
FYI-104

New Mexico
Taxation and Revenue Department

FOR YOUR INFORMATION

Tax Information/Policy Office ♦ P.O. Box 630 ♦ Santa Fe, New Mexico 87504-0630

NEW MEXICO WITHHOLDING TAX Effective January 1, 2019

Please note: You should use the correct number of withholding allowances even though the federal changes will not allow a personal exemption amount when you file your 2019 income tax return.

As the 2019 Internal Revenue Service guidance for the 2019 withholding has been pulled back, the New Mexico's Taxation and Revenue Department (Department) guidance is subject to change with additional information released by the Internal Revenue Service.

Starting tax year 2019, the Department will be requiring electronic submittal of income and withholding information returns if you have more than 25 employees and the information will be due at the end of January. In preparation for this transition, the Department will be accepting electronic submissions starting January 1, 2019 for the 2018 tax year via Taxpayer Access Point at <https://tap.state.nm.us>

This publication contains general information on the New Mexico withholding tax and tables for the percentage method of withholding tax. Taxpayers should be aware that subsequent legislation, regulations, court decisions, revenue rulings, notices and announcements may affect the accuracy of its contents. Please contact the district tax office nearest you or check the department's web site at www.tax.newmexico.gov for more information.

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GENERAL INFORMATION FOR NEW MEXICO WITHHOLDING TAX

New Mexico withholding tax is similar to federal withholding tax. It is based on an estimate of an employee's New Mexico income tax liability and is credited against the employee's actual income tax liability on the New Mexico personal income tax return.

Important Changes for 2018 and 2019

Due to changes in federal law, state income tax liability is not reduced based on the number of personal exemptions claimed by a taxpayer. Although the Standard Deduction amount was increased for all taxpayers the tax liability will likely increase for households with 2 or more dependents. The withholding tables in this publication have been updated to reflect these changes by limiting the withholding allowance deducted amount from wages to no more than three allowances. Employees with more than three allowances may see an increase in their withholding tax as a result of these changes to federal law. Even with these changes, there is an increased likelihood that such households will be under-withheld for state income tax purposes.

At the time of this publication for the 2019 tax year, the Internal Revenue Service has pulled back their withholding guidance. As the Department's guidance on withholding relies on this information for accuracy, this publication is subject to revision as further guidance from the Internal Revenue Service is released.

Who Must Withhold

Every employer, including employers of some agricultural workers, who withholds a portion of an employee's wages for payment of federal income tax must withhold New Mexico income tax. There is a limited exception for certain nonresident employees (See Note 2 below.)

"Employer" means a person doing business in New Mexico or deriving income from New Mexico sources who pays wages to an employee for services performed.

"Employee" means a New Mexico resident who performs services either within or without the state for an employer, or a nonresident of New Mexico who performs services within the state for an employer.

"Wages" means remuneration in cash or other form for services performed by an employee for an employer.

Notes:

- 1) Pension and annuity income of a New Mexico resident is subject to income tax in New Mexico, but New Mexico does not require payers to withhold state income tax on pensions and annuities unless the payee requests the payer of their retirement benefits to withhold state tax. To report withholding tax, a payer must be registered with the state under the Combined Reporting System (CRS).
- 2) Employers are not required to withhold New Mexico income tax from wages of nonresident employees working in New Mexico for 15 or fewer days during the calendar year.
- 3) Persons who are self-employed should not report withholding tax on their wages. Self-employed individuals should make estimated payments using the Form PIT-ES.

Amount to Withhold

Refer to the New Mexico State Wage Withholding Tables for the amount to withhold. The percentage method is included in this publication. No withholding is required if the total withholding for an employee during any one month is less than one dollar. For New Mexico residents the employer is required to withhold New Mexico income tax from all wages of the employee regardless of the employee's work location. For nonresident employees, the employer is required to withhold New Mexico income tax only from wages the employee earns within the state. Refer to above definitions of "employer," "employee" and "wages" to determine if withholding tax is required.

