

## INSTRUCTIONS FOR 2023 PIT-B

### SCHEDULE OF NEW MEXICO ALLOCATION AND APPORTIONMENT OF INCOME

#### General Information

This section gives general information about Schedule PIT-B, *Schedule of New Mexico Allocation and Apportionment of Income*. Detailed instructions for completing Schedule PIT-B start on page 3B.

PIT-B is for taxpayers with income from sources **both** inside and outside New Mexico. Schedule PIT-B provides a credit against New Mexico tax equal to the New Mexico source income divided by total income everywhere.

**NOTE:** Qualifying residents may be eligible to claim *credit for taxes paid to another state*. See instructions for PIT-1, line 20 for more information.

New Mexico source income is derived by allocating and apportioning total income. If you have income from sources both inside and outside New Mexico, attach and submit Schedule PIT-B with your PIT-1 Return.

For information about a married couple filing a joint return where one spouse, but not both, is a resident of a community property state, see *Information About Community and Separate Income* on this page.

**NOTE:** When both spouses are residents of community property states, or both spouses are residents of non-community property states, the special allocation and apportionment rules do not require additional instructions.

#### Residency Definitions

On PIT-1 instructions, page 4, definition of *Resident*, you can find definitions of the following terms:

- Resident
- First-year resident
- Part-year resident
- Non-resident.

#### DEFINITIONS AND OTHER USEFUL INFORMATION

The following topics are described next to help you complete PIT-B:

- Allocated income
- Apportioned income
- Community income
- Information about community and separate income
- Allocation of community and separate income
- Income and residency of military servicemember's spouse.

#### Allocated Income

"Allocated income" means nonbusiness income reported on PIT-B, lines 1 to 7. Using the specific line instructions, base the allocation on either of the following:

- The date you received the income (for example, wages, interest, or dividends of a first-year resident), **or**

- The location of the income-earning property or activity (for example, rent and royalty income).

#### Apportioned Income

"Apportioned income" means business and farm income you report on PIT-B, line 8. Business and farm income includes income reported on federal Schedules C, C-EZ, F, or other schedules that characterize income as business-related. Business income is apportioned based on the location of the income-earning property or activity.

#### Community Income

"Community income" is income from community property acquired by persons domiciled in a community property state during the marriage. It can be either:

- nonbusiness income (example, wages, salaries, dividends, interest, royalties, or rents), or
- business income (example, Schedule C gross receipts or farm income).

**Married Filing Jointly.** When a couple files married filing jointly, all income and payments are combined and tax is computed on the sum of all community and separate income.

**Married Filing Separately.** When a couple files married filing separately, each spouse reports 50% of community income and all income generated from the separate property of the spouse who owns the property.

When a couple's income is not evenly divided, you must attach a statement showing the correct division of community and separate income and payments.

When one spouse, but not both, resides in a community property state and the couple has income from sources both inside and outside New Mexico, special instructions for completing Schedule PIT-B are usually needed. For specifics and examples, see the next section.

#### Information About Community and Separate Income

The laws of the state of domicile generally govern whether you have community property and community income—or separate property and separate income—for federal and state tax purposes. Community property states are New Mexico, Arizona, California, Idaho, Louisiana, Nevada, Texas, Washington, and Wisconsin.

Because New Mexico is a community property state, all assets and liabilities acquired during a marriage are the community property of both spouses, unless the property is separate property.

#### Allocation of Community and Separate Income

When one spouse, but not both, is a resident of a community property state:

- Half of the community income of the spouse who is a resident of a community property state is equally divided between both spouses, **and**
- 100% of the separate income is treated as if it was the income of the spouse who owns the property.

For your records, create a worksheet of each spouse's income. Divide the community income equally between each spouse and assign 100% of separate income to the spouse who owns the separate property.

Then determine the New Mexico residency status of each spouse. Based on each spouse's New Mexico residency status, and using the line instructions, determine the correct allocation and apportionment rules to apply to the type of income for each spouse.

**Example 1.** A New Mexico full-year resident and a Colorado resident (non-resident of New Mexico) are married and file a joint return. The New Mexico resident has wage income from employment in Texas. Because New Mexico is a community property state and the resident spouse is domiciled in New Mexico, the resident spouse's wage income is community property. Half the wage income from employment in Texas is the property of each spouse.

