

**Taxation and Revenue Department
Joseph Montoya Building
1100 St. Francis Drive
Post Office Box 630
Santa Fe, New Mexico 87504-0630**

**REGULATIONS PERTAINING TO THE
ESTATE TAX ACT
7-7-1 – 7-7-12**

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NEW MEXICO TAXATION AND REVENUE DEPARTMENT
3.8 NMAC

TABLE OF CONTENTS

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Introduction

Table of contents

- 7-7-1. **SHORT TITLE**
 - 3.8.1.8 - Citations
 - 3.8.1.9 - Effect on prior law
- 7-7-2. **DEFINITIONS**
 - 3.8.2.8 - Who is personal representative
- 7-7-3. **RESIDENTS--TAX IMPOSED--CREDIT FOR TAX PAID OTHER STATE**
 - 3.8.3.8 - Calculation of credit for tax paid other state; examples
- 7-7-4. **NONRESIDENTS--TAX IMPOSED--EXEMPTION**
 - 3.8.4.8 - Proof of nonresidence
 - 3.8.4.9 - Real property and rights to real property located in New Mexico
 - 3.8.4.10 - Taxability of debt of deceased nonresident creditor
 - 3.8.4.11 - General example
- 7-7-5. **TAX RETURN**
 - 3.8.5.8 - Copy of federal extension
- 7-7-6. **DATE PAYMENT DUE**
- 7-7-7. **INTEREST ON AMOUNT DUE--EXTENSION OF TIME TO FILE FEDERAL RETURN**
- 7-7-8. **DEPARTMENT TO FILE CERTIFICATE--FINAL SETTLEMENT OF ACCOUNT**
 - 3.8.8.8 - When certificate filed
- 7-7-9. **ADMINISTRATION NOT APPLIED FOR--APPLICATION OR WAIVER BY THE DEPARTMENT**
- 7-7-10. **ADMINISTRATION**
 - 3.8.10.8 - When lien arises
- 7-7-11. **SALE OF PROPERTY TO PAY TAX**
- 7-7-12. **LIABILITY FOR FAILURE TO PAY TAX BEFORE DISTRIBUTION OR DELIVERY**

- 3.8.12.8 - Liability of personal representative
- 3.8.12.9 - Securing another's payment of estate tax
- 3.8.12.10 - Furnishing security for payment of estate tax
- 3.8.12.11 - Exceptions to liability for failure to pay tax before distribution or delivery
- 3.8.12.12 - Control, custody or possession of property -- examples
- 3.8.12.13 - Who is legal representative

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3.8 NMAC

**REGULATIONS PERTAINING TO THE
ESTATE TAX ACT
SECTIONS 7-7-1 to 7-7-12 NMSA 1978**

7-7-1. SHORT TITLE.--Sections 7-7-1 through 7-7-12 NMSA 1978 may be cited as the "Estate Tax Act".

3.8.1.8 – CITATIONS

All citations to statutes in 3.8 NMAC are to the 1978 New Mexico Statutes Annotated (NMSA 1978).

[7/15/96; 3.8.1.8 NMAC - Rn & A, 3 NMAC 8.1.8, 12/14/00]

3.8.1.9 - EFFECT ON PRIOR LAW

All regulations, rulings, and Attorney General's opinions pertaining to the former law, Taxation of Inheritances and Transfers (Laws 1921, Chapter 179, as amended), were superseded by the Estate Tax Act.

[7/15/96; 3.8.1.9 NMAC - Rn, 3 NMAC 8.1.9, 12/14/00]

7-7-2. DEFINITIONS.--As used in the Estate Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "certificate" means a certificate of no tax due or a receipt for payment of the tax due under the Estate Tax Act;

C. "decedent" means a deceased individual;

D. "federal credit" means the maximum amount of the credit for estate death taxes allowed by Section 2011 for the decedent's net estate;

E. "gross estate" means "gross estate" as defined and used in Section 2031 of the United States Internal Revenue Code of 1986, as amended or renumbered;

F. "net estate" means "taxable estate" as defined in Section 2051 of the United States Internal Revenue Code of 1986, as amended or renumbered;

G. "nonresident" means a decedent who was domiciled outside New Mexico at his death;

H. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity and, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

I. "personal representative" means the executor or administrator of a decedent or, if no executor or administrator is appointed, qualified and acting, any person who has possession of any property;

J. "property" means property included in the gross estate;

K. "resident" means a decedent who was domiciled in New Mexico at his death;

L. "Section 2011" means Section 2011 of the United States Internal Revenue Code of 1986, as amended or renumbered; and

M. "transfer" means "transfer" as defined and used in Section 2001 of the United States Internal Revenue Code of 1986, as amended or renumbered.

