

**BEFORE THE HEARING OFFICER
OF THE TAXATION AND REVENUE DEPARTMENT
OF THE STATE OF NEW MEXICO**

**IN THE MATTER OF THE PROTEST OF
CASIAS TRUCKING
TO ASSESSMENT ISSUED UNDER LETTER
ID NO. 067784480**

No. 12-24

DECISION AND ORDER

A formal hearing on the above-referenced protest was held on January 26, 2012, March 6, 2012 and continued on March 7, 2012, before Monica Ontiveros, Hearing Officer. The Taxation and Revenue Department (“Department”) was represented by Ida M. Luján, Esq, attorney for the Department. Casias Trucking (“Taxpayer”) appeared for the hearing and was represented by Wayne G. Chew, Esq. On March 30, 2012, the Department filed its Department’s Closing Argument and Proposed Findings of Fact and Conclusions of Law. On March 30, 2012, Taxpayer filed its Proposed Findings of Facts and Conclusions of Law and Closing Statement. On April 5, 2012, the Department filed its Department’s Objection to Extrinsic Evidence. On April 20, 2012, Taxpayer filed its Taxpayer’s Response to Department’s Objection to Extrinsic Evidence. (The Taxpayer’s Response to Department’s Objection to Extrinsic Evidence was e-mailed to Mr. John Griego, legal assistant, on April 19, 2012.)

On July 3, 2012, an Order on Facts Presented was filed in this matter allowing both parties an opportunity to respond to the issue of whether the methodology used by the Department to audit Taxpayer was reliable. On July 27, 2012, the Department filed the Department’s Response to Hearing Officer’s Order on Facts Presented. On July 26, 2012, Taxpayer filed Taxpayer Casias Trucking Respectfully Responds to the Hearing Officer’s Concerns Set Forth in the July 3, 2012 Order on Facts Presented.

Mr. Louie P. Casias, owner of Casias Trucking, appeared for the hearings and testified.

The Department's witnesses included Ms. Mayra Cabrera, auditor, Ms. Lizzy Vedamanikan, audit supervisor, and Ms. Sylvia Sena, protest auditor. Ms. Jennifer Carlisle, protest auditor, is a Department employee and observed the proceedings. The exhibits introduced into the record are Exhibits #1, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U and V. The Department objected to Exhibits #8, 10, 12, 13, and 20 based on relevance because the exhibits were outside the audit period. The Exhibits were admitted over objection.

Based on the evidence and arguments presented, IT IS DECIDED AND ORDERED AS FOLLOWS:

FINDINGS OF FACT

1. Taxpayer is a trucking business located in Albuquerque, New Mexico.
2. Taxpayer's business is to haul sand, gravel, asphalt and demolition materials within the state of New Mexico.
3. Mr. Louie P. Casias is the sole owner and proprietor of Taxpayer. Taxpayer filed weight distance returns and paid weight distance tax for the audit period at issue.
4. The Department assessed Taxpayer on December 8, 2010, in weight distance tax in the amount of \$62,872.09 in principal, \$12,574.42 in penalty, \$17,650.85 in interest and \$10,000.00 in an additional penalty amount for the tax period of March 31, 2004 through December 31, 2009.
5. The Notice of Assessment was mailed to Casias Trucking, 7900 **Richmond** NW, Albuquerque, New Mexico 87120.

6. Taxpayer's correct address is 7900 *Richwood* NW, Albuquerque, New Mexico 87120. Administrative file, protest letter and Exhibit #J.

7. The Department neither mailed the Notice of Assessment to the correct address nor did it mail a courtesy copy of the Notice of Assessment to Taxpayer's certified public accountant, Leigh Van Gilst, despite knowing that Taxpayer had employed a CPA to file its returns. Administrative file, protest letter and Exhibit #J.

8. The Department argued that Taxpayer used the wrong address on one return, therefore, it is Taxpayer's fault that the Department used the incorrect address. Exhibit #V. During the hearing, the Department did not present any evidence indicating that the Department changed its records based on this one return filed by Taxpayer.

9. The Department argued that the liability was asserted against Taxpayer and therefore, it was not necessary to mail a courtesy copy of the Notice of Assessment to the certified public accountant. It also argued that it did not mail the Notice of Assessment to Taxpayer's certified public accountant because it did not have a tax authorization on file from Taxpayer allowing the Department to mail the Notice of Assessment to the certified public accountant. The Department presented no evidence that Taxpayer either signed or refused to sign a tax authorization form. In any event, the Department certainly could have or should have requested a tax authorization form from the certified public accountant since it was in contact with Ms. Van Gilst. Exhibit # J.7.

