

This rule was filed as 3 NMAC 6.50.

**TITLE 3            TAXATION**  
**CHAPTER 6        PROPERTY TAXES**  
**PART 50           PROCEDURES FOR COUNTY TREASURERS**

**3.6.50.1           ISSUING AGENCY:** Department of Finance and Administration, Local Government Division.  
[7/15/98; Recompiled 10/01/01]

**3.6.50.2           SCOPE:** These rules and regulations shall apply to procedures to be followed by all county treasurers in the state of New Mexico.  
[12/31/74, 7/15/98; Recompiled 10/01/01]

**3.6.50.3           STATUTORY AUTHORITY:** The local government division of the department of finance and administration promulgates the procedures for county treasurers, pursuant to the authority of NMSA 1978 Sections 6-6-2, 6-6-3, 7-35-6, 7-35-7 through 7-37-8, 7-38-32 through 7-38-38.1, 7-38-41 through 7-38-43, 7-38-63, 7-38-65 through 7-38-69, 7-38-71, 7-38-73, 7-38-76 through 7-38-77.1 and 7-38-80.  
[7/15/98; Recompiled 10/01/01]

**3.6.50.4           DURATION:** Permanent.  
[12-31-74, 2-19-92, 7-15-98; Recompiled 10/01/01]

**3.6.50.5           EFFECTIVE DATE:** July 15, 1998, unless a different date is cited at the end of a section or paragraph.  
[7/15/98; Recompiled 10/01/01]  
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Different dates are now cited only at the end of sections, in the history notes appearing in brackets.]

**3.6.50.6           OBJECTIVE:** The objective of Title 3, Chapter 6, Part 50 NMAC is to establish uniform procedures by which county treasurers implement portions of the Property Tax Code and prepare financial reports. The rule also provides procedures for suspension of a county treasurer by the department of finance and administration.  
[7/15/98; Recompiled 10/01/01]

**3.6.50.7           DEFINITIONS:**

- A. "Assessor" means a county assessor as defined by Sections 4-39-1 through 4-39-7 [repealed] NMSA 1978, as amended.
- B. "Board of finance" means a county board of finance.
- C. "Delinquent" refers to any payment of taxes that is not paid within thirty days of the date on which they were due.
- D. "Department" means the department of finance and administration.
- E. "Forfeiture" funds means cash or property that is subject to forfeiture and is under the Controlled Substances Act, Sections 30-31-34 through Section 30-31-35 NMSA 1978.
- F. "Local government" means a local public body as defined in Section 6-6-1 NMSA 1978.
- G. "Local government division" means the local government division of the department of finance and administration.
- H. "Property tax division" means the property tax division of the taxation and revenue department.
- I. "Refund" is that portion of property taxes in controversy found to be in excess of the amount legally due.
- J. "Secretary" means the cabinet secretary of the department of finance and administration.
- K. "State delinquency list" means the tax delinquency list collected by the property tax division as defined in Section 7-38-62 NMSA 1978.

L. "Taxes on omitted property" refers to taxes on property subject to property taxation but was omitted from property tax schedules and for which taxes have not been paid but would be due, except for the omission.

M. "Treasurer" means a county treasurer as defined by Sections 4-43-1 [repealed] through 4-43-4 NMSA 1978, as amended.  
[7-15-98; Recompiled 10/01/01]

**3.6.50.8 TREASURER'S DUTIES:**

A. Section 4-43-2 NMSA 1978 requires the treasurer to keep account of all moneys received and disbursed in the county; keep regular accounts of all warrants drawn on the treasurer and paid; and keep the books, papers and moneys pertaining to his office ready for inspection by the county commissioners at all times. All moneys under the treasurer's control include, but are not limited to: property taxes; property tax penalties and interest; state shared taxes; gross receipts taxes; lodgers' taxes; franchise taxes; licenses and permits; charges for services; fines and forfeits, including forfeiture funds; miscellaneous revenues; other revenues including contributions, donations, investment income, refunds, rents, royalties, insurance recoveries and inter-governmental grants.

B. Section 6-10-8 NMSA 1978 states the treasurer of each county in the state shall have supervision of the deposit and safekeeping of public money in the county.