The instructions for PIT-B, line 1, require that half of the New Mexico resident's wage income is allocated in full to New Mexico, even if the income was not earned in New Mexico. The non-resident spouse's share of the community wage income is not allocated to New Mexico, because the income is not from services performed in New Mexico.

**Example 2.** Use the same facts as Example 1, except the wage income is the separate income of the New Mexico resident spouse due to a separation agreement. All wage income is allocated to New Mexico, because the spouse entitled to the benefit of the entire amount of wage income is a resident of New Mexico.

The New Mexico resident must allocate this wage income according to the line instructions for a **resident** taxpayer on PIT-B, line 1.

**Example 3.** Again, use the same facts as Example 1, except wages from employment in Texas were earned by the non-resident spouse who was domiciled in Texas. Because the non-resident spouse is domiciled in a community property state, the wage income is community property.

When both spouses are residents of community property states or both spouses are residents of non-community property states, special allocation and apportionment rules are not needed.

Half of the community income is allocated to New Mexico, based on the instructions for the resident spouse's share of the community income. The other half of the community income is not allocated to New Mexico, based on the instructions for the non-resident spouse's share of the community

income.

**Example 4.** If both spouses are residents of New Mexico, all community wage income is allocated to New Mexico.

### More Information about Community and Separate Income

For general guidance in determining whether income is community income or separate income, see the following publication:

- [FYI-310, Community Property, Divorce, Separation, and Your New Mexico Income Tax](#) and
- Internal Revenue Service (IRS) Publication 555, *Community Property*.

Publication FYI-310 is available at [www.tax.newmexico.gov](http://www.tax.newmexico.gov). At the top, click **FORMS & PUBLICATIONS**, then select **FYIs** from the **Publications** folder. Open the **300 Series- Income Taxes** folder to access FYI-310. Publication 555 is available on the IRS website at [www.irs.gov](http://www.irs.gov).

### Military Servicemember's Spouse

These instructions are effective beginning with tax year 2018.

### Income and Residency

These rules apply to a military servicemember's spouse who moves to New Mexico solely to be with the servicemember who is in the state due to military orders.

They may source their non-military wages, salaries, tips and other income from services performed to their chosen state of domicile instead of the state where the income is earned. For tax purposes, this can be either the domicile state that the servicemember claims or the state in which the servicemember's spouse has established domicile.

The following restrictions apply to the servicemember and spouse:

- The servicemember must have declared a "domicile for purposes of withholding state income taxes from military pay" in their state of domicile.
- The servicemember must be in the new state due to military orders.
- The servicemember's spouse must be in the new state solely to be with the military spouse.

**IMPORTANT:** The servicemember continues to allocate non-military income from services performed to the state where the income was earned.

### New Mexico Resident Spouses

If you are a New Mexico resident who is a qualifying servicemember's spouse living in another state, do **both** of the following:

- Complete a New Mexico PIT-1 Return as a resident taxpayer.
- Allocate wages, salaries, tips, and other income from services performed as if they were earned in New Mexico, even though you earned the income in another state.

For details, see Form RPD-41348, *Guidance for New Mexico Resident Military Spouses Claiming Relief From Another State's Income and Withholding Tax Requirements* on the Department website at [www.tax.newmexico.gov](http://www.tax.newmexico.gov). At the top, click **FORMS & PUBLICATIONS** then select the following items in this order:

- Income Taxes,
- Personal Income Tax (PIT) - Current Year,
- Other PIT-Related Forms, **then**
- RPD-41348 *Guidance for New Mexico Resident Military Spouses Claiming Relief From Another State's Income and Withholding Tax Requirements*

## Non-Resident Spouses

If you are a non-resident of New Mexico who is a qualifying servicemember's spouse living in New Mexico, do **all** of the following:

- Complete a New Mexico PIT-1 as a non-resident taxpayer.
- Allocate income from services performed in New Mexico to the state of legal residency.
- Mark the box at the top of PIT-B to indicate status as primary taxpayer or spouse, and qualification for relief under the Military Spouse Residency Relief Act.

## Part-Year or First-Year Residents

If you are a part-year or first-year New Mexico resident, who is a qualifying servicemember's spouse, allocate income from services performed in New Mexico to New Mexico during periods when you were a resident of New Mexico.