10. Taxpayer became aware of the Notice of Assessment when it received a "Tax Collection Notice" dated February 9, 2011. Administrative file, protest letter and Exhibit #J.

11. When Taxpayer learned of the Notice of Assessment, Taxpayer retained an attorney, Wayne G. Chew, Esq.

12. On March 7, 2011, Mr. Chew filed a protest letter and a request for a retroactive extension to file a written protest. Protest Letter, Attachment C.

13. On March 16, 2011, the Department granted the extension to file a written protest and accepted the protest letter which was accepted by the Department under a retroactive extension of time granted pursuant to NMSA 1978, Section 7-1-24 (B)(2003). Protest Letter, Attachment B and Exhibit #K.

14. On June 15, 2011, the Department requested a hearing in this matter.

15. On June 16, 2011, the Hearings Bureau mailed a Notice of Administrative Hearing in this matter setting the hearing for January 26, 2012.

16. The hearing was held on January 26, 2012 and continued on March 6 and March 7, 2012. An Amended Notice of Administrative Hearing was mailed to the parties on February 6, 2012, setting the hearing for March 6, 2012.

17. The Department conducted an audit of Taxpayer. The original audit period was from January 1, 2007 through December 31, 2009.

18. The Department expanded its audit because it believed that the expanded statute of limitations applied to Taxpayer because Taxpayer had underreported by 25%.

19. On March 17, 2010, Ms. Vendamanikam visited with Mr. Casias and asked him a series of questions. Exhibit #B.

20. On March 17, 2010, Ms. Cabrera visited with Mr. Casias and asked him a series of

questions. Exhibit #A.

21. The Department began the audit of Taxpayer on March 17, 2010. Exhibit #H, page C1.2.

22. Taxpayer hauled construction materials to ongoing construction projects within New Mexico. Mr. Casias testified that much of his work consisted of traveling short distances and waiting at the construction site to drop a load of sand or gravel at the construction site. Mr. Casias credibly testified as to the type of hauling his trucks did.

23. Mr. Casias testified that he did not haul materials on long trips and he did not haul materials out of state.

24. Mr. Casias testified that he hauled full loads (one way loads) anywhere from 30 to 50 miles per day per truck. Mr. Casias testified that he had 5-6 trucks operating at the same time. If Mr. Casias had 5-6 trucks operating at the same time and he hauled full loads on a one way haul, then his trucks traveled with full loads around 78,000 miles per year or 300 miles a day x 5 days a week x 52 weeks. If the trucks are taxed on both the empty and full load, then the mileage would be around 156,000 miles per year.

25. Mr. Casias testified that when he reported his mileage to Ms. Van Gilst, his certified public accountant, he only reported half of the mileage because he believed that this was a correct manner in which to report his mileage. Mr. Casias testified that he now understands that this was an incorrect manner in which to report his mileage.

26. The Department argued that Mr. Casias titled more than 7-10 trucks during the audit period. They also argued that the trucks were driven around 11,000-15,000 miles a quarter.

27. When Ms. Vedamanikam interviewed Mr. Casias, she confirmed that he did mostly “on-site” hauling and that he had a “summer peak – 2nd and 3rd qtr.” Exhibit #B.1.

28. From the evidence presented, Taxpayer had a total of 10 trucks during the audit period. Mr. Casias credibly testified that not all the trucks were in use at the same time. This evidence was not rebutted by the Department.

29. Taxpayer bought and sold trucks for his business. Some of the mileage for the trucks was not included in the audit because it was unclear whether the trucks were ever used in Taxpayer’s business. This evidence was not rebutted by the Department.

30. Mr. Casias credibly testified that the trucks were inexpensive trucks with a purchase price that ranged from \$150.00 to \$50,000.00.

31. Mr. Casias credibly testified that he only had 7 drivers who worked for him at any one time. This evidence was not rebutted by the Department.

32. When Taxpayer purchased some of the trucks, the odometer reading was not correctly stated on the title for the vehicles. Exhibit #7 (WD100327); Exhibit #9 (WD98551) and Exhibit #8 (WD43361).

33. A private titling company titled the trucks for Taxpayer.

34. As for the trucks with incorrect odometer readings, (WD100327) and (WD98551), there is insufficient evidence to prove that the odometers were working correctly.

