

1 HOUSE BILL 344

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Larry R. Scott

5
6
7
8
9
10 AN ACT

11 RELATING TO TAXATION; REVISING THE DUE DATE FOR CORPORATE
12 INCOME AND FRANCHISE TAX FILING AND PAYMENT FOR ELECTRONIC
13 SUBMISSIONS; REVISING THE DUE DATE FOR PASS-THROUGH ENTITY
14 INFORMATION-RETURN FILING FOR ELECTRONIC SUBMISSIONS.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-2A-9 NMSA 1978 (being Laws 1981,
18 Chapter 37, Section 42, as amended) is amended to read:

19 "7-2A-9. TAXPAYER RETURNS--PAYMENT OF TAX.--

20 A. Every corporation deriving income from any
21 business transaction, property or employment within this state,
22 [~~and~~] that is not exempt from tax under the Corporate Income
23 and Franchise Tax Act [~~which~~] and that is required by the laws
24 of the United States to file a federal income tax return shall
25 file a complete tax return with the department in form and

.199026.2SA

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 content as prescribed by the secretary. [~~Corporations shall~~
2 ~~file such returns with the department on or before the~~
3 ~~fifteenth day of the third month following the end of each~~
4 ~~taxable year. The corporate income tax imposed on corporations~~
5 ~~under Subsection A of Section 7-2A-3 NMSA 1978 is due and~~
6 ~~payment is required on or before the fifteenth day of the third~~
7 ~~month following the end of the taxable year.] Except as
8 provided in Subsection C of this section, a corporation that is
9 required by the provisions of the Corporate Income and
10 Franchise Tax Act to file a return or pay a tax shall, on or
11 before the fifteenth day of the third month following the end
12 of each taxable year, file the return and pay the tax levied
13 for that year.~~

14 B. Every domestic or foreign corporation that is
15 not exempt from tax under the Corporate Income and Franchise
16 Tax Act, that is employed or engaged in the transaction of
17 business in, into or from this state or [~~deriving~~] that derives
18 any income from property or employment within this state and
19 every domestic or foreign corporation, regardless of whether it
20 is engaged in active business, [~~or not, but having or~~
21 ~~exercising~~] that has or exercises its corporate franchise in
22 this state and that is not exempt from tax under the Corporate
23 Income and Franchise Tax Act [~~is required to~~] shall file a
24 return in the form and content as prescribed by the secretary
25 and pay the tax levied pursuant to Subsection B of Section

.199026.2SA

underscored material = new
[bracketed material] = delete

1 7-2A-3 NMSA 1978 in the amount for each corporation as
2 specified in Section 7-2A-5.1 NMSA 1978. Returns and payment
3 of tax for corporate franchise tax for a taxable year shall be
4 filed and paid on the date specified in Subsection A or C of
5 this section for payment of corporate income tax for the
6 preceding taxable year.

7 C. A corporation that is required by the provisions
8 of the Corporate Income and Franchise Tax Act to file a return
9 or pay a tax and that is approved by the department to use
10 electronic media for filing and paying taxes shall, if using
11 electronic media for filing and paying taxes, file the return
12 and pay the tax levied for that taxable year on or before the
13 thirtieth day of the third month following the end of that
14 year."

15 SECTION 2. Section 7-3A-7 NMSA 1978 (being Laws 2003,
16 Chapter 86, Section 10, as amended) is amended to read:

17 "7-3A-7. STATEMENTS OF WITHHOLDING.--

18 A. Every remitter shall:

19 (1) file an annual statement of withholding
20 for each remittee that:

21 (a) is in electronic format and includes
22 a form 1099-Misc or a successor form or on a pro forma 1099-
23 Misc or a successor form for those entities that do not receive
24 an internal revenue service form 1099-Misc;

25 (b) is filed with the department on or

.199026.2SA

underscored material = new
[bracketed material] = delete

1 before the last day of February of the year following that for
2 which the statement is made; and

3 (c) includes the total oil and gas
4 proceeds paid to the remittee and the total amount of tax
5 withheld for the calendar year; and

6 (2) provide a copy of the annual statement of
7 withholding to the remittee on or before February 15 of the
8 year following the year for which the statement is made.

9 B. The department shall develop and adopt rules
10 regarding the filing of a report pursuant to this section and
11 the attachment of form 1099-Misc or a successor form or a pro
12 forma 1099-Misc or a successor form, if the remitter is not
13 able to file those forms in an electronic format.

14 C. Every remitter shall file an electronic report
15 of the remittees who have certified that the remittee is
16 responsible for filing the remittee's own oil and gas proceeds
17 tax report and for paying the remittee's oil and gas proceeds
18 tax liability due.

19 D. Every pass-through entity doing business in New
20 Mexico shall:

21 (1) file an annual information return with the
22 department that:

23 (a) is filed on or before: 1) the due
24 date of the entity's federal return for the taxable year; or 2)
25 if the entity's taxable year is a calendar year, if the entity

.199026.2SA

underscoring material = new
[bracketed material] = delete

1 is approved by the department to use electronic media for
2 filing and if the entity uses electronic media to file the
3 annual information return, the end of the month in which the
4 entity's federal return is due;

5 (b) is signed by the business manager or
6 one of the owners of the pass-through entity; and

7 (c) contains all information required by
8 the department, including the pass-through entity's gross
9 income; the pass-through entity's net income; the amount of
10 each owner's allocable share of the pass-through entity's net
11 income; and the name, address and tax identification number of
12 each owner entitled to an allocable share of net income; and

13 (2) provide to each of its owners sufficient
14 information to enable the owner to comply with the provisions
15 of the Income Tax Act and the Corporate Income and Franchise
16 Tax Act with respect to the owner's allocable share of net
17 income.

18 E. The department shall compile each year the
19 annual statements of withholding received from the remitters
20 and the annual information returns received from pass-through
21 entities and compare the compilations with the records of
22 corporations, individuals, estates or trusts filing income tax
23 returns."

24 **SECTION 3. APPLICABILITY.**--The provisions of this act
25 apply to taxable years beginning on or after January 1, 2015.

.199026.2SA