If you are a military servicemember's spouse, eligible to claim an exempt New Mexico withholding status based on the Military Spouse Residency Relief Act, you must annually submit Form RPD-41348 to your employer or payor responsible for withholding New Mexico tax. Keep a copy, signed by the employer or payor, in your records. Do not submit RPD-41348 with your PIT-1 unless the Department requests it.

**NOTE:** Your employer or payor must sign a new RPD-41348 annually, or when your situation changes.

## How to Prepare the PIT-B

You can find out more about preparing your PIT-B, in the next sections:

- Overview;
- Completing the Top of Page 1;
- About Line Instructions and columns;
- Line Instructions for Page 1; **and**
- Instructions for Page 2 Worksheet.

## OVERVIEW

Follow these steps to prepare and complete Schedule PIT-B:

1. On PIT-1 instructions, page 20, read *Important Guidelines*.
2. Before beginning PIT-B, complete your federal return and your New Mexico PIT-1 through line 17.
3. Gather any additional forms or publications you need. For helpful resources, see PIT-1 instructions, page 1,

## Contacting the Department.

4. Collect any additional tax records to show the sources of your income items. Some taxpayers find it helpful to make a list identifying the source of each income item reported for federal income tax purposes.
5. Fill in your PIT-B using the line instructions that begin on the next page. Specific instructions for lines 1, 2, 3, and 7 apply to column 2 for different residency statuses. Follow the instructions for the residency status you reported on PIT-1, boxes 1e and 2e.

**NOTE:** You can find definitions for resident, first-year resident, part-year resident, and non-resident on PIT-1 instructions, beginning on page 2, *Who Must File*.

6. If you have an entry on line 8, column 1, complete the worksheet on PIT-B, page 2 unless the entry on line 8, column 2 is the same as column 1 or is zero. Line instructions for the worksheet begin on page 8B.
7. Check your figures on PIT-B and, if applicable, the worksheet. Make sure the arithmetic is correct, and that you limited your entries when required.

**IMPORTANT:** Remember that residents must allocate income and deductions on lines 1, 2, 3, and 7 in full to New Mexico.

8. Do a final check on these parts of PIT-B:
  - Is your correct name and social security number shown?
  - Is page 1 and, if applicable, page 2 complete?
  - Have you answered all required questions?
9. Do a final check on these lines of PIT-B and PIT-1:
  - You correctly transferred your tax liability from PIT-B, line 14, to PIT-1, line 18.
  - You entered **B** in the PIT-1, line 18a box to indicate you used PIT-B to compute your tax.

## COMPLETING THE TOP OF PAGE 1

Enter the taxpayer's first name, middle initial, last name, and social security number exactly as they appear on the PIT-1.

## Line A and B

Part-year and first-year residents enter the beginning and ending date for the tax year when the taxpayer was a resident of New Mexico.

## Line C and D

If you are married filing jointly, and your spouse's residency period is different, enter the period of residency for your spouse.

**NOTE:** If additional periods of residency apply, write them on PIT-B in the space below the lines.

## Box E and F

If either the primary taxpayer or spouse is a qualifying military servicemember's spouse (see *Income and Residency of Military Servicemember's Spouse*, page 2B), is not a resident of New Mexico, and is allocating income earned from services performed in New Mexico to the state of residence, at the top of PIT-B mark box E (Taxpayer) or F (Spouse).

**IMPORTANT:** Marking box E or F is required to indicate qualification for relief under the Military Spouse Residency Relief Act.

## LINE INSTRUCTIONS AND COLUMNS

These instructions are intended to make it easier for you to complete the PIT-B. No instructions are given for lines that tell you to add, subtract, or perform similar actions.

Each line instruction describes the allocation and apportionment rules for the type of income.

### References to Line Numbers on Federal Forms

Line number references to federal forms are for your convenience. They are based on information available to the Department at the time these instructions go to print.

### Completing the Columns

First complete column 1. You can usually take the amount from your federal return.

### Column 2 and Residency Status

Because many amounts you enter in column 2 are determined by your residency status, make sure to use the correct residency status instructions. If you are filing a joint return, use the residency status instructions for you and your spouse.