35. Taxpayer reported his mileage based on the amount of fuel purchased along with the mileage. Taxpayer presented his fuel receipts to the Department during the initial audit meeting.

36. Taxpayer presented fuel receipts for its trucks for tax years 2007-2009. Exhibits #17, #18 and #19. The Department rejected these fuel receipts and the auditor did not use them to determine the total mileage for purposes of the weight distance tax.

37. Mr. Casias prepared Exhibit #1 by taking the fuel receipts and writing down the mileage of the truck and the amount of fuel purchased. Mr. Casias provided Ms. Van Gilst with this information. Ms. Van Gilst reported the amounts to the Department when she prepared the weight distance tax returns for Taxpayer.

38. During the audit, the Department reviewed the fuel reports provided by Taxpayer. The Department alleged that it was unable to verify whether all of the fuel receipts were provided for each vehicle. Exhibit #H, page C1.3.

39. The Department believed that Taxpayer had paid for fuel by check but it did not place into evidence any steps it took to ascertain whether the fuel receipts provided were all of the receipts in existence.

40. In the notes of Ms. Cabrera, she noted that Mr. Casias told her that he paid for some fuel by company check or other type of check. Exhibit #B.2.

41. The Department did not review any of the bank statements of Taxpayer to determine whether Mr. Casias had written checks for fuel.

42. Exhibit #1 is inaccurate and does not accurately reflect the odometer readings of the trucks at the time the trucks fueled up. (For example, some of the odometer readings go backwards instead of forward.) Exhibit G.

43. The Department did not base its audit on the amount of fuel and miles reported per

gallon by Taxpayer.

44. The Department based its audit on an averaging of miles multiplied by the numbers of months in a year.

45. The Department used an averaging of miles method of auditing Taxpayer, which is to say that it took a period of time multiplied by the amount of miles in one month and then again multiplied by 12 months in a calendar year.

46. For some of the trucks, the Department calculated the amount of underreported fuel tax by taking the beginning odometer reading and subtracting the miles from the ending odometer reading. Exhibit #H, page C1.3. The beginning odometer reading was taken from the title of each vehicle.

47. The Department got the ending odometer readings on May 26, 2010 and June 14, 2010. Exhibit #H, page C1.3.

48. The total miles were then divided by the time period between when the vehicle was titled and when the ending odometer reading was taken. Exhibit #H, page C1.3.

49. The total miles were then divided to arrive at a monthly amount, which was then multiplied to arrive at a quarterly amount of miles traveled. Exhibit #H, page C1.3.

50. The Department confirmed at the time of the audit that the odometers in all the vehicles were in good working condition. Exhibit #H, page C1.3.

51. The auditor treated all months for each truck equally. Exhibit #H, page C1.3.

52. The Department did not make any allowances in its audit for any months in which Taxpayer's business might be slow because of weather or the economy. All months were treated

the same or equally.

53. The trucks that the Department was able to get odometer readings for trucks: WD109625, WD98791, WD98551, WD96332, WD93494 and WD106629. Exhibit H, C1.3. For these vehicles the auditor averaged the number of miles based on the odometer readings.

54. The trucks that the Department was unable to get odometer readings for trucks: WD101229, WD100327, WD98792, and WD98551. For these vehicles the auditor averaged the number of miles to 12,936. Exhibit #H, C1.3.

55. Some of Taxpayer's trucks had incorrect odometer readings when they were purchased. For example, trucks WD100327 and WD98551 had an odometer reading of 0888888. Exhibits #7 and #9. Despite the Department's assertion in its audit, it is not clear whether the odometers were ever working in these vehicles.

56. Taxpayer reported weight distance tax for all periods. However, Taxpayer incorrectly reported the mill rate for the audit periods March 31, 2004 through March 31, 2008; hence the zero reported amounts on work papers Exhibit #H, F1.1-F1.8.

57. The Department gave Taxpayer credit in the work papers for the incorrectly reported mill rate in its work papers Exhibit #H, D2.1-D2.8.

58. Taxpayer submitted a Summary of the distance miles reported in each quarter along with the reported gallons compared to the audited gallons.

59. The number of gallons on the Summary does not match the total quantity of fuel purchased by credit card for tax year 2007. Taxpayer's Summary and Exhibit #17.

