

**TITLE 3: TAXATION**  
**CHAPTER 3: PERSONAL INCOME TAXES**  
**PART 12: TAXPAYER RETURNS; PAYMENT OF TAX**

**3.3.12.1 ISSUING AGENCY:** Taxation and Revenue Department, Joseph M. Montoya Building, 1150 South St. Francis Drive, P.O. Box 630, Santa Fe NM 97504-0630  
[1/31/96; 3.3.12.1 NMAC - Rn, 3 NMAC 3.12.1, 12/14/00]

**3.3.12.2 SCOPE:** All persons filing or required to file a New Mexico income tax return and all tax return preparers and persons printing New Mexico income tax forms.  
[1/31/96; 3.3.12.2 NMAC - Rn, 3 NMAC 3.12.2, 12/14/00]

**3.3.12.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
[1/31/96; 3.3.12.3 NMAC - Rn, 3 NMAC 3.12.3, 12/14/00]

**3.3.12.4 DURATION:** Permanent.  
[1/31/96; 3.3.12.4 NMAC - Rn, 3 NMAC 3.12.4, 12/14/00]

**3.3.12.5 EFFECTIVE DATE:** 1/31/96, unless a later date is cited at the end of a section, in which case the later date is the effective date.  
[1/31/96; 3.3.12.5 NMAC - Rn & A, 3 NMAC 3.12.5, 12/14/00]

**3.3.12.6 OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Income Tax Act.  
[1/31/96; 3.3.12.6 NMAC - Rn, 3 NMAC 3.12.6, 12/14/00]

**3.3.12.7 DEFINITIONS:** [Reserved]  
[1/31/96; 3.3.12.7 NMAC - Rn, 3 NMAC 3.12.7, 12/14/00]

**3.3.12.8** [Reserved]  
[1/31/96; 3.3.12.8 NMAC - Rn, 3 NMAC 3.12.8, 12/14/00]

**3.3.12.9 REQUIREMENTS FOR THE PREPARATION OF ACCEPTABLE REPRODUCTIONS OF NEW MEXICO INCOME TAX FORMS**

A. The purpose of this regulation is to state the requirements for the acceptance of reproduced or privately printed New Mexico individual income tax return forms (i.e., PIT-1, PIT-B, PIT-CG, PIT-D, PIT-RC and other related schedules). Subject to the specifications and conditions enumerated in this regulation, the department will accept for filing reproduced or privately printed New Mexico individual income tax return forms.

B. Specifications.

(1) Reproduced or privately printed New Mexico individual income tax forms and related schedules shall be identical to the forms and schedules furnished by the department. The format must be exact; target marks and bar codes must be included. These conditions are critical because the department uses imaging technology for data capture which requires definition of placement for each data field, and uses target marks to make sure forms are properly aligned for imaging. If the form or schedule furnished by the department is printed on both sides of the paper, it is preferred that both sides of the paper be used in making reproductions. However, the department will not object if the form is not printed back-to-back, provided page 2 face-to-back of page 1 is printed so the form will be readable left to right without flipping top to bottom (head-to-head).

(2) All reproduced or privately printed tax forms must include space for the preparer's signature (other than taxpayer) and the preparer's taxation and revenue department identification number or social security number.

(3) Drop-out colors may not be possible when using some PC applications, or when using templates. Because drop-out colors do facilitate the data capture process, increasing both speed and accuracy, the department strongly recommends, but does not require their use in reproduced or privately printed forms. Vendors wishing to include a drop-out color should contact the department for color specifications.

(4) Reproduced or privately printed tax forms, except for Form PIT-P, must be on 8-1/2" by 11" good quality standard stock machine stationery not less than 0.0030 inch thick (20 lb. paper). All printing shall be black ink on white paper. Form PIT-P must meet these same standards except that the size of the form is 8-1/2" by 3-3/4".

(5) Reproduced or privately printed tax forms shall have a high standard of legibility. The department will reject any substitutes which are not legible for microfilm purposes.

C. Conditions and other requirements.

(1) Reproductions which do not meet the requirements of the department may not be filed in lieu of the official forms and schedules. Supporting statements shall provide detail and explain entries, shall furnish all required information in the same sequence as called for on the official forms or schedules, and shall be attached to the form or schedule in the same order as the entries appear on the official forms or schedule. Supporting statements shall conform to the size of the form or schedule to which they apply. The totals on all supporting statements shall also be entered on the appropriate official form or schedule.