3.8.2.8 - WHO IS PERSONAL REPRESENTATIVE

A. The term "personal representative" generally means the executor or administrator of the decedent's estate as a whole, such as one appointed by a court having jurisdiction of the estate.

B. If there is no such person appointed, qualified and acting, then every person in possession of any property of the decedent can be considered a "personal representative" for estate tax purposes. Consequently, in the absence of a duly qualified and acting executor, administrator, fiduciary or custodian, persons possessing property of the decedent are responsible for filing the estate tax return (Section 7-7-5 NMSA 1978) and paying the estate tax (Section 7-7-6 NMSA 1978). Such persons are also subject to the provisions of Section 7-7-11 NMSA 1978 and Subsection A of 7-7-12 NMSA 1978. It is not anticipated that every person in possession of any property of the decedent will file the estate tax return but that one among that group will take the responsibility.

C. "Possession" of property means actual or constructive possession and denotes

physical dominion or control over the property coupled with an intent to exercise control and to exclude others from control. Persons who may have possession of a decedent's property include, but are not limited to, lessees or bailees, joint or co-owners (including an owner or owners in joint tenancy, tenancy in common, and community property), partners or joint venturers, trustees or other fiduciaries, and transferees or distributees of the estate. The term "possession" does not, however, signify mere physical custody of property, when such custody is for a limited purpose or when there is no intent to exercise control or to exclude others from control. Persons who do not have possession of a decedent's property (absent special circumstances) include mortgagees or pledgees, stockbrokers or stock transfer agents, bank and other depositories of checking or saving accounts, safe-deposit companies, and life insurance companies.

D. Example 1: D, a New Mexico domiciliary, and J own a joint bank account in B bank. D dies and no executor or administrator is appointed for D's estate. J is a personal representative; B is not.

E. Example 2: D, a New Mexico domiciliary, and S own as community property land which is mortgaged to L savings and loan association. D carries life insurance with I insurance company; S is named as beneficiary. D dies and no executor or administrator is appointed for the estate. S collects the proceeds, pays off the loan and receives a release of mortgage from L. S is a personal representative (as co-owner, as recipient of the insurance proceeds and release of the mortgage); L and I are not.

F. Example 3: D, a New Mexico domiciliary, has an investment management agency account with C bank, under which C holds D's securities (registered in the name of its nominee) and invests and re-invests them in its discretion. The assets in this account are pledged to C to secure a loan to D. C places an order with broker B to sell certain stocks and to buy other stocks and then D dies. B executes the orders, forwards the sold securities to T1 transfer agent, collects the proceeds and sends them to C, and has the purchased securities registered by T2 transfer agent in the name of C's nominee. No executor or administrator is appointed for D's estate, all of which is inherited by X. X is a personal representative, as is C (as bailee, not as pledgee). Neither B, T1 nor T2 is a personal representative.

G. Example 4: D, a New Mexico domiciliary, is employed by E, a New Mexico employer. D dies and E pays to S, D's surviving spouse, \$1,000 wages E owed to D. Thereafter, an executor or administrator becomes appointed, qualified and acting for D's estate. E is not a personal representative.

[8/5/74, 9/15/88, 7/15/96; 3.8.2.8 NMAC - Rn & A, 3 NMAC 8.2.8, 12/14/00]

7-7-3. RESIDENTS--TAX IMPOSED--CREDIT FOR TAX PAID OTHER STATE.--

A. A tax in an amount equal to the federal credit is imposed on the transfer of the net estate of every resident.

B. If any property of a resident is subject to a death tax imposed by another state for which a credit is allowed by Section 2011, and if the tax imposed by the other state is not qualified by a reciprocal provision allowing the property to be taxed in the state of decedent's domicile, the amount of the tax due under this section shall be credited with the lesser of:

(1) the amount of the death tax paid the other state and credited against the federal estate tax; or

(2) an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the death tax imposed by the other state and the denominator of which is the value of the decedent's gross estate.

