

TITLE 3: TAXATION
CHAPTER 15 FRANCHISE TAXES
PART 100 STATE FRANCHISE TAXES

3.15.100.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[1/15/97; 3.15.100.1 NMAC - Rn, 3 NMAC 15.100.1, 12/14/00]

3.15.100.2 SCOPE: This part applies to all persons subject to the corporate franchise tax.
[1/15/97; 3.15.100.2 NMAC - Rn, 3 NMAC 15.100.2, 12/14/00]

3.15.100.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[1/15/97; 3.15.100.3 NMAC - Rn, 3 NMAC 15.100.3, 12/14/00]

3.15.100.4 DURATION: Permanent.
[1/15/97; 3.15.100.4 NMAC - Rn, 3 NMAC 15.100.4, 12/14/00]

3.15.100.5 EFFECTIVE DATE: 1/15/97, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[1/15/97; 3.15.100.5 NMAC - Rn & A, 3 NMAC 15.100.5, 12/14/00]

3.15.100.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Corporate Income and Franchise Tax Act.
[1/15/97; 3.15.100.6 NMAC - Rn, 3 NMAC 15.100.6, 12/14/00]

3.15.100.7 DEFINITIONS: Corporation defined for franchise tax purposes. As used in Section 7-2A-5.1 NMSA 1978 the term "corporation" includes each and every domestic and foreign corporation or other organization having or exercising its corporate franchise in this state, whether active or not, or engaging in business in or deriving income from this state, and which either is required to file a corporate income tax return under the Internal Revenue Code or is a disregarded entity for federal income tax purposes. A "disregarded entity" is an entity with only one owner whose existence separate from the owner is disregarded for federal income tax purposes; see for example internal revenue service regulations 301.770-1-2 and 3.
[11/18/86, 9/16/88, 1/7/92, 1/15/97, 8/16/99; 3.15.100.7 NMAC - Rn & A, 3 NMAC 15.100.7, 12/14/00]

3.15.100.8 LIMITED LIABILITY COMPANIES:

A. If it is not required to file a return as a corporation for federal income tax purposes, a limited liability company formed in New Mexico pursuant to the Limited Liability Company Act or formed pursuant to a similar act of another state is not a domestic or foreign corporation and therefore is not subject to the franchise tax.

B. Any limited liability company which is required to file a return as a corporation for federal income tax purposes and exercises its franchise in New Mexico is a corporation subject to the franchise tax.
[12/28/94, 1/15/97; 3.15.100.8 NMAC - Rn, 3 NMAC 15.100.8, 12/14/00]

3.15.100.9 APPLICATION OF FRANCHISE TAX TO MEMBER OF A COMBINED OR

CONSOLIDATED GROUP: Each member of a combined group of unitary corporations and each member of a consolidated group of corporations shall be subject individually to the franchise tax imposed by Section 7-2A-5.1 NMSA 1978 even though a combined or consolidated state corporate income tax return is filed by the combined or consolidated group.

[11/18/86, 9/16/88, 1/7/92, 1/15/97; 3.15.100.9 NMAC - Rn & A, 3 NMAC 15.100.9, 12/14/00]

HISTORY 3.15.100 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: R.D.-C.I.T. Regulation 5.1:1/2, Regulation Pertaining to Corporation Income Tax Act, Section 7-2A-5.1 NMSA 1978, filed 11/18/86.

TRD Rule 2A-88, Regulations Pertaining to the Corporate Income and Franchise Tax Act, Sections 7-2A-1 to 7-2A-13, filed 9/16/88.

TRD Rule CIT-91, Regulations Pertaining to the Corporate Income and Franchise Tax Act, 7-2A-1 to 7-2A-14

NMSA 1978, filed 1/7/92.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 15.100, State Franchise Taxes, filed 1/2/97.

3.15.100 NMAC, State Franchise Taxes, filed 12/1/00.