(2) The department ordinarily does not undertake to approve or disapprove the specific equipment or process used in reproducing official forms, but requires only that the reproduced forms and schedules satisfy the conditions stated in this regulation.

(3) Taxpayer(s) and preparer signature(s) on forms to be filed with the department must be original signatures. Only the tax practitioner's firm name and taxation and revenue department identification number or social security number can be a facsimile (stamp), or preprinted.

(4) Reproduction of forms and schedules meeting the above conditions may be used without prior approval of the department. However, if specific approval of a reproduction of any such form or schedule is desired or if the use of a reproduction of any form or schedule not listed herein or otherwise specifically authorized is desired, forward a sample of the proposed reproduction by letter to the department.

(5) Internal control numbers and identifying symbols may be shown on the reproduced or privately printed forms if the use of such numbers or symbols is acceptable to the taxpayer or his representative. If shown, such information may be printed only in the margin at the top of the form and must not interfere with any of the format on the form.

D. This regulation is applicable to taxable years beginning on or after January 1, 1995.  
[4/18/84, 12/29/89, 3/16/92, 1/31/96; 3.3.12.9 NMAC - Rn & A, 3 NMAC 3.12.9, 12/14/00]

### **3.3.12.10 REQUIREMENTS FOR THE ACCEPTANCE OF COMPUTER-GENERATED INCOME TAX FORMS AND RELATED SCHEDULES**

A. The purpose of this regulation is to state the requirements for the acceptance of computer-generated New Mexico individual income tax return forms (i.e., PIT-1, PIT-B, PIT-CG, PIT-D, PIT-RC and other related schedules). Subject to the specifications and conditions enumerated in this regulation, the department will accept for filing computer-prepared New Mexico individual income tax return forms.

B. Specifications.

(1) Margins on computer generated forms shall be consistent with margins on forms furnished by the department. A full scale definition may be obtained from the department.

(2) All computer generated tax forms must include space for the preparer's signature (other than taxpayer) and the preparer's taxation and revenue department identification or social security number.

(3) Drop-out colors are not required on computer-generated forms. Persons wishing to include a drop-out color should contact the department for color specifications.

(4) Computer-generated tax forms must be on 8 1/2" by 11" good quality standard stock machine stationery not less than 0.0030 inch thick (20 lb. paper). The image size of printed material shall be as close as possible to that of the official form.

(5) The format must be exact; target marks and bar codes must be included. These conditions are critical because the department uses imaging technology for data capture which requires definition of placement for each data field, and uses target marks to make sure forms are properly aligned for imaging.

(6) Line instructions may be omitted, but all line numbers and items shall be printed even though the amount entered may be zero.

(7) All computer-generated forms shall be printed back-to-back or page 2 face-to-back of page 1 so the form will be readable left to right without flipping top to bottom (head-to-head).

(8) Computer-generated forms shall have a high standard of legibility. The department will reject any substitutes which are not legible for microfilm purposes.

(9) An asterisk (\*) or other accepted symbol shall appear on the computer-generated form to designate those lines which are identified on the official form through the use of a solid triangle.

(10) The computer generated form must provide the necessary number of "For Department Use Only" squares on the right margin. The specific number of "For Department Use Only" boxes, and their placement, for any taxable year may be obtained by contacting the department.

C. Conditions and additional requirements.

(1) All formats must receive prior approval from the secretary or the secretary's delegate.

(2) Internal control numbers and identifying symbols of the computer form preparer may be shown on the form if the use of such numbers or symbols is acceptable to the taxpayer or the taxpayer's representative. If shown, such information may be printed only in the margin at the top of the form and must not interfere with any of the format on the form.

(3) Negative line entries must be properly identified by indicating negative amounts in parentheses or brackets, i.e., "( )" or "[ ]".

(4) Taxpayer(s)' and preparer signature(s) on forms to be filed with the department must be original signatures. Only the tax practitioner's firm name and taxation and revenue department identification number or social security number can be a facsimile (stamp) or preprinted.