3.8.3.8 - CALCULATION OF CREDIT FOR TAX PAID OTHER STATE; EXAMPLES

A. The following examples illustrate the application of Section 7-7-3 NMSA 1978. The federal credit in each case is determined by reference to federal law. All other figures are hypothetical.

B. Example 1: T is a New Mexico decedent. T's gross estate is \$1,750,000; T has \$140,000 in deductions. Thus the taxable estate is \$1,610,000. \$175,000 of T's estate is real property located in State X, where it is taxed. State X does not have a reciprocal provision allowing this amount to be taxed in New Mexico.

(1) Under Section 7-7-3(B)(1) NMSA 1978 ("method 1"), it is determined that the amount of estate tax paid to State X on \$175,000 is \$2,040. This is the amount of credit for method one. (State X's statute does not tax to the full measure of its proportional share of the federal credit.)

(2) Under Section 7-7-3(B)(2) NMSA 1978 ("method 2"), the calculation is: Total credit for T's taxable estate times the quotient of the value of the property in State X divided by the value of the gross estate; that is,

$$\$71,520 \times \frac{175,000}{1,750,000} = \$7,152$$

(3) The credit allowed in this situation against New Mexico tax due is equal to the smaller of the above two amounts, calculated under methods 1 and 2. The credit against the \$71,520 owed to New Mexico would, therefore, be \$2,040.

C. Example 2: Same facts as in Example 1, except \$1,400,000 of T's gross estate is real property located in and taxed by State X. Method 1 results in \$61,840 credit. Method 2 results in \$57,216 credit (\$71,520 x 8/10). The amount credited against New Mexico tax due is \$57,216, because the amount in this case is less using method 2.

[8/5/74, 9/15/88, 7/15/96; 3.8.3.8 NMAC - Rn & A, 3 NMAC 8.3.8, 12/14/00]

7-7-4. NONRESIDENTS--TAX IMPOSED--EXEMPTION.--

A. Tax in an amount computed as provided in this section is imposed on the transfer of the net estate located in New Mexico of every nonresident.

B. The tax shall be computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in New Mexico and the denominator of which is the value of the decedent's gross estate.

C. For purposes of this section, the following is included as property located in New Mexico:

(1) debts arising from transactions in, or having a business situs in, New Mexico; and

(2) the securities of any corporation or other entity organized under the laws of New Mexico.

D. The transfer of the personal property of a nonresident is exempt from the tax imposed by this section to the extent that the personal property of residents is exempt from taxation under the laws of the state in which the nonresident is domiciled.

(Laws 1999, Chapter 47, Section 8)

3.8.4.8 - PROOF OF NONRESIDENCE

When a claim is made that the residence of a decedent was outside the State of New Mexico, the taxpayer has the burden of showing nonresidence.

[8/5/74, 9/15/88, 7/15/96; 3.8.4.8 NMAC - Rn, 3 NMAC 8.4.8, 12/14/00]

3.8.4.9 - REAL PROPERTY AND RIGHTS TO REAL PROPERTY LOCATED IN NEW MEXICO

A. The listing in Subsection C of Section 7-7-4 NMSA 1978 of property located in New Mexico is illustrative; it is not an exhaustive listing.

B. Real property in this state belonging to a nonresident decedent is subject to the estate tax. Intangible personal property outside the state belonging to a nonresident decedent is not subject to the tax. If a nonresident decedent owning real property situated within the state has entered into an executory contract for its sale, the right of the decedent, his estate or heirs to the proceeds of the sale will be treated as subject to the tax should the state in which the nonresident decedent was domiciled not subject the proceeds to its own inheritance or estate tax law, either on application of the so-called "doctrine of equitable conversion" or for any other reason. If a nonresident decedent has entered into an executory contract for the purchase of real property situated within the state, the right of the nonresident decedent, his estate or heirs to the real property will be treated as subject to the tax should the state in which the nonresident decedent was domiciled not subject the value of or right to the real property to its own inheritance or estate tax law.

C. Real property in this state belonging to a nonresident decedent includes royalty

interests in oil, gas, or similar leases or property interests.

D. For the purposes of the Estate Tax Act, mortgages are considered personal property.

[8/5/74, 9/15/88, 7/15/96; 3.8.4.9 NMAC - Rn & A, 3 NMAC 8.4.9, 12/14/00]

3.8.4.10 - TAXABILITY OF DEBT OF DECEASED NONRESIDENT CREDITOR

A. The concept of “business situs” refers to the place where a business is conducted; it is used to localize notes and accounts, debit balances, receivables, and other intangible property for tax purposes, in a place where the decedent was not a resident.