60. The audit conducted by Ms. Cabrera was her twelfth audit.

61. Mr. Casias credibly testified that his trucks could not have possibly traveled the distances the Department was proposing.

62. The Department claims that Taxpayer drove 365,710 miles in 2004. Exhibit #H, D2.2

63. The Department claims that Taxpayer drove 404,104 miles in 2005. Exhibit #H, D2.3

64. The Department claims that Taxpayer drove 425,664 miles in 2006. Exhibit #H, D2.4

65. The Department claims that Taxpayer drove 425,664 miles in 2007. Exhibit #H, D2.6

66. The Department claims that Taxpayer drove 368,274 miles in 2008. Exhibit #H, D2.7

67. The Department claims that Taxpayer drove 427,155 miles in 2009. Exhibit #H, D2.8.

68. The Department claims that Taxpayer's total mileage for the period at issue is 2,416,571, less the credited miles, or 2,286,729. Exhibit #H, D2.8. Taxpayer reported only 129,842 miles. Exhibit #H, D2.8. These miles are considered the credited miles in the audit. The audit narrative details that the total New Mexico miles reported by Taxpayer was 228,992. Exhibit #H.G1.2. (The difference in reported mileage may be due to the credit that the auditor gave Taxpayer for one-way hauls. It is not clear from the audit why there is a difference in these amounts.)

69. At the time of the audit, Taxpayer did not maintain his driver's vehicle inspection reports because he was only required to keep them for 90 days. Exhibit #20. (Audio File, Part I, 46:03).

70. Prior to the commencement of the audit, the auditors had formed an opinion about Taxpayer's veracity.

71. Mr. Casias testified that he could not have underreported the mileage by the amount the Department contended. (Audio File, Part I, 1:18-1:22).

DISCUSSION

The issue to be determined is whether Taxpayer underreported its weight and fuel tax in the amount of \$62,872.09 in principal, \$12,574.42 in penalty, \$17,650.85 in interest and \$10,000.00 in an additional penalty amount for the tax period of March 31, 2004 through December 31, 2009. The Department asserts in its Response to Hearing Officer's Order on Facts Presented that the penalty amount applies to the third and fourth quarters of 2009. However, the Notice of Assessment states that the period in question is from March 31, 2004 through December 31, 2009. The only issue in dispute is factual in nature and that is whether the audit conducted by Ms. Cabrera may be relied upon.

All objections not ruled on are deemed denied.

Burden of Proof.

Section 7-1-17 provides that any assessment of taxes made by the Department is presumed to be correct. NMSA 1978, Section 7-1-17 (2007). Where an exemption or deduction from tax is claimed, the statute must be construed strictly in favor of the taxing authority, the right to the

exemption or deduction must be clearly and unambiguously expressed in the statute, and the right must be clearly established by the taxpayer. *Wing Pawn Shop v. Taxation and Revenue Department*, 111 N.M. 735, 740, 809 P.2d 649, 654 (Ct. App. 1991). Accordingly, it is Taxpayer's burden to present evidence and legal argument to show that it is entitled to an abatement, in full or in part, of the assessment issued against it. When a taxpayer presents evidence sufficient to rebut the presumption, the burden shifts to the Department to show that the assessment is correct. *See MPC Ltd. v. N.M. Taxation and Revenue Dep't.*, 2003-NMCA-021, ¶ 13, 133 N.M. 217, 62 P.3d 308.

Weight Distance Tax Act.

The Weight Distance Tax Act imposes a tax on all registered vehicles with a declared weight in excess of 26,000 pounds that travel on state highways. *See* NMSA 1978, Section 7-15A-3 (1988). NMSA 1978, Section 7-15A-3 (1998) states that, "(a) tax is imposed upon the registrants, owners and operators for the use of the highways of this state by all motor vehicles having a declared gross weight or gross vehicle weight in excess of twenty-six thousand pounds and registered in this state..." Furthermore, "(t)he tax shall be paid by the Registrant, owner or operator of a motor vehicle registered in this state to which the tax applies." NMSA 1978, Section 7-15A-4 (1988). There is a special reduced tax rate if a taxpayer provides records of a one-way haul. *See* Section 7-15A-6(B) (2004). The Department contends that it credited Taxpayer for the one-way hauls. It is unclear whether the credit was based on Taxpayer's reported mileage or on the Department's calculated mileage amount of 2,286,729 miles.

Audit.

