

**TITLE 3: TAXATION**  
**CHAPTER 5: UNIFORM DIVISION OF INCOME FOR TAX PURPOSES**  
**PART 10: APPORTIONMENT OF BUSINESS INCOME**

**3.5.10.1 ISSUING AGENCY:** Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630  
[1/15/1997; 3.5.10.1 NMAC - Rn, 3 NMAC 5.10.1, 6/29/2001]

**3.5.10.2 SCOPE:** This part applies to every taxpayer having income which is taxable for income tax purposes both within and without New Mexico.  
[1/15/1997; 3.5.10.2 NMAC - Rn, 3 NMAC 5.10.2, 6/29/2001]

**3.5.10.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
[1/15/1997; 3.5.10.3 NMAC - Rn, 3 NMAC 5.10.3, 6/29/2001]

**3.5.10.4 DURATION:** Permanent.  
[1/15/1997; 3.5.10.4 NMAC - Rn, 3 NMAC 5.10.4, 6/29/2001]

**3.5.10.5 EFFECTIVE DATE:** January 15, 1997, unless a later date is cited at the end of a section, in which case the later date is the effective date.  
[1/15/1997; 3.5.10.5 NMAC - Rn & A, 3 NMAC 5.10.5, 6/29/2001]

**3.5.10.6 OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Uniform Division of Income for Tax Purposes Act.  
[1/15/1997; 3.5.10.6 NMAC - Rn, 3 NMAC 5.10.6, 6/29/2001]

**3.5.10.7 DEFINITIONS: [RESERVED]**  
[1/15/1997; 3.5.10.7 NMAC - Rn, 3 NMAC 5.10.7, 6/29/2001]

**3.5.10.8 [RESERVED]**  
[1/15/1974, 9/15/1988, 9/20/1993, 1/15/1997, 10/29/199999; 3.5.10.8 NMAC - Rn & A, 3 NMAC 5.10.8, 6/29/2001; Repealed, 3/23/2021]

**3.5.10.9 APPORTIONMENT OF BUSINESS INCOME:** "Business income" is defined in Section 7-4-2 NMSA 1978 and Part 3.5.1 NMAC. The business income to be apportioned is net business income after taking into account only those expenses and deductions which are allowable under the United States Internal Revenue Code of 1986, as amended, which are related to the production of business income. Expenses and deductions attributable to nonbusiness income may not be taken into account in arriving at net business income to be apportioned.  
[1/15/74, 9/15/88, 9/20/93, 1/15/1997; 3.5.10.9 NMAC - Rn & A, 3 NMAC 5.10.9, 6/29/2001]

**HISTORY OF 3.5.10 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: BOR 71-1, (Income Tax Regulation 10-1) Attachment of Federal Schedule C to New Mexico Income Tax Return, filed 1/5/1971.

BOR 72-1, Regulation for Income Tax Act Section 72-15A-10 NMSA 1953, filed 1/12/1972.

BOR 72-2, (Income Tax Reg. 10-2) Filing of New Mexico Partnership Returns, filed 1/18/1972.

R.D.I.T. Regulation 12:2, Regulation Pertaining to Requirement for the Acceptance of Computer Generated Form PIT-1 and Related Schedules Income Tax Act, Section 7-2-12 NMSA 1978, filed 4/2/84.

I.T. Regulation 12:4, Regulation Pertaining to Requirement for the Acceptance of Computer Generated Form PIT-1 and Related Schedules Income Tax Act, Section 7-2-12 NMSA 1978, filed 9/4/1987.

R.D.-I.T. Regulation 12:3, Regulation Pertaining to Requirement for the Preparation of Acceptable Reproductions of New Mexico Income Tax Forms Income Tax Act Section 7-2-12 NMSA 1978, filed 4/18/1984.

BOR 74-1, Regulations in Effect and Pertaining to the New Mexico Income Tax Act and the New Mexico Uniform Division of Income for Tax Purposes Act, filed 1/15/1974.

TRD Rule 4-88, Regulations Pertaining to the Uniform Division of Income for Tax Purposes Act Sections 7-4-1 to 7-4-21 NMSA 1978, filed 9/16/1988.

TRD Rule UDI-93, Regulations Pertaining to the Uniform Division of Income for Tax Purposes Act, Sections 7-4-1 through 7-4-21 NMSA 1978, filed 9/20/1993.

**History of Repealed Material:** [RESERVED]

**NMAC History:**

3 NMAC 5.10, Apportionment of Business Income, filed 12/31/1996.

3.5.10 NMAC, Apportionment of Business Income, filed 6/18/2001.