C. The treasurer determines how to deposit and invest county funds. That decision must then be approved by the board of county commissioners, sitting as the board of finance.

D. The board of finance must adopt an investment policy and permit the treasurer to make investment decisions that conform to the policy.  
[7/15/98; Recompiled 10/01/01]

**3.6.50.9 FINANCIAL REPORTS:**

A. Subsection F of Section 6-6-2 NMSA 1978 requires periodic financial reports of all local public bodies. Section 6-6-3 NMSA 1978 requires that every local public body shall make all reports as may be required by the local government division.

B. Every county shall file a financial report on a quarterly basis with the local government division. The first quarter is from July 1st to September 30th; the second quarter is from October 1st to December 31st; the third quarter is from January 1st to March 31st and the fourth quarter is from April 1st to June 30th. The reports are due at the local government division no later than thirty days following the end of the quarter.

C. The local government division may grant a county's written request, if warranted, an extension for filing the quarterly financial report.

D. Monthly financial reports shall be submitted to the county commission and may be requested by the local government division.

E. Quarterly financial reports shall be submitted on the prescribed local government division format, unless the local government division approves submission of similar data hand written, typed or using the county's current software program.

F. The treasurer's office should work cooperatively with the county managers office or county finance department to ensure that reports are submitted accurately and timely. The reports must include the signatures and titles of the individuals who prepared the reports.

G. Instructions and sample reporting formats of the quarterly financial reports are available in the local government divisions budgeting and financial accounting manual for local governments.  
[7/15/98; Recompiled 10/01/01]

**3.6.50.10 SUSPENSION OF COUNTY TREASURERS' FUNCTIONS:**

A. The secretary shall follow the procedures set forth in Section 7-35-7 NMSA 1978, as amended, for suspension of treasurers' functions and termination of a suspension order.

B. The costs counties are required to reimburse the department, when the department performs the functions of a suspended treasurer, shall include the salaries and expenses of department employees or contractors who carry out the functions of the office of a suspended treasurer.

C. The department will take all action necessary to assure reimbursement of costs by the county.  
[12/31/74, 7/15/98; Recompiled 10/01/01]

**3.6.50.11 PROPERTY TAXES:**

A. Section 7-37-7 NMSA 1978, as amended, provides for the maximum property tax rates and their limitations. The authority to impose general purpose tax rates is granted to local governments and shall be done during the budget-making and approval process. The general purpose tax rate imposed by each governmental unit for residential property is the same rate that is imposed for nonresidential property. The local government division shall apply the yield control formula and other tax rate limitations in statute that apply to the imposed tax rates prior to setting the tax rates.

B. Tax rates for school districts and institutions of higher education are set by the state department of education and the commission on higher education, respectively. These rates are certified to the local government division by August 15th of each year.

C. Pursuant to Section 7-38-33 NMSA 1978, the department shall by written order set property tax rates no later than September 1st each year for each county, municipality, special district, school district, institution of higher education and state debt service.

D. Pursuant to Section 7-38-34 NMSA 1978, within five business days of the date of the tax rate order set by the department, the board of county commissioners shall issue by written order imposing the certified tax rates on the net taxable value of property allocated to the appropriate governmental units. Within these five days, it is the responsibility of the county to ensure that the rates set are correct. The local government division must be notified of any errors with regards to the validity of these rates during this five day period.

[7/15/98; Recompiled 10/01/01]

**3.6.50.12 COUNTY PROPERTY VALUATION FUND:**

A. The county property valuation fund is created in Section 7-38-38.1 NMSA 1978 and prescribes the method and manner for the collection and distribution of the administrative charge on revenue recipients to offset collection costs.

B. All administrative charges shall be collected by the treasurer and distributed to the county property valuation fund.

C. The assessor's budget for purposes of calculating the forty percent of the amount shall include all appropriations made to the assessor's budget including the county property valuation fund.

D. The treasurer is responsible for collecting the administrative charges and distributing these collections to the county property valuation fund in accordance with statute, relevant county ordinances and stipulated orders.