D. This regulation is applicable to taxable years beginning on or after January 1, 1995.  
[9/4/87, 12/29/89, 3/16/92, 1/31/96; 3.3.12.10 NMAC - Rn, 3 NMAC 3.12.10, 12/14/00]

**3.3.12.11 FILING OF TENTATIVE INCOME TAX RETURNS NOT ALLOWED:** The filing of a "tentative" return is not allowed by taxpayers filing New Mexico income tax returns within the meaning of Section 7-2-12 NMSA 1978. Taxpayers wishing to make a prepayment of their tentative or estimated tax liability prior to the due date of the return should use a prepayment form PIT-P. The instructions on the form PIT-P should be followed carefully to ensure that any prepayment is applied to the correct taxable year. This regulation is applicable to taxable years beginning on or after January 1, 1995.

[3/16/92, 6/24/93, 1/31/96; 3.3.12.11 NMAC - Rn & A, 3 NMAC 3.12.11, 12/14/00]

**3.3.12.12 FILING STATUS; TAXPAYER NAME**

A. A taxpayer filing a New Mexico income tax return shall use the same filing status for New Mexico purposes as for federal purposes for the taxable year. Spouses using the status "married filing jointly" for federal purposes must use the same status for New Mexico purposes; those using the status "married filing separately" for federal purposes must do likewise for New Mexico.

B. Spouses who report income to the federal government for income tax purposes using different last names, whether they report jointly or separately, must report their income to New Mexico using the same names as used on the federal return. Spouses who report to the United States under one surname must also report to New Mexico under the same surname.

[7/20/90, 3/16/92, 1/15/97; 3.3.12.12 NMAC - Rn, 3 NMAC 3.12.12, 12/14/00]

**3.3.12.13 ELECTRONICALLY FILED RETURNS:** A taxpayer, a taxpayer's representative or a tax return preparer may file the personal income tax return and associated schedules in an electronic format that meets all criteria for filing through an electronic media as set forth by the department. Returns filed through an electronic media must use computer programming determined by the department to be compatible with the computer programming and equipment used by the department for processing income tax returns. The returns must be submitted in an approved format using a computer language designated by the department. The product used to generate the electronic return must receive prior approval from the department for the method of filing.

[7/20/90, 3/16/92, 1/15/97; 3.3.12.13 NMAC - Rn & A, 3 NMAC 3.12.13, 12/14/00; A, 1/31/08]

**3.3.12.14** [Reserved]

[8/30/95, 1/15/97, 12/15/98, 7/30/99; 3.3.12.14 NMAC - Rn & A, 3 NMAC 3.12.14, 12/14/00, A, 10/31/05; Repealed, 12/30/10]

**3.3.12.15 WHEN WITHHELD TAX NOT CONSIDERED ESTIMATED TAX:** Payment pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act by an oil and gas proceeds remitter or a pass-through entity of withholding tax required to be withheld from payments to a remittee or an owner relate to the remittee's or owner's income tax or corporate income tax liability, not to the remitter's or pass-through entity's. Accordingly, when a remitter or pass-through entity is a person subject to personal income tax and has an obligation to pay estimated tax pursuant to Section 7-2-12.2 NMSA 1978, the person may not credit the amounts it withheld under Section 7-3A-3 NMSA 1978 from payments the person owes to remittees or owners against the person's own

estimated tax liability. See 3.3.5.17 NMAC for treatment of withholding owed by remitter or pass-through entity but paid by remittee or owner pursuant to an agreement.  
[3.3.12.15 NMAC - N, 12/15/10]

### **HISTORY OF 3.3.12 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 1/5/71.

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

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

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 1/15/74.

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 9/16/88.

BOR 77-2, Solar Heating and Cooling Tax Credit Regulations, filed 8/8/77.

R.D. 78-2, Solar Heating and Cooling Tax Credit Regulations, filed 11/9/78.

Rule No. 7-2-16, Regulations Pertaining to the Income Tax Act (Solar Heating and Cooling Tax Credit), 7-2-16 NMSA 1978, filed 2/18/80.

R.D. Statute 7-2-16, Regulations Pertaining to the Income Tax Act (Solar and Wind Energy Tax Credit), 7-2-16 NMSA 1978, filed 2/23/82.

R.D. Statute 7-2-16, Regulations Pertaining to the Solar or Wind Energy Tax Credit under the Income Tax Act, 7-2-16 NMSA 1978, Laws of 1983, Chapter 213, filed 5/18/84.

R.D.I.T. Reg. 7(b), Tax Tables - Regulations Pertaining to the Income Tax Act, Section 7-2-7.1 NMSA 1978, filed 12/11/81.