Withholding on Gambling Winnings

Operators, including nonprofit entities, of gambling establishments (racetracks, casinos, state lottery, bingo) must withhold 6% from winnings or submit information returns for state purposes if they are required to withhold or report for federal purposes. Operators must report and pay over the amount of state tax withheld from gambling winnings on the CRS-1 Form. Withholding is required for both residents and nonresidents.

Withholding Tax Reporting Forms

Every person who has withheld state tax during the year from wages, pensions, annuities or gambling winnings is required to file an annual statement of withholding on or before the last day of February for each employee, pension or annuity recipient, or gambling winner. New Mexico accepts the state copy of Federal Form W-2, W2-G, 1042-S, Foreign Person's U.S. Source Income Subject to Withholding and 1099R, a magnetic tape containing this information, or any substitute form acceptable to the Internal Revenue Service so long as it reflects the withholders name, address and identification number, the recipient's name and social security number, and the amount of New Mexico income and withholding. If you, as an employer, have established a medical care savings account program for your employees, it is your responsibility to determine what amounts are exempt from taxation. Reduce the New Mexico taxable wages reported on Federal Form W-2 by amounts established by the employer (or account administrator) as exempt from income tax.

NOTE: Starting tax year 2019, the Department will be requiring electronic submittal of income and withholding information returns if you have more than 25 employees and the information will be due at the end of January. In preparation for this transition, the Department will be accepting electronic submissions starting January 1, 2019 for the 2018 tax year via TAP at <https://tap.state.nm.us>

Annual Reconciliation

New Mexico withholding taxpayers may file Form RPD-41072, Annual Summary of Withholding Tax for CRS-1 Filers. The report is available for taxpayers use but is not required to be filed. This report will allow you to reconcile the total amounts shown as withheld on annual statements of withholding information returns furnished to withholders (Federal Forms W-2, W-2G or 1099R) with the total tax withheld and paid to New Mexico on Form CRS-1. If you have underreported withholding on your Form CRS-1, attach amended returns for the period(s) in which underreporting occurred and remit the difference. If you have overpaid withholding on your Form CRS-1, attach Form RPD-41071, Application for Refund and amended returns for the period(s) in which overpayments occurred.

How and When To Report and Pay Withholding Taxes

You should report withholding, gross receipts and compensating taxes on the Form CRS-1 or file online at <https://tap.state.nm.us>. The Form CRS-1 and tax are due on the 25th of the month following the end of your reporting period. If the 25th is on a Saturday, Sunday, or legal holiday, the Form CRS-1 is due the next business day. The Department uses the postmark date on the envelope to determine if the paper return was filed on time. A Form CRS-1 must be filed whether or not any tax is due. If no tax is due, file a "zero" report. Do not mail cash to the Department.

Taxpayers who need to file withholding information with the Department of Workforce Solutions and the Workers Compensation Administration may do so online at <https://tap.state.nm.us>.

NOTE: Reporting withholding information to the Department of Workforce Solutions and the Workers Compensation Administration does not fulfill your obligation to report and pay withholding tax to the Taxation and Revenue Department. Taxpayers must still file and pay using one of the methods described in the above paragraph.

If you change your business name or address or need to cancel your CRS I.D. number, use Form ACD-31075, *Business Tax Registration Update Form* available from your local district office or online at www.tax.newmexico.gov. Your reporting obligation does not cease

automatically when you stop doing business or paying wages. You must notify the Department to cancel your CRS I.D. number.

Child support withholding is NOT reported on the Form CRS-1. For information about child support withholding you will need to contact the Human Services Department at 505-827-7200.

If you use the cumulative method of withholding for federal withholding, you may use this same method for your state withholding.

Percentage Method Withholding

Use the following steps to figure out the state tax to withhold using the percentage method:

Step 1. Multiply the number of exemption allowances the employee claims on federal Form W-4 (see "For Further Information" on the next column) by the allowance adjustment amount in the table below for the appropriate payroll period. Limit the number of allowances to no more than 3.