[7/15/98; Recompiled 10/01/01]

**3.6.50.13 PROTESTED PROPERTY TAXES AND PROPERTY TAX SUSPENSE FUND:**

A. The treasurer shall deposit in the property tax suspense fund an amount equal to the portion of any property taxes paid to the treasurer that is not admitted to be due and is the subject of a claim for refund.

B. The property tax suspense fund shall be invested as permitted by Subsection B of Section 7-38-41 NMSA 1978, as amended.

C. All refunds to property owners pursuant to Section 7-38-41 NMSA 1978 shall be made fifteen days after the treasurer receives a copy of the final order relating to the protest.

D. If final determination in a claim for refund is less than originally claimed, or if the claim is denied, the difference between the amount placed in the property tax suspense fund and the amount refunded to the taxpayer shall be disbursed in the monthly distribution process as stated in subparagraph 15.6 [now Subsection F of 3.6.50.15 NMAC]. Upon the final determination of a claim, the treasurer is to send a copy of the final order to the assessor and the director of the property tax division who shall change their respective valuation records to clearly reflect the final determination.

E. The treasurer is authorized to transfer any surplus interest accrued in the property tax suspense fund to the county general fund, when a case is closed or at the close of the fiscal year.

[12/31/74, 7/15/98; Recompiled 10/01/01]

**3.6.50.14 COLLECTION AND RECEIPT OF PROPERTY TAXES:**

A. All property tax payments shall be marked paid and recorded within 48 hours and must be deposited within 72 hours.

B. Property tax receipts or copies of the tax bills marked paid are not required to be mailed to property taxpayers if payment of property taxes, penalties and interest are received by mail. These amounts are

sufficiently “received” if indication of payment is made on the tax schedule by the treasurer. However, the treasurer is not prohibited from mailing receipts or copies of the tax bills marked paid.

C. Except for accounts on the state delinquency list, any partial payments received by the treasurer for delinquent property taxes, penalties and interest shall be receipted and accounted for in accordance with Section 7-38-42 NMSA 1978.

D. If the treasurer's office is unable to comply with this policy, the treasurer must immediately notify the chairman of the board of finance and the county manager in writing. The notification must include a description of the problem, identification of the cause of the problem, an estimate of the anticipated duration of non-compliance and the proposed remedial action. The notification does not relieve the receiving authority of its statutory duty to collect, record and account for property taxes.

E. Receipting and depositing of revenues other than property tax payments shall be implemented according to policies adopted by the county board of finance.

[12/31/74, 7/15/98; Recompiled 10/01/01]

### **3.6.50.15 DISTRIBUTION OF PROPERTY TAXES, PENALTIES AND INTEREST:**

A. The treasurer shall distribute the receipts from property tax collections to each governmental unit. All interest and penalties collected shall be deposited in the county general fund without regard to the tax year for which it was paid, other than as an agent of the taxation and revenue department under Section 7-38-62 NMSA 1978.

B. At the time of distributing receipts from property taxes collected as agent for the taxation and revenue department under Section 7-38-62 NMSA 1978, all interest and penalties collected for tax years before 1990 will be placed in the county general fund and all interest and penalties collected for 1990 and subsequent tax years shall be remitted to the taxation and revenue department.

C. The treasurer shall distribute taxes collected for the November 10th installment no earlier than December 15th or later than the 5th working day after December 15th.

D. The treasurer shall distribute taxes collected from the April 10th installment no earlier than May 15th or later than the 5th working day after May 15th.

E. For installment agreements pursuant to Section 7-38-38.2 NMSA 1978, no distribution shall be made earlier than the 15th of the month following the month of collection or later than the 5th working day after the 15th of month following the month of collection.

F. For delinquent taxes, normal distributions shall not be made earlier than the 15th of the month following the month of collection or later than the 5th working day after the 15th of month following the month of collection.

G. Once a county has placed a property on the state delinquency list, the property tax division shall have responsibility and exclusive authority to collect delinquent taxes, interest and penalties for all tax years. However, the property tax division may authorize treasurers to act as its agents in accepting payments of taxes, penalties, interests or costs due.