B. A debt may arise from a transaction in New Mexico even if the business situs of the decedent's business was outside New Mexico.

C. The debtor's residence does not determine the taxability of a debt in New Mexico.

D. Example 1: T is a Texas decedent who owned a store in Clovis, New Mexico. The accounts receivable of T's business are all “property located in New Mexico”, even if many of T's customers owing the debts live in Texas.

E. Example 2: C is a Colorado decedent who owned a business located in Colorado. C enters New Mexico to sell a widget to D on credit. The sale is made in Farmington. The debt owed by D to C is “property located in New Mexico”.

[8/5/74, 9/15/88, 7/15/96; 3.8.4.10 NMAC - Rn, 3 NMAC 8.4.10, 12/14/00]

3.8.4.11 - GENERAL EXAMPLE: The following example illustrates the application of Subsection D of Section 7-7-4 NMSA 1978.

A. Example 1: S is a decedent who was a resident of State M at the time of her death. The property in her estate consisted solely of bank accounts located in State M and 10,000 shares of stock of XYZ, Inc., a corporation organized under the laws of New Mexico.

B. Pursuant to Section 7-7-4(C)(2) NMSA 1978, the stock is property located in New Mexico, upon which Section 7-7-4(A) NMSA 1978 imposes tax. However, the estate tax law of State M taxes all personal property of its domiciliary decedents, and refrains from taxing the personal property of New Mexico's (and other states') decedents. Therefore, the transfer of S's estate is exempt from the New Mexico estate tax.

[8/5/74, 9/15/88, 7/15/96; 3.8.4.11 NMAC - Rn & A, 3 NMAC 8.4.11, 12/14/00]

7-7-5. TAX RETURN.--The personal representative of every estate subject to the tax imposed by the Estate Tax Act who is required by the laws of the United States to file a federal estate tax return shall file with the department on or before the date the federal estate tax return is required to be filed, including any extension of time for filing the federal estate tax return:

A. a return for the taxes due under the Estate Tax Act; and

~~B. a copy of the federal estate tax return.~~

3.8.5.8 - COPY OF FEDERAL EXTENSION

If an extension of time for filing the federal estate tax return is granted by the federal government, that extension applies to the filing of the state estate tax return. A copy of the document granting the extension by the federal government must be filed simultaneously with the filing of the state estate tax return by the date to which the federal extension has been granted. [8/5/74, 9/15/88, 7/15/96; 3.8.5.8 NMAC - Rn, 3 NMAC 8.5.8, 12/14/00]

7-7-6. DATE PAYMENT DUE.--The taxes imposed by the Estate Tax Act shall be paid by the personal representative on or before the date the return for the taxes is required by Section 7-7-5 NMSA 1978 to be filed.

7-7-7. INTEREST ON AMOUNT DUE--EXTENSION OF TIME TO FILE FEDERAL RETURN.--Interest, as provided in the Tax Administration Act, shall be paid to the state on the amount of tax due under the Estate Tax Act from the first day following the day on which payment of the tax would be due in the absence of an extension of time until the day paid, whether or not the personal representative is granted an extension of time within which to file the federal estate tax return.

7-7-8. DEPARTMENT TO FILE CERTIFICATE--FINAL SETTLEMENT OF ACCOUNT.--

A. Except as otherwise provided in Subsection B of this section, the department shall file a certificate with the clerk of the county in which the estate or any part of it is located when:

- (1) no taxes imposed by the Estate Tax Act are due; or
- (2) the taxes due under the Estate Tax Act have been paid.

B. If the estate is not required to file a federal estate tax return, the filing of a certificate by the department is not required.

C. No court shall allow the final settlement of the account of any personal representative until either a certificate is filed as provided in this section if the estate is required to file a federal estate tax return or the personal representative demonstrates that the estate was not required to file a federal estate tax return.

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]

7-7-9. ADMINISTRATION NOT APPLIED FOR--APPLICATION OR WAIVER BY THE DEPARTMENT.--

A. If no person interested in the estate of a decedent applies for letters testamentary or of administration within thirty days after the death of the decedent, the department may apply to the probate court having jurisdiction for the appointment of an administrator and after a hearing, the probate court shall appoint an administrator of the estate of the decedent.