Step 2. Subtract that amount from the employee's taxable wage. The taxable wage for state purposes is the same as for federal tax purposes; that is, after deduction of nontaxable premiums or contributions to qualified employer- sponsored benefit plans.

Step 3. Determine the amount to withhold from the appropriate tax table based on the payroll period and on whether the employee is married or single.

Example: A married employee has taxable wages of \$1,000.00 weekly. This employee has claimed four (4) exemption allowances on federal Form W-4). The state withholding tax would be figured as follows:

Illustration of Exemption Allowance Adjustments Example

1.	Taxable weekly wage payment	\$1,000.00
2.	Weekly allowance adjustment amount	\$79.81
3.	Total number of allowances claimed (no more than 3)	X 3
4.	Allowance adjustment dollar amount (line 2 times line 3)	- \$239.43
5.	Taxable wages less allowance adjustment (line 1 minus line 4)	\$760.57
6.	Tax calculation using Table 1(b):	
6a.	Tax on the first \$684.00	\$14.77
6b.	Tax on \$760.57 - \$684.00 = 76.57 * 0.049	+ \$3.75
6c.	Total state tax withholding on weekly wage payment (line 6a plus 6b)	<u>\$18.52</u>

Table of Exemption Allowance Adjustments

PAYROLL PERIOD	ONE ALLOWANCE
Weekly	\$79.81
Biweekly	\$159.62
Semimonthly	\$172.92
Monthly	\$345.83
Quarterly	\$1,037.50
Semiannual	\$2,075.00
Annual	\$4,150.00
Daily or Miscellaneous (each day of payroll period)	\$15.96

Withholding from Irregular or Supplemental Wages or Fringe Benefits

The same method used for calculating federal withholding on irregular or supplemental wages should be used for state withholding. If you use the cumulative method of withholding for federal withholding, you may use this same method for state withholding. If you withhold from fringe benefits for federal purposes, you must also withhold from fringe benefits for state purposes using the same method used for calculating federal withholding. If the federal withholding is calculated using a flat percent, a flat 4.9 percent of the supplemental wage or fringe benefit amount should be withheld for state tax purposes.

NOTE: In the case of a married employee who has elected to be withheld at the higher single rate for federal purposes, the single rate for New Mexico state withholding purposes must also be used.

Special Situations

Generally, if an employee's withholding is correct for federal purposes, it will be correct for state income tax purposes, but there are certain situations in which an employee may be correctly withhold for federal purposes but under withhold for state purposes:

- 1) If the employee claimed the special allowance for head-of-household filing status on Form W-4 Withholding Allowances Worksheet (line E).
- 2) If the employee increased W-4 allowances to offset expected federal tax credits such as the Child Tax Credit or credits for child or dependent care expenses.
- 3) If the employee requested that additional amounts be withheld for federal purposes (see federal Form W-4, line 6).

There are also situations where individuals may have income that is subject to federal taxation but exempt for New Mexico. In these situations, New Mexico withholding on the exempt income would not be necessary. Examples of income exempt from New Mexico tax are:

- 1) Income of a Native American who is a member of a New Mexico federally recognized Indian nation, tribe or pueblo that was wholly earned on the lands of the reservation or pueblo of which the individual is an enrolled member while domiciled on that land, reservation or pueblo.
- 2) Income from active duty military service.

Please see "For Further Information" below for specific instructions on how to eliminate New Mexico withholding on exempt income.

Employment may require some New Mexico residents to spend extensive time in another state with an income tax that is comparable to the New Mexico income tax. Residents of New Mexico are generally subject to New Mexico income tax on all their income, but if that income is also taxed by another state New Mexico allows a credit for the other state's income tax on that income. The wages earned during an extensive period spent in another state may be subject to income tax, and therefore withholding tax, imposed by the other state as well as to New Mexico income tax and withholding tax. The New Mexico income tax on those wages will be reduced, possibly to zero, by the credit allowed for the income tax on the wages paid to the other state. New Mexico withholding tax can be reduced or eliminated on such wages. To reduce or eliminate withholding on such wages, taxpayers may increase the number of exemption allowances on their Form W-4 for New Mexico withholding tax.

