

This is an amendment to 3.1.4 NMAC, Section 18 Section 19, effective 5/24/2022.

3.1.4.18 ELECTRONIC FILING:

- ~~A.~~ This regulation is adopted pursuant to the secretary's authority in Section 9-11-6.4 NMSA 1978.
- ~~B.~~ For returns due after August 1, 2010, the returns and reports for the following taxes must be filed electronically using approved electronic media on or before the due date of the return or report:
 - ~~(1)~~ taxes due under the Gross Receipts and Compensating Tax Act, local options gross receipts tax acts, Leased Vehicle Gross Receipts Tax Act, and Interstate Telecommunication Gross Receipts Tax Act and taxes due under the Withholding Tax Act which are due at the same time as gross receipts tax, if the taxpayer's average monthly tax payment for this group of taxes during the preceding calendar year equaled or exceeded twenty thousand dollars (\$20,000); and
 - ~~(2)~~ weight distance tax if the taxpayer must pay taxes for two or more trucks.
- ~~C.~~ For returns due after January 1, 2011, the returns for taxes due under the Gross Receipts and Compensating Tax Act, local options gross receipts tax acts, Leased Vehicle Gross Receipts Tax Act, and Interstate Telecommunication Gross Receipts Tax Act and taxes due under the Withholding Tax Act which are due at the same time as gross receipts tax, if the taxpayer's average monthly tax payment for this group of taxes during the preceding calendar year equaled or exceeded ten thousand dollars (\$10,000) must be filed electronically on or before the due date of the return.
- ~~D.~~ For returns due after July 1, 2011, the returns for taxes due under the Gross Receipts and Compensating Tax Act, local options gross receipts tax acts, Leased Vehicle Gross Receipts Tax Act, and Interstate Telecommunication Gross Receipts Tax Act and taxes due under the Withholding Tax Act which are due at the same time as gross receipts tax, if the taxpayer's average monthly tax liability for this group of taxes during the preceding calendar year equaled or exceeded one thousand dollars (\$1,000), must be filed electronically on or before the due date of the return.
- ~~E.~~ Confirmation of electronic filing of a return must accompany payment of taxes by taxpayer. If taxpayer does not have confirmation of electronic filing when the taxpayer submits payment to the department, taxpayer must ensure that taxpayer's tax identification number is on the payment. Payments without confirmation of tax identification number may not be properly applied to the taxpayer's account and interest and penalty may be assessed.
- ~~F.~~ Once a taxpayer is required to file returns electronically pursuant to this regulation, the taxpayer may not file future returns by mail or any method other than electronically.
- ~~G.~~ For the purposes of this section, "average monthly tax payment" means the total amount of taxes paid with respect to a group of taxes under Paragraph (1) of Subsection B, Subsection C or Subsection D of this section during a calendar year divided by the number of months in that calendar year containing a due date on which the taxpayer was required to pay one or more taxes in the group.
- ~~H.~~ A taxpayer may request an exception to the requirement of electronic filing. The request must be in writing, addressed to the secretary of the taxation and revenue department and must be received by the department at least 30 days before the taxpayer's electronic return is due. Exceptions will be granted in writing and only upon a showing of hardship including that there is no reasonable access to the internet in taxpayer's community. The taxpayer must also show a good faith effort to comply with the electronic filing requirements before an exception will be considered. The request for an exception must include the tax or tax return to which the exception if granted will apply; a clear statement of the reasons for the exception; and the signature of the taxpayer.
- ~~I.~~ A taxpayer may be granted a waiver to the requirement of electronic filing for a single tax return. The request for a waiver must be in writing and received by the department on or before the date that the tax return is due and must include the tax or tax return to which the waiver if granted will apply, a clear statement of the reasons for the waiver, and the signature of the taxpayer. A waiver may be granted for the following reasons:
 - ~~(1)~~ if the taxpayer is temporarily disabled because of injury or prolonged illness and the taxpayer can show that the taxpayer is unable to procure the services of a person to complete the taxpayer's return and file it electronically;
 - ~~(2)~~ if the conduct of the taxpayer's business has been substantially impaired due to the disability of a principal officer of the taxpayer, physical damage to the taxpayer's business or other similar impairments to the conduct of the taxpayer's business causing the taxpayer an inability to electronically file; or
 - ~~(3)~~ if the taxpayer's accountant or other agent or employee who routinely electronically files

~~for taxpayer has suddenly died or has become disabled and unable to perform services for the taxpayer and the taxpayer can show that the taxpayer is unable either to electronically file the return or to procure the services of a person to electronically file the return before the due date.~~

~~J. If a taxpayer is granted an exception or waiver, the taxpayer must file a paper return in a timely fashion unless an extension pursuant to 3.1.4.12 NMAC has been granted. If a paper return is not timely filed, interest will be due even if an extension is granted.]~~