[2/19/92, 7/15/98; Recompiled 10/01/01]

### **3.6.50.16 NOTIFICATION TO PROPERTY OWNER OF DELINQUENT PROPERTY TAXES:**

A. In accordance with Section 7-38-51 NMSA 1978, any property tax delinquent more than thirty days as of June 30th of each year, the treasurer shall mail a notice of delinquency to the assessed owner and any person other than the owner to whom the tax bill on the property was sent. This applies to every delinquency and not just those on the state delinquency list.

B. If payment has not been received within 90 days following the written notice of delinquency, the treasurer shall pursue further collection efforts.

C. If the collection rate for a tax year for any jurisdiction in the county falls twenty percent below anticipated collections as of December 31st of that year or June 30th of the following year, the treasurer must immediately notify the board of finance in writing.

[7/15/98; Recompiled 10/01/01]

**3.6.50.17 SALE OF REAL PROPERTY FOR DELINQUENT TAXES:** Section 7-38-66 NMSA 1978 states the taxpayer must show proof of the following to prevent or invalidate a sale:

A. All delinquent taxes, penalties, interest and costs had been paid prior to the date of sale shall prevent or invalidate the sale. The treasurers office must be in possession of the funds prior to the time of the sale or the payment must be postmarked prior to the date of the sale.

B. The taxpayer has entered into a written installment agreement to pay all delinquent taxes, penalties, interest and costs prior to the date of sale as provided in Section 7-38-68 NMSA 1978 and that payments are being made in accordance with the terms of such agreement. The installment agreement must be signed by both parties at least the day prior to the date of sale.

[7/15/98; Recompiled 10/01/01]

**3.6.50.18 INSTALLMENT AGREEMENTS OR SALE OF PROPERTY:**

A. When the property tax division collects delinquent taxes in total from the taxpayer under installment agreements or sale of property, the money, excluding interest, penalties and costs, will be remitted to the treasurer. When the money is received by the treasurer, the tax bill will be validated as paid. The distribution will be accomplished by the treasurer as the normal distribution of delinquent taxes.

B. Upon receipt of the money from the property tax division, the treasurer shall:

(1) validate the tax bill as paid in the manner prescribed in Section 7-38-63 NMSA 1978;

(2) make a notation of the payment of delinquent property taxes, penalties and interest on the property tax schedule; and

(3) distribute the amount of property taxes to the appropriate governmental units at the time of normal monthly distributions.

[12/31/74, 7/15/98; Recompiled 10/01/01]

**3.6.50.19 TAXES ON OMITTED PROPERTY:** When taxes on omitted property are placed on tax schedules, tax bills mailed and money is received for payment of these taxes, the receipting and accounting of the money is the same as for other property taxes. For distribution purposes, all the monies received for taxes on omitted property for years prior to current tax year will be considered to be receipts of delinquent taxes.

[12/31/74; Recompiled 10/01/01]

**3.6.50.20 CHANGES IN THE PROPERTY TAX SCHEDULE:**

A. Pursuant to Section 7-38-77.1 NMSA 1978, the department may order the treasurer to make changes in the property tax schedule in connection with any property listed on the schedule if the department determines that an error was made in the certification of tax rates.

B. Upon such a determination, the department will issue a statement to the county commission and treasurer stating the reason for the error along with the amended certificate of tax rates.

[7/15/98; Recompiled 10/01/01]

**3.6.50.21 BANKHEAD-JONES FARM TENANT ACT:** Pursuant to the national grasslands and land utilization project receipts for the Bankhead-Jones Farm Tenant Act, the county shall deposit these funds directly into the county road fund for the purpose of maintaining county roads or school bus routes, or both.

[3/30/73, 7/15/98; Recompiled 10/01/01]

**HISTORY OF 3.6.50 NMAC:**

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

DFA 73-1, (Directive LGD 61-32) Distribution of Bank Head Jones Farm Tenant Act (Sub-Marginal Land) and Federal Wild Life and Fishery Act Revenue, 3-30-73.

DFA 74-9, Regulations Re: The Collection and Distribution of Property Taxes by County Treasurers, 12-31-74.

History of Repealed Material: [RESERVED]