Additional Withholding Amounts

Many employees request additional amounts be withheld for federal purposes (see Form W-4, line 6), but very few consider additional withholding for state purposes. The recommended level of additional withholding for state tax purposes is one-quarter (25%) of any additional federal withholding amount.

For Further Information

If employees express concern over the number of withholding allowances they have claimed, you may recommend that they obtain the following publications:

- Internal Revenue Service Form W-4, Employee's Withholding Allowance Certificate. (New Mexico does not have a state equivalent of the federal W-4 form. Employees should complete a copy of the federal W-4 for New Mexico, writing "For New Mexico State Withholding Only" across the top in prominent letters. Keep the New Mexico W-4 in the employee's personnel file. The employee may choose a different number of allowances for state withholding than for federal withholding. This duplicate W-4 is not mandatory. It is a convenience for employer and employee. Employees who have income that is exempt from New Mexico tax (for example, Native Americans working and living on their tribal land; military members with income from active duty military service) should not have New Mexico tax withheld. Employees with exempt income should indicate "exempt" on line 7 of the federal W-4 form.)
- Internal Revenue Service Publication 919 Is My Withholding Correct? (Call 1-800-829-3676 to order this publication.)

New Mexico Taxation and Revenue Department

New Mexico State Wage Withholding Tax Tables for Percentage Method of Withholding
(For wages paid on or after January 1, 2019)