R.D.I.T. Regulation 2.1, Modified Gross Income Definitions Regulation Pertaining to the Income Tax Act, Section 7-2-2 (Q) NMSA 1978, filed 1/18/82.

R.D.I.T. Regulation 20:1, Information Returns: Royalties - Regulations Pertaining to the Income Tax Act, Section 7-2-20 NMSA 1978, filed 2/4/82.

R.D.I.T. Regulation 20:1, Regulations Pertaining to the Information Returns: Rents and Royalties Income Tax Act, Section 7-2-20 NMSA 1978, filed 1/25/83.

R.D. Statute 7-2B-1, Regulations Pertaining to the Income Tax Act (Solar Capital Investments Credit), Section 7-2B-1 NMSA 1978, filed 2/23/82.

R.D.I.T. Regulation 12:1, Regulation Pertaining to Reporting Methods for the Income Tax Act, Laws 1971, Chapter 20, Section 3, Section 7-2-12 NMSA 1978, filed 6/10/82.

R.D.I.T. Regulation 5.2:1, Exemption Apportionment Regulation Pertaining to the Income Tax Act, Section 7-2-5.2 NMSA 1978, filed 6/22/82.

I.T. Regulation 5.2:2, Regulation Pertaining to Apportionment Income Tax Act, Section 7-2-5.2 NMSA 1978, filed 3/3/89.

R.D. Statute 7-2-17, Regulation Pertaining to the Income Tax Act (Credit for Solar Irrigation; Refund), Section 7-2-17 NMSA 1978, filed 5/2/83.

R.D. Statute 7-2-17, Regulation Pertaining to the Income Tax Act Credit for Solar Irrigation; Refund, Section 7-2-17 NMSA 1978, Laws of 1983, Chapter 17, Section 1, filed 5/18/84.

R.D.I.T. Regulation 18.1:1, Regulation Pertaining to Definition of "Dependent" for Purposes of the Child Care Credit Income Tax Act, Section 7-2-18.1(5) NMSA 1978, filed 11/10/83.

R.D.I.T. Regulation 7(D) & (E), Proration for Fiscal Year Taxpayer - Regulation Pertaining to the Income Tax Act, Section 7-2-7(D) & (E) NMSA 1978, filed 1/6/84.

R.D.I.T., Regulation Pertaining to the Computation for Non-Resident Taxpayers Who Have New Mexico Royalty Income Under the Income Tax Act, Section 7-2-11(E) NMSA 1978, filed 2/15/84.

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 9/4/87.

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 4/18/84.

R.D. - I.T. Regulations 18.2:1, 2, 3, 4, Regulation Pertaining to Income Tax Act, Section 7-2-18.2 NMSA 1978, filed 5/17/85.

R.D. - I.T. Regulation 2(L), Regulation Pertaining to Income Tax Act, Section 7-2- NMSA 1978, filed 10/23/85.  
R.D.I.T. Regulation 7.1:1 & 2, Regulation Pertaining to the Income Tax Act, filed 3/31/86.  
I.T. Regulation 11:3/4, Regulations Pertaining to Income Allocation Apportionment Income Tax Act, Section 7-2-11 NMSA 1978, filed 2/28/89.  
I.T. Regulation 5.4:1, Regulations Pertaining to Exemption Apportionment Income Tax Act, Section 7-2-5.4 NMSA 1978, filed 3/3/89.  
I.T. Regulation 2(N):2, Regulation Pertaining to Income From United States Obligations Income Tax, Section 7-2-11 NMSA 1978, filed 5/25/89.  
TRD - I.T. Regulation 18.1:2/3, Regulation Pertaining to the Income Tax Act, Section 7-2-18.1 NMSA 1978, filed 10/24/89.  
TRD Rule 2-89, Regulations Pertaining to the Income Tax Act, Sections 7-2-1 to 7-2-30 NMSA 1978, filed 12/29/89.  
TRD Rule IT-91, Regulations Pertaining to the Income Tax Act, Sections 7-2-1 to 7-2-30 NMSA 1978, filed 3/16/92.

History of Repealed Material: [RESERVED]

#### NMAC History:

3 NMAC 3.12, Taxpayer Returns - Payment of Tax, filed 1-9-96.  
3.3.12 NMAC, Taxpayer Returns - Payment of Tax, filed 12/1/2000.