B. If the administration of the estate of a decedent is not necessary, the department may waive administration. The department shall not waive ~~administration until the taxes due under the Estate Tax Act are paid.~~

7-7-10. ADMINISTRATION.--The Estate Tax Act shall be administered and enforced as provided in the Tax Administration Act.

3.8.10.8 - WHEN LIEN ARISES

A lien on property of the estate arises pursuant to Sections 7-1-37 NMSA 1978 et seq. of the Tax Administration Act, and not otherwise.

[8/5/74, 9/15/88, 7/15/96; 3.8.10.8 NMAC - Rn & A, 3 NMAC 8.10.8, 12/14/00]

7-7-11. SALE OF PROPERTY TO PAY TAX.--A personal representative may sell so much of any property as is necessary to pay the taxes due under the Estate Tax Act. A personal representative may sell so much of any property specifically bequeathed or devised as is necessary to pay the proportionate amount of the taxes due on the transfer of the property and the fees and expenses of the sale, unless the legatee or devisee pays the personal representative the proportionate amount of the taxes due.

7-7-12. LIABILITY FOR FAILURE TO PAY TAX BEFORE DISTRIBUTION OR DELIVERY.--

A. Any personal representative who distributes any property without first paying, securing another's payment of, or furnishing security for payment of the taxes due under the Estate Tax Act is personally liable for the taxes due to the extent of the value of any property that may come or may have come into his possession. Security for payment of the taxes due under the Estate Tax Act shall be in an amount equal to or greater than the value of all property that is or has come into the possession of such personal representative as of the time such security is furnished.

B. Any person who has the control, custody or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside New Mexico without first paying, securing another's payment of or furnishing security for payment of the taxes due under the Estate Tax Act is liable for the taxes due under the Estate Tax Act to the extent of the value of the property delivered. Security for payment of the taxes due under the Estate Tax Act shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside New Mexico by such a person.

C. For the purposes of this section, persons who do not have possession of a decedent's property (absent special circumstances) include mortgagees or pledgees, stockbrokers or stock transfer agents, bank and other depositories of checking and savings accounts, safe-deposit companies and life insurance companies.

3.8.12.8 - LIABILITY OF PERSONAL REPRESENTATIVE

The primary liability for payment of the estate tax is on the personal representative of the estate, as defined in Section 7-7-2(I) NMSA 1978. The liability imposed by Section 7-7-12(B) NMSA 1978 is secondary.

[8/5/74, 9/15/88, 7/15/96; 3.8.12.8 NMAC - Rn & A, 3 NMAC 8.12.8, 12/14/00]

3.8.12.9 - SECURING ANOTHER'S PAYMENT OF ESTATE TAX

“Securing another's payment of” the estate tax due requires that any tax which may be owed, actually be paid by any person other than the distributor or deliveror liable under Section 7-7-12 NMSA 1978.

[8/5/74, 9/15/88, 7/15/96; 3.8.12.9 NMAC - Rn & A, 3 NMAC 8.12.9, 12/14/00]

3.8.12.10 - FURNISHING SECURITY FOR PAYMENT OF ESTATE TAX

A. To be acceptable under the terms of Section 7-7-12 NMSA 1978, a surety bond must be underwritten by a corporate surety authorized to transact business in New Mexico.

B. Other acceptable security may be an assignment of a certificate of deposit or a savings account executed by a state or national bank or federally insured savings association authorized to do business in New Mexico, or by an irrevocable letter of credit issued by a state or national bank authorized to do business in New Mexico. Interest, if any, accumulating thereon

shall accrue to the assignor or customer causing issuance of the letter of credit.

C. Example 1: The form of an acceptable surety bond is:

SURETY BOND FOR PAYMENT TO THE TAXATION AND REVENUE DEPARTMENT OF THE STATE OF NEW MEXICO OF ESTATE TAX LIABILITY.

Bond Number (_____)

KNOW ALL PERSONS BY THESE PRESENTS:

That (Principal's Name) as Principal, and (Surety's Name), a corporate surety authorized to transact business in New Mexico, as Surety, are held and firmly bound unto the Taxation and Revenue Department of the State of New Mexico, as Obligee, in the sum of \$_____ lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly, severally, and firmly by this document.