TABLE 5 - If the Payroll Period with Respect to an Employee is <u>QUARTERLY</u>											
Exemption Adjustment = \$1,037.50 per Allowance											
(a) <u>SINGLE</u> person - including head of household:					(b) <u>MARRIED</u> person						
If the amount of wages less adjustments is:			The amount of state tax to be		If the amount of wages less adjustments is:			The amount of state tax to be			
Not Over	\$	925	....	\$0.00	Not Over	\$	2,888	....	\$0.00		
Over:	But not over:			of excess over -	Over:	But not over:			of excess over -		
\$ 925	\$ 2,300			1.7%	\$ 925	\$ 2,888	\$ 4,888		1.7%	\$ 2,888	
\$ 2,300	\$ 3,675	\$ 23.38	+	3.2%	\$ 2,300	\$ 4,888	\$ 6,888	\$ 34.00	+	3.2%	\$ 4,888
\$ 3,675	\$ 4,925	\$ 67.38	+	4.7%	\$ 3,675	\$ 6,888	\$ 8,888	\$ 98.00	+	4.7%	\$ 6,888
\$ 4,925	\$ 7,425	\$ 126.13	+	4.9%	\$ 4,925	\$ 8,888	\$ 12,888	\$ 192.00	+	4.9%	\$ 8,888
\$ 7,425	\$ 11,425	\$ 248.63	+	4.9%	\$ 7,425	\$ 12,888	\$ 18,888	\$ 388.00	+	4.9%	\$ 12,888
\$ 11,425	\$ 17,175	\$ 444.63	+	4.9%	\$ 11,425	\$ 18,888	\$ 27,888	\$ 682.00	+	4.9%	\$ 18,888
\$ 17,175	and over	\$ 726.38	+	4.9%	\$ 17,175	\$ 27,888	and over	\$1,123.00	+	4.9%	\$ 27,888
TABLE 6 - If the Payroll Period with Respect to an Employee is <u>SEMI-ANNUAL</u>											
Exemption Adjustment = \$2,075.00 per Allowance											
(a) <u>SINGLE</u> person - including head of household:					(b) <u>MARRIED</u> person						
If the amount of wages less adjustments is:			The amount of state tax to be		If the amount of wages less adjustments is:			The amount of state tax to be			
Not Over	\$	1,850	....	\$0.00	Not Over	\$	5,775	....	\$0.00		
Over:	But not over:			of excess over -	Over:	But not over:			of excess over -		
\$ 1,850	\$ 4,600			1.7%	\$ 1,850	\$ 5,775	\$ 9,775		1.7%	\$ 5,775	
\$ 4,600	\$ 7,350	\$ 46.75	+	3.2%	\$ 4,600	\$ 9,775	\$ 13,775	\$ 68.00	+	3.2%	\$ 9,775
\$ 7,350	\$ 9,850	\$ 134.75	+	4.7%	\$ 7,350	\$ 13,775	\$ 17,775	\$ 196.00	+	4.7%	\$ 13,775
\$ 9,850	\$ 14,850	\$ 252.25	+	4.9%	\$ 9,850	\$ 17,775	\$ 25,775	\$ 384.00	+	4.9%	\$ 17,775
\$ 14,850	\$ 22,850	\$ 497.25	+	4.9%	\$ 14,850	\$ 25,775	\$ 37,775	\$ 776.00	+	4.9%	\$ 25,775
\$ 22,850	\$ 34,350	\$ 889.25	+	4.9%	\$ 22,850	\$ 37,775	\$ 55,775	\$1,364.00	+	4.9%	\$ 37,775
\$ 34,350	and over	\$1,452.75	+	4.9%	\$ 34,350	\$ 55,775	and over	\$2,246.00	+	4.9%	\$ 55,775
TABLE 7 - If the Payroll Period with Respect to an Employee is <u>ANNUAL</u>											
Exemption Adjustment = \$4,150.00 per Allowance											
(a) <u>SINGLE</u> person - including head of household:					(b) <u>MARRIED</u> person						
If the amount of wages less adjustments is:			The amount of state tax to be		If the amount of wages less adjustments is:			The amount of state tax to be			
Not Over	\$	3,700	....	\$0.00	Not Over	\$	11,550	....	\$0.00		
Over:	But not over:			of excess over -	Over:	But not over:			of excess over -		
\$ 3,700	\$ 9,200			1.7%	\$ 3,700	\$ 11,550	\$ 19,550		1.7%	\$ 11,550	
\$ 9,200	\$ 14,700	\$ 93.50	+	3.2%	\$ 9,200	\$ 19,550	\$ 27,550	\$ 136.00	+	3.2%	\$ 19,550
\$ 14,700	\$ 19,700	\$ 269.50	+	4.7%	\$ 14,700	\$ 27,550	\$ 35,550	\$ 392.00	+	4.7%	\$ 27,550
\$ 19,700	\$ 29,700	\$ 504.50	+	4.9%	\$ 19,700	\$ 35,550	\$ 51,550	\$ 768.00	+	4.9%	\$ 35,550
\$ 29,700	\$ 45,700	\$ 994.50	+	4.9%	\$ 29,700	\$ 51,550	\$ 75,550	\$1,552.00	+	4.9%	\$ 51,550
\$ 45,700	\$ 68,700	\$1,778.50	+	4.9%	\$ 45,700	\$ 75,550	\$ 111,550	\$2,728.00	+	4.9%	\$ 75,550
\$ 68,700	and over	\$2,905.50	+	4.9%	\$ 68,700	\$ 111,550	and over	\$4,492.00	+	4.9%	\$ 111,550
TABLE 8 - If the Payroll Period with Respect to an Employee is <u>DAILY</u> or <u>MISCELLANEOUS</u>											
Exemption Adjustment = \$15.96 per Allowance											
(a) <u>SINGLE</u> person - including head of household:					(b) <u>MARRIED</u> person						
If the amount of wages less adjustments is:			The amount of state tax to be		If the amount of wages less adjustments is:			The amount of state tax to be			
Not Over	\$	14.20	....	\$0.00	Not Over	\$	44.40	....	\$0.00		
Over:	But not over:			of excess over -	Over:	But not over:			of excess over -		
\$ 14.20	\$ 35.40			1.7%	\$ 14.20	\$ 44.40	\$ 75.20		1.7%	\$ 44.40	
\$ 35.40	\$ 56.50	\$ 0.36	+	3.2%	\$ 35.40	\$ 75.20	\$ 106.00	\$ 0.52	+	3.2%	\$ 75.20
\$ 56.50	\$ 75.80	\$ 1.04	+	4.7%	\$ 56.50	\$ 106.00	\$ 136.70	\$ 1.51	+	4.7%	\$ 106.00
\$ 75.80	\$ 114.20	\$ 1.94	+	4.9%	\$ 75.80	\$ 136.70	\$ 198.30	\$ 2.95	+	4.9%	\$ 136.70
\$ 114.20	\$ 175.80	\$ 3.83	+	4.9%	\$ 114.20	\$ 198.30	\$ 290.60	\$ 5.97	+	4.9%	\$ 198.30
\$ 175.80	\$ 264.20	\$ 6.84	+	4.9%	\$ 175.80	\$ 290.60	\$ 429.00	\$ 10.49	+	4.9%	\$ 290.60
\$ 264.20	and over	\$ 11.18	+	4.9%	\$ 264.20	\$ 429.00	and over	\$ 17.28	+	4.9%	\$ 429.00