~~A. This regulation is adopted pursuant to the secretary's authority in Section 9-11-6.4 NMSA 1978.~~

~~B. The secretary or secretary delegate will publish on the department's public website a full list of all tax programs that have an electronic filing or payment mandate. This website will also include information on how to obtain an electronic filing or payment exception or waiver.~~

~~C. Once a taxpayer is required to file returns or make payments electronically pursuant to this regulation, the taxpayer may not file future returns or make future payments by mail or any method other than electronically unless they receive an exception or waiver. An exception or a waiver may be granted if the taxpayer has shown a good faith attempt to comply with the electronic filing and payment requirements but is unable to do so due to a reason listed in Subsections D or E below. If a taxpayer is granted an exception or, the taxpayer must file a paper return and make a payment by the due date unless an extension pursuant to 3.1.4.12 NMAC has been granted. If a return is not filed and a payment is not made timely, interest will be due, and penalty may be due.~~

~~D. A taxpayer may request in writing an exception to the requirement of electronic filing or making electronic payments for a year at a time. The request must be on the form prescribed by the department and must be received by the department at least 30 days before the taxpayer's electronic return or payment is due. An exception may be granted for the following reasons:~~

~~(1) if the taxpayer shows a hardship including but not limited to no reasonable access to internet in the taxpayer's community;~~

~~(2) if the taxpayer does not have reasonable access to a computer or technology required to electronically file;~~

~~(3) if the taxpayer does not have the knowledge or expertise to file a return electronically; or~~

~~(4) if the taxpayer is unable to utilize technology or the internet for religious reasons.~~

~~E. A taxpayer may request in writing a waiver to the requirement of electronic filing for a single tax return or for a single payment. The request for a waiver must be on a form prescribed by the department and received by the department on or before the date that the tax return is due. A waiver may be granted for the following reasons:~~

~~(1) if the taxpayer is temporarily disabled because of injury or prolonged illness and the taxpayer can show that the taxpayer is unable to procure the services of a person to complete and file the taxpayer's return electronically or make the necessary payment electronically.~~

~~(2) if the conduct of the taxpayer's business has been substantially impaired due to the disability of a principal officer of the taxpayer, physical damage to the taxpayer's business or other similar impairments to the conduct of the taxpayer's business causing the taxpayer an inability to electronically file or pay;~~

~~(3) if the taxpayer's accountant, agent, or employee who routinely electronically files for taxpayer has suddenly died, has become disabled, or sick and is unable to perform services for the taxpayer and the taxpayer can show that the taxpayer is unable either to electronically file the return, electronically pay the tax due or to procure the services of a person to electronically file the return or make the electronic payment before the due date; or~~

~~(4) if the taxpayer's accountant, agent, or employee who routinely electronically files for taxpayer is no longer employed with the taxpayer and the taxpayer has been unable to gain access to their method of electronically filing and making payment of tax due in time to file electronically before the due date.~~

~~[3.1.4.18 NMAC - Rp, 3.1.4.18 NMAC, 7/7/2021, A; 5/24/2022]~~

3.1.4.19 [ELECTRONIC FILING OF INFORMATION RETURNS AND REPORTS:

~~A. Annual income and withholding information returns, federal Form 1099-MISC, *pro forma* 1099-MISC or successor forms must be filed with the department using a department approved electronic medium if a pass-through entity has more than 50 New Mexico payees in a tax year, unless the pass-through entity obtains an exception pursuant to Subsection C of 3.1.4.19 NMAC.~~

~~B. The annual income and withholding detail report of pass-through entity allocable net income must be filed using a department approved electronic medium if the pass-through entity has more than fifty New Mexico payees in a tax year, unless the pass-through entity obtains an exception pursuant to Subsection C of 3.1.4.19 NMAC.~~

~~_____ C. _____ A taxpayer may request an exception to the requirement of electronic filing. The request must be in writing, addressed to the secretary of the taxation and revenue department and must be received by the department at least 30 days before the taxpayer's electronic information return or report is due. Exceptions will be granted in writing and only upon a showing of hardship including that there is no reasonable access to the internet in taxpayer's community. The taxpayer must also show a good faith effort to comply with the electronic filing requirements before an exception will be considered. The request for an exception must include the information return or report to which the exception if granted will apply; a clear statement of the reasons for the exception; and the signature of the taxpayer.~~

~~_____ D. _____ If a pass through entity is required by regulation or statute to file information returns or reports electronically, the information return or report shall not be considered filed until filed electronically if filed by any means other than as specified in that regulation or statute.] **[RESERVED]**~~

~~[3.1.4.19 NMAC - Rp, 3.1.4.19 NMAC, 7/7/2021; Repealed, 5/24/2022]~~