NOW, THEREFORE, the condition of this obligation is such that if the above Principal shall comply with the applicable statutes of the State of New Mexico and with all regulations and rulings of the Taxation and Revenue Department of the State of New Mexico for the estate of _____, decedent, concerning reporting and payment of estate tax liability, then the above obligations shall be void; otherwise they shall remain in full force and effect; and if the Principal fails to pay estate tax when due or becomes a delinquent taxpayer pursuant to Section 7-1-16 NMSA 1978, and the above statutes, regulations and rulings, the above Surety shall pay over to the Taxation and Revenue Department of the State of New Mexico the amount of the tax due up to the stated amount of this bond.

It is understood that the aggregate liability of the Surety shall not exceed the sum of this bond, this bond is continuous in form, and if the Surety shall so elect, this bond may be cancelled by giving thirty days' notice in writing to said Obligee.

Witness/Attest

Surety

By

Attorney-In-Fact
Principal

By _____

NOTE: A POWER OF ATTORNEY SHOULD BE ATTACHED

D. Example 2: The form of an acceptable agreement of assignment is shown in the following letter:

MODEL LETTER TO BE FOLLOWED BY FINANCIAL
INSTITUTION IN TYPING LETTER ON THEIR LETTERHEAD

DATE:

Taxation and Revenue Department
P.O. Box 630
Santa Fe, New Mexico 87504-0630

Dear Secretary:

This is to certify that (Assignor's Name) has deposited with this institution (Dollar Amount of Deposit) in savings account number, or certificate of deposit number _____. This amount, exclusive of any interest which may accrue, is being held to meet the security requirements of Section 7-7-12 NMSA 1978. If the above named depositor fails to pay estate tax when due or at any time becomes a delinquent taxpayer under Section 7-1-16 NMSA 1978, this institution shall, upon demand of the Secretary of Taxation and Revenue, pay over the aforesaid amount to the Taxation and Revenue Department or so much thereof as the Secretary shall demand.

No withdrawals from the account identified above will be permitted without the written permission of the Taxation and Revenue Department of the State of New Mexico.

Very truly yours,

BANK OFFICER
TITLE

[8/5/74, 9/15/88, 7/15/96; 3.8.12.10 NMAC - Rn, 3 NMAC 8.12.10, 12/14/00]

**3.8.12.11 - EXCEPTIONS TO LIABILITY FOR FAILURE TO PAY TAX BEFORE
DISTRIBUTION OR DELIVERY**

A. No liability shall arise under Section 7-7-12 NMSA 1978 by reason of any payment made pursuant to Sections 58-1-8, 58-10-103 or 58-11-64 NMSA 1978, provided that all requirements of those sections are met and that the transferor has acted in good faith. Payments by a savings and loan association, credit union, or bank not in compliance with those sections, or above the amounts specified therein, may result in liability and are fully subject to the provisions of Section 7-7-12 NMSA 1978.

B. Liability is not imposed by Section 7-7-12 NMSA 1978 for the delivery or transfer of property into a New Mexico estate or to the personal representative of the decedent inside New Mexico. A personal representative who is not a resident of New Mexico but who is appointed by a New Mexico court having jurisdiction of an estate, and who is qualified and acting, is not “outside New Mexico” within the meaning of Section 7-7-12 NMSA 1978.

[8/5/74, 9/15/88, 7/15/96; 3.8.12.11 NMAC - Rn & A, 3 NMAC 8.12.11, 12/14/00]

3.8.12.12 - CONTROL, CUSTODY OR POSSESSION OF PROPERTY - EXAMPLES

Persons who have control, custody or possession of any of a decedent's property may include the decedent's agents and representatives, safe-deposit companies, warehouse companies, brokers holding securities belonging to the decedent as collateral, debtors of the decedent, bankers, transferees or distributees, factors, joint owners or partners, fiduciaries or trustees, stock transfer agents, escrow agents, bailees, and persons holding any property as security for an outstanding obligation.

[8/5/74, 9/15/88, 7/15/96; 3.8.12.12 NMAC - Rn, 3 NMAC 8.12.12, 12/14/00]

3.8.12.13 - WHO IS LEGAL REPRESENTATIVE

The term “legal representative” is not restricted to a “personal representative” of a decedent, but includes every person who, with respect to the decedent's property, stands in his place and represents his interests, whether the property is transferred by his act or by operation of law; heirs, next of kin, and distributees may be included in this category.

[8/5/74, 9/15/88, 7/15/96; 3.8.12.13 NMAC - Rn, 3 NMAC 8.12.13, 12/14/00]