TAXPAYER INFORMATION

The Department offers a variety of taxpayer information. Some information is free and other information must be purchased.

General Information. FYIs and Bulletins present general information with minimum technical language. All FYIs and Bulletins are free and available through all local tax offices, the Tax Information and Policy Office, and on the Internet. The Taxation and Revenue Department's Internet address is:

<http://www.tax.newmexico.gov>

Regulations. The Department establishes regulations to interpret and exemplify the various tax acts it administers. The Taxation and Revenue Department regulation book is available from the New Mexico Compilation Commission on a prepaid basis. The Compilation Commission also has a compact disk of all statutes and regulations. Specific regulations are also available at the State Records Center or on its web page at www.nmcprr.state.nm.us/nmac.

Order regulation books directly from:

New Mexico Compilation Commission

<http://www.nmcompcomm.us/index.html>

Rulings. Rulings signed by the Secretary and approved by the Attorney General are written statements that apply to one or a small number of taxpayers. A taxpayer may request a ruling (at no charge) to clarify its tax liability or responsibility under specific circumstances. The request for a ruling must be in writing, include accurate taxpayer identification and the details about the taxpayer's situation, and be addressed to the Secretary of the Taxation and Revenue Department at P.O. Box 630, Santa Fe, NM 87504-0630. The taxpayer's representative, such as an accountant or attorney, may request a ruling on behalf of the taxpayer but must disclose the name of the taxpayer. While the Department is not required to issue a ruling when requested to do so, every request is carefully considered.

The Department will not issue a ruling to a taxpayer who is undergoing an audit, who has an outstanding assessment, or who is involved in a protest or litigation with the Department over the subject matter of the request. The Secretary may modify or withdraw any previously issued ruling and is required to withdraw or modify any ruling when subsequent legislation, regulations, final court decisions or other rulings invalidate a ruling or portions of a ruling. Taxation and Revenue Department rulings are compiled and available on the Department's web page free of charge at www.tax.newmexico.gov. Click on "tax library."

Public Decisions & Orders. All public decisions and orders issued by the hearing officers since July 1994 are compiled and available on the Department's web page free of charge at www.tax.newmexico.gov under the "tax library" link.

FOR FURTHER ASSISTANCE

Local tax offices can provide full service and information about the Department's taxes, programs, and forms as well as specific information about your filing situation.

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This publication provides general information. It does not constitute a regulation, ruling, or decision issued by the Secretary of the New Mexico Taxation and Revenue Department. The Department is legally bound only by a regulation or a ruling [7-1-60, New Mexico Statutes Annotated, 1978]. In the event of a conflict between FYI and statute, regulation, case law or policy, the information in FYIs is overridden by statutes, regulations and case law. Taxpayers and preparers are responsible for being aware of New Mexico tax laws and rules. Consult the Department directly if you have questions or concerns about information provided in this FYI.