

**TITLE 3: TAXATION**  
**CHAPTER 8: ESTATE TAX**  
**PART 8: CERTIFICATE**

**3.8.8.1 ISSUING AGENCY:** Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630  
[7/15/96; 3.8.8.1 NMAC - Rn, 3 NMAC 8.8.1, 12/14/00]

**3.8.8.2 SCOPE:** Provisions of this part apply to every person subject to the Estate Tax Act.  
[7/15/96; 3.8.8.2 NMAC - Rn, 3 NMAC 8.8.2, 12/14/00]

**3.8.8.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act.  
[7/15/96; 3.8.8.3 NMAC - Rn, 3 NMAC 8.8.3, 12/14/00]

**3.8.8.4 DURATION:** Permanent.  
[7/15/96; 3.8.8.4 NMAC - Rn, 3 NMAC 8.8.4, 12/14/00]

**3.8.8.5 EFFECTIVE DATE:** 7/15/96, unless a later date is cited at the end of a section, in which case the later date is the effective date. The effective date of the Estate Tax Act was July 1, 1973. (Laws 1973, Ch. 345, Section 18) The Estate Tax Act and this part apply to estates where decedent passed away after June 30, 1973. Pursuant to Section 7-1-5(H) NMSA 1978 of the Tax Administration Act, the Estate Tax Act regulations filed August 5, 1974 were declared to be effective July 1, 1973. The amendments to those regulations adopted by TRD Rule 7-88 were effective on September 15, 1988.  
[7/15/96; 3.8.8.5 NMAC - Rn & A, 3 NMAC 8.8.5, 12/14/00]

**3.8.8.6 OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Estate Tax Act.  
[7/15/96; 3.8.8.6 NMAC - Rn, 3 NMAC 8.8.6, 12/14/00]

**3.8.8.7 DEFINITIONS:** [Reserved]  
[7/15/96; 3.8.8.7 NMAC - Rn, 3 NMAC 8.8.7, 12/14/00]

**3.8.8.8 WHEN CERTIFICATE FILED**

A. For estates for which a federal estate tax return is required to be made, the department will file a certificate as provided in Section 7-7-8 NMSA 1978 in every case when an estate tax return has been properly filed with the department and either no tax is due under the Estate Tax Act or the taxes due have been paid. A copy of the certificate will be filed with those clerks specified in the request of the personal representative or other person who has filed the return.

B. The certificate is prepared solely on the basis of information supplied to the department by the personal representative or other person filing the return, as of the date of issuance. The certificate does not bind or estop the department as to later-discovered property, omitted property, or misrepresentation of any material fact, whether negligent or intentional.

C. No certificate is required nor will a certificate be provided or filed for estates for which no federal estate tax return is required by the Internal Revenue Code. The mere fact that no federal estate tax return is required is sufficient to demonstrate that no New Mexico estate tax is due.

D. Example: A's gross estate totals \$580,000. Under Section 6018 of the Internal Revenue Code, no return is required for estates whose gross estate is less than \$600,000. Therefore, no certificate pursuant to Section 7-7-8 NMSA 1978 is required to demonstrate that New Mexico estate tax liability has been satisfied and no certificate will be issued.

[8/5/74, 9/15/88, 7/15/96; 3.8.8.8 NMAC - Rn & A, 3 NMAC 8.8.8, 12/14/00]

**HISTORY OF 3.8.8 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: BOR 70-1, (Inheritance Tax Reg. 2-1), Accrual of Interest During Probate Court's Extension of Time for Payment of

Inheritance Tax, filed 3/5/70.

BOR 71-6, Regulation for Inheritance Tax Act, filed 12/20/71.

BOR 73-2, Regulations in Effect and Pertaining to the New Mexico Inheritance Tax Act, filed 4/4/73.

BOR 74-3, Regulations in Effect and Pertaining to the New Mexico Estate Act, filed 8/5/74.

TRD Rule 7-88, Regulations Pertaining to the New Mexico Estate Tax Act, Sections 7-7-1 to 7-7-20 NMSA 1978, filed 9/15/88.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 8.8, Certificate, filed 7/2/96.

3.8.8 NMAC, Certificate, filed 12/1/00.