you prevail in an administrative or court proceeding brought by you or against you after July 1, 2003, under the Tax Administration Act, you will receive a judgment or a settlement for reasonable administrative costs connected to the action.

Penalty:

The department may not assess penalty against you if you fail to pay tax when due because of a mistake of law made in good faith and on reasonable grounds. If the Secretary determines that it is unfair to hold a spouse or former spouse liable for payment of unpaid taxes, the Secretary may decline to take action against the spouse or former spouse of the person who actually owes the tax. In extreme cases of delinquency under Sec. 7-1-53 the department may enjoin a taxpayer from continuing in business after a hearing and until the delinquency is cleared.