New Mexico residency status is defined on PIT-1 instructions, page 4. You report your residency status on PIT-1, page 1, lines 1e and 2e.

## LINE INSTRUCTIONS FOR PAGE 1

Detailed instructions for each line are given here, along with specific information about columns.

### Section 1: Allocation of Nonbusiness Income

#### LINE 1. Wages, salaries, tips, etc.

To calculate the credit for taxes paid to another state, see page 29 of the 2023 PIT-1 instructions for line 20.

#### Line 1, Column 1

Enter the amount of wages, salaries, tips, etc. from federal

Form 1040 or 1040SR, line 1.

#### Line 1, Column 2

Refer to *Table B-1. Wages, salaries, tips, etc. Column 2.*

Payment for annual leave, sick leave, and holiday leave associated with employment or services performed in New Mexico is New Mexico income.

Non-residents who work regularly in New Mexico but temporarily assigned to duty outside New Mexico\* may use the PIT-110 Worksheet, *Adjustment to New Mexico Income*. You can get this worksheet from the Department website or from any Department office.

**NOTE:** "Temporarily assigned to duty outside New Mexico" does **not** include partial days.

If your taxable wages and other compensation include moving expenses, the compensation is taxable to New Mexico only if the move is made from another state into New Mexico.

**Non-resident military and non-resident U.S. Public Health Service members wages or salary.** Exclude from line 1, columns 1 and 2, any military wages or salary earned by a non-resident servicemember that was:

- Also included in federal adjusted gross income, **and**
- Reported on PIT-1, line 9.

If you changed your domicile or residency to, or from, New Mexico during the tax year, exclude only the military salary or wages earned while a non-resident of New Mexico. If any or all non-resident wages or salaries were for active duty military service in the U.S. Armed Forces or U.S. Public Health Service, that amount is also included in the amount you deducted from your New Mexico taxable income on Schedule PIT-ADJ, lines 16 and 21 respectively.

**Non-resident servicemember's non-military wages or salary.** Include in line 1, columns 1 and 2, all non-military wages or salary earned from services performed in New Mexico.

**Qualifying non-resident military servicemember's spouse.** A qualifying non-resident military servicemember's

**Table B-1. Wages, salaries, tips, etc. Column 2.**

Residency	Instruction
<b>Resident.</b>	New Mexico residents <b>must</b> allocate in full to New Mexico all amounts of wages, salaries, tips, etc. on PIT-B, line 1, column 1. If the income was earned outside New Mexico and tax was paid to the other state on that income, residents may claim a non-refundable <b>credit</b> for the tax paid to the other state on that income.
<b>First-year resident.</b>	Enter all wages, salaries, tips, etc. earned inside and outside New Mexico after date in which New Mexico residency was established.
<b>Part-year resident.</b>	Enter all wages, salaries, tips, etc. earned inside and outside New Mexico during the part of the year you were a resident of New Mexico.
<b>Non-resident.</b>	Enter all wages, salaries, tips, etc. earned inside New Mexico or that came from services performed in New Mexico.



spouse who has a signed Form RPD-41348, *Military Spouse Withholding Tax Exemption Statement*, may allocate income earned from services performed in New Mexico to the state of residence by **excluding** the income in column 2. For details about military servicemember’s spouse, see page B-2.

**Qualifying resident military service member’s spouse.** A qualifying New Mexico resident military servicemember’s spouse may allocate income earned in another state to New Mexico by **including** the income in column 2.

If you are a **first-year resident** or **part-year resident** who is a qualifying military servicemember’s spouse, you may allocate income earned from services performed in another state to New Mexico during the part of the year you were a resident by **including** the income in column 2. During the part of the year you were a non-resident, allocate income earned in another state from services performed in that other state by **excluding** it from PIT-B, line 1, column 2.

**LINE 1a.** If you used Form PIT-110, *Adjustments to New Mexico Income*, in the calculation of line 1, column 2, mark the box.

**LINE 2. Nonbusiness interest and dividends**

**Line 2, Column 1**

To calculate nonbusiness interest and dividends, follow these steps:

1. Start with the amount of federal taxable interest on line 2b, and dividends on line 3b of federal Form 1040 or 1040SR.
2. If you have municipal bond income, subtract the New Mexico tax-exempt interest and dividends reported on PIT-ADJ, line 6, from the amount of federal tax-exempt dividends and interest reported on PIT-ADJ, line 1.
3. Add the amounts from steps 1 and 2.
4. Enter the result in line 2, column 1.