Taxpayer argued that the Department made significant mistakes in the audit, and therefore

the audit was not reliable. At the time of this audit, the auditor in this case, Ms. Cabrera, had conducted only 11 audits prior to this audit. (Audio File, Part III, 2:26-2:40). Ms. Cabrera began working with the Department right after she received her bachelor's degree from the University of Phoenix. Ms. Cabrera had six months of on the job training with the Department prior to the completing her first audit. (Audio File, Part III, 1:40-1:49). Ms. Cabrera had at least one supervisor review her audit prior to the audit being finalized.

There are a number of significant concerns with the audit. The major concern is that the auditor used an averaging method to determine the number of miles driven by Taxpayer, which was based on the assumption that each month is equally alike in the number of miles each truck traveled. In addition, the averaging method utilized by the auditor never provided Taxpayer with any allowance for slow periods as described by Mr. Casias as the "summer peak – 2nd and 3rd qtr." Exhibit #B.1. To reiterate the methodology, for some of the trucks, the Department calculated the amount of underreported fuel tax by taking the beginning odometer reading and subtracting the miles from the ending odometer reading. Exhibit #H, page C1.3. The beginning odometer reading was taken from the title of each vehicle. The Department got the ending odometer reading on May 26, 2010 and June 14, 2010. Exhibit #H, page C1.3. The total miles were then divided by the time period between when the vehicle was titled and when the ending odometer reading was taken. Exhibit #H, page C1.3. The total miles were then divided to arrive at a monthly amount which was then multiplied to arrive at a quarterly amount of miles traveled. Exhibit #H, page C1.3. Some of the titles to the vehicles clearly had beginning odometer readings that were not accurate. It is clear to the Hearing Officer that the auditors did not know at the time

of the audit that the odometers may not have been operating correctly. It is unclear, however, if these inaccurate beginning odometer readings also meant that the odometers were not functioning.

In addition, what is without explanation is why the Department did not make any allowances in its audit for any months in which Taxpayer's business might be slow because of weather or the economy. Clearly Taxpayer's trucks were not hauling the same number of miles during the busy summer months as the slow construction winter months. Instead the Department elected to average the number of miles for each month during the calendar year for all the years at issue.

Taxpayer introduced its own summary of the total number of miles driven plus the amount of fuel used. Exhibit #1. However this exhibit is unreliable as to the odometer readings. Mr. Casias prepared Exhibit #1 by taking the fuel receipts and writing down the mileage of the truck and the amount of fuel purchased. Exhibit #1 is inaccurate and does not accurately reflect the odometer readings of the trucks at the time the trucks fueled. (For example, some of the odometer readings go backwards instead of forward.) Exhibit #G. The Hearing Officer found that Mr. Casias was credible in his testimony that that he was not the best record keeper and any mistakes that he made, were errors that any unsophisticated taxpayer could make. Taxpayer introduced numerous individual fuel receipts which were reliable and were not in any way controverted by the Department's evidence. Exhibits #17, 18 and 19.

In reading the initial interview notes prepared by Ms. Cabrera, Mr. Casias told her that sometimes he paid for fuel by check. Exhibit #A.2. There was no evidence introduced by the Department that any other fuel receipts existed. No bank statements were introduced by the

Department or checks indicating that Taxpayer had in fact paid by check for fuel. Therefore without any contradictory evidence, the amount of money expended by Taxpayer on fuel is uncontroverted. The Department rejected any attempt to audit Taxpayer based on fuel receipts.

The Department argued that had Taxpayer kept better records, it would not have been forced to use the methodology it decided to use. Generally, Taxpayer “shall maintain books of account or other records in a manner that will permit the accurate computation of state taxes or provide information required by the statute under which he is required to keep records.” NMSA 1978, Section 7-1-10(A)(2001). The Department’s regulations provide that “(t)he adequacy or inadequacy of taxpayer records is a matter of fact to be determined by the secretary or secretary’s delegate. Taxpayer had a duty to provide the secretary or secretary’s delegate, upon request, with books of account and other records upon which to establish a basis for taxation.” Regulation 3.1.5.8(A) NMAC (2000). The regulation further provides that “(f)ailure of a taxpayer to keep adequate books of account or other records will cause the department to use alternative methods to determine or estimate taxes dues.” Regulation 3.1.5.8(B) NMAC (2000). “Alternative methods which may be used by the department include, but are not limited to: (1) bank deposit method.” Regulation 3.1.5.8(C)(1) NMAC (2000). Had the Department’s audit made adjustments to the audit for slow or winter months, the Hearing Officer would have found the methodology more reliable. The Hearing Officer provided the Department with an opportunity to make adjustments, and the Department has taken the position that no adjustments should be made for winter months or slower periods. However, between the issues with the odometers, the lack of adjustments for slow periods and the Department’s rejection of the fuel receipts, the Hearing Officer finds the

methodology used in this audit sufficiently flawed that it cannot be relied upon.

