

State of New Mexico - Taxation and Revenue Department
**OWNER'S OR REMITTEE'S AGREEMENT TO PAY WITHHOLDING
ON BEHALF OF A PASS-THROUGH ENTITY OR REMITTER**

OWNER'S OR REMITTEE'S NAME AND MAILING ADDRESS	PASS-THROUGH ENTITY'S OR REMITTER'S (Payor) NAME AND MAILING ADDRESS
Name _____	Name _____
Street or other mailing address _____	Street or other mailing address _____
City, state and ZIP code _____	City, state and ZIP code _____
Federal employer identification number _____ Check one: <input type="checkbox"/> FEIN <input type="checkbox"/> SSN	Federal employer identification number _____ Check one: <input type="checkbox"/> FEIN <input type="checkbox"/> SSN

Effective period of agreement (you must check one):

☐ Current Year ☐ Indefinite Term ☐ Through _____

A remitter may enter into an agreement with certain remittees that the remittee will remit to the New Mexico Taxation and Revenue Department at the time and in the manner required by the Department the amounts that the remitter is required to withhold and remit with respect to payments to the remittee. Similarly, a pass-through entity may enter into an agreement with a certain owner that the owner will remit to the Department the amounts that the pass-through entity is required to withhold and remit with respect to payments to the owner. Qualifying remittees or owners are those that are individuals who are not residents of New Mexico or businesses that are not principally located in New Mexico. **IMPORTANT:** A PTE that is a personal service business cannot enter into an agreement with its owners. See page 2 for the definition of a personal service business.

The agreement must be in the remitter's or pass-through entity's possession at the time it files its return for the tax year to which the agreement pertains. The agreement may remain in effect for a single tax year, multiple tax years, or an indefinite term, and may be revoked or amended on mutual agreement of the parties. When a non-resident owner becomes a resident of New Mexico, the agreement submitted by that owner is revoked automatically.

Remittances to the Department pursuant to this agreement may be counted towards the corporate income tax or personal income tax liability of remittee's or owner's estimated tax liability, and may not be credited to the estimated tax due by the remitter or the pass-through entity.

The signature of both parties is required:

I agree to make timely payment of all taxes imposed by the State of New Mexico with respect to my share of the income reported by the pass-through entity or remitter named above, to whom I have made this agreement.

Owner's or remittee's signature _____ Date _____

Title _____

Pass-through entity's or remitter's signature _____ Date _____

Title _____

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If the remittee or the owner does not make the required payments as agreed, the remitter or the pass-through entity will be notified by the Department, and the remitter or pass-through entity will thereafter be liable for the payments. The remitter is not responsible for withholding on oil and gas payments made prior to the Department's notification, and the PTE is not responsible for withholding on net income earned in the tax year that ended prior to the Department's notification.

Upon notice by the Department that the remittee or owner has not complied with the requirements of the agreement, the remitter or pass-through entity must revoke the agreement and withhold and remit with respect to future payments to the remittee or owner pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Act. Once an agreement is revoked, a new agreement between the remitter and remittee or between the pass-through entity and the owner, may not be entered into for two years from the date the Department notifies the remitter or the pass-through entity of the remittee's or owner's failure to pay amounts required by the agreement.

Do not submit this agreement to the Department. This agreement must be retained in the remitter's or the pass-through entity's records. The remitter or pass-through entity may be required to furnish a true and correct copy of this agreement upon the Department's request.

The payments by the remittee may be remitted by estimated payments or withholding tax, or by filing the New Mexico income tax return and paying the tax due.

The payments by the owner may be remitted annually, by the due date of their federal income tax return, or through withholding tax. Owners, however, may be subject to penalty and interest on underpayment of estimated personal or corporate income tax. To avoid penalty and interest on underpayment of estimated tax, review the instructions for Form RPD-41272, if an individual, or Form RPD-41287, if an entity subject to New Mexico corporate income tax.

The PTE or remitter must have a completed Form RPD-41353, *Owner's or Remittee's Agreement to Pay Withholding on Behalf of a Pass-Through Entity or Remitter*, on file at the time it files its return for the tax year to which the agreement pertains.

An owner or a remittee who is a PTE may not use Form RPD-41354, *Declaration of Principal Place of Business or Residence in New Mexico*, to avoid the withholding requirement of the paying PTE or remitter. The PTE owner or PTE remittee may, however, enter into an agreement and submit this form, RPD-41353, to the paying PTE or remitter to avoid the withholding.

A PTE that is a personal service business cannot enter into an agreement with its owners. A "**personal services business**" means a business organization that receives payments for the services of a performing artist for purposes of the film production tax credit.