In this case, Taxpayer had an obligation to keep its business records in an orderly manner. Despite this obligation, Taxpayer was successful in rebutting the presumption of correctness as to the assessment. The Department contends that Taxpayer or Mr. Casias is without credibility and contradicted himself on numerous facts. Mr. Casias filed weight distance tax returns. He was not a nonfiler who appeared to be purposefully not complying with the tax laws. He hired an accountant to assist him with his filing requirements and he admitted to making errors in law when he provided the accountant with mileage information. Taxpayer was also able to prove that the Department showed a lack of trust between the Department's auditors and Taxpayer prior to the commencement of the audit. There was testimony that some of the Department's employees had seen Taxpayer's truck(s) in certain suspicious locations. The Department completely disregarded Taxpayer's records in favor of a methodology of arriving at a principal amount of tax due that can only best be described as high.

In determining the amount of tax due by Taxpayer, the Department should use a methodology that is fair to this Taxpayer as well as any other taxpayer regardless of its dislike or suspicions about a taxpayer. The methodology should be reliable and not suspect. The methodology in this case is not reliable because no allowances were made for any months in which Taxpayer's business might be slow because of weather or the economy. All months were treated the same or equally.

It is interesting to note that in *Cordero Transport*, No. 12-09, a similar case, the Department's auditors took a different approach. In this case, the auditors could not rely on the

taxpayer's poor bookkeeping and invoices. The auditors did not use an averaging method based on odometer readings but instead used Taxpayer's total gallons of fuel purchased, as shown on Taxpayer's fuel receipts, and then applied the industry average to extract the total traveled miles in New Mexico.

The Hearing Officer acknowledges that when taxpayers present poor records to the Department's auditors, it is difficult for the Department to arrive at an accurate tax liability amount. However, Mr. Chew made a simple but important point during the hearing. Even though Taxpayer's records were not the best, the Department's methodology in auditing Taxpayer should withstand scrutiny. By selecting certain months of odometer readings and then averaging the mileage and applying the mileage from those readings to all months at issue without any seasonal adjustments was not a reliable manner in which to arrive at a fair and accurate amount of tax due. No allowances were proposed by the Department, so therefore, the Hearing Officer has no choice but to deem the audit unreliable.

CONCLUSIONS OF LAW

A. Taxpayer filed a timely, written request for retroactive extension to file a protest. The Department granted that retroactive extension. Taxpayer filed a protest within the period of the retroactive extension. Jurisdiction lies over the parties and the subject matter of this protest.

B. Taxpayer provided sufficient evidence that the Department's audit was not reliable and Taxpayer was able to overcome the presumption of correctness of the assessment under NMSA 1978, § 7-1-17 (2007).

C. The amount of tax due, penalty and interest should be abated.

FOR THE FOREGOING reasons, the Taxpayer's protest **IS GRANTED**.

DATED: November 20, 2012.

MONICA ONTIVEROS
Hearing Officer
Taxation & Revenue Department
Post Office Box 630
Santa Fe, NM 87504-0630

CERTIFICATE OF SERVICE

On November 21, 2012, a copy of the foregoing Decision and Order was mailed by certified mail # 7008 0500 0001 4687 9221 and by first class mail to Mr. Wayne G. Chew, Esq. located at P.O. Box X, Albuquerque, New Mexico 87110. A copy was also delivered by interoffice mail to Ida M. Lujan, Esq., Attorney for the Taxation and Revenue Department, 1100 S. St. Francis, Santa Fe, and New Mexico 87504.

NOTICE OF RIGHT TO APPEAL

Pursuant to NMSA 1978, Section 7-1-25 (1989), the taxpayers have the right to appeal this decision by filing a notice of appeal with the New Mexico Court of Appeals within 30 days of the date shown above. *See*, Rule 12-601 NMRA of the Rules of Appellate Procedure. If an appeal is not filed with the Court of Appeals within 30 days, this Decision and Order will become final.