**Line 2, Column 2**

Refer to *Table B-2. Nonbusiness interest and dividends Column 2.*

**Definition of Commercial Domicile**

“Commercial domicile” means the principal place from which the trade or business of the taxpayer is directed or managed as defined in 7-4-2(B) NMSA 1978.

**EXAMPLE.** A taxpayer with nonbusiness interest and dividends derived from a 1099-INT in another state, who is considered a resident, first-year resident, or part-year resident is required to allocate the nonbusiness income to New Mexico as described above on PIT-B, line 3, column 2.

**NOTE:** Business interest on dividends should be allocated and apportioned on PIT-B, line 6 or line 8, column 2.

**LINE 3. Pensions, annuities, social security, and lump-sum distributions**

**Line 3, Column 1**

From your federal Form 1040 or 1040SR return, enter the total amount of taxable IRA distributions on line 4b, taxable pensions and annuities on line 5b, and taxable social security on line 6b. Include ordinary income and lump-sum distributions on line 11, as reported on federal Form 4972, *Tax on Lump-Sum Distributions*.

**Line 3, Column 2**

Refer to *Table B-3. Pensions, annuities, social security, and lumpsum distributions Column 2.*

**NOTE:** Effective for retirement income received after December 31, 1995, federal law prohibits any state from imposing an income tax on certain retirement income (primarily pension income) of an individual unless that person is a resident of or domiciled in the state imposing the tax.

For example, if you receive a pension from your former California employer, but you established your domicile in New Mexico, California may not impose its income tax on that retirement income. New Mexico may impose its income tax on your retirement income, because you are a New Mexico resident.

**Table B-2. Nonbusiness interest and dividends Column 2.**

Residency	Instruction
<b>Resident.</b>	New Mexico residents <b>must</b> allocate in full to New Mexico all amounts of nonbusiness interest and dividends on PIT-B, line 2, column 1. If you are a resident and you paid tax on that income to another state, you may claim a non-refundable <b>credit</b> for the tax paid to the other state on that income. To calculate the credit for taxes paid to another state, see page 30 of the 2023 PIT-1 instructions for line 20.
<b>First-year resident.</b>	Enter the amount of nonbusiness interest and dividends you received after establishing your residence in New Mexico. To determine when you received nonbusiness interest and dividends, use the date they were payable.
<b>Part-year resident.</b>	Enter the amount of nonbusiness interest and dividends you received while a resident of New Mexico. To determine when you received nonbusiness interest and dividends, use the date they were payable
<b>Non-resident.</b>	Non-residents with no commercial domicile in New Mexico, enter zero. If you operate a business with a commercial domicile in New Mexico, allocate to New Mexico any nonbusiness interest and dividend income from your New Mexico operations.

Table B-3. Pensions, annuities, social security, and lumpsum distributions Column 2.	
Residency	Instruction
<b>Resident.</b>	New Mexico residents <b>must</b> allocate in full to New Mexico all amounts of pensions, annuities, social security, and lump-sum distributions on PIT-B, line 3, column 1. If you are a resident and you paid tax on that income to another state, you may claim a non-refundable <b>credit</b> for the tax paid to the other state on that income. To calculate the credit for taxes paid to another state, see page 29 of the 2023 PIT-1 instructions for line 20.
<b>First-year resident.</b>	Add the following and enter the total: <ul style="list-style-type: none"> <li>• Pension and annuity amounts you received after establishing residence in New Mexico, <b>plus</b></li> <li>• The ordinary income portion of any lump-sum distribution from federal Form 4972 you earned the right to receive while a New Mexico resident.</li> </ul>
<b>Part-year resident.</b>	Add the following and enter the total: <ul style="list-style-type: none"> <li>• The portion of pensions and annuities you received while you were a resident of New Mexico, <b>plus</b></li> <li>• The ordinary income portion of any lump-sum distribution from federal Form 4972 you earned the right to receive while a New Mexico resident.</li> </ul>
<b>Non-resident.</b>	Enter zero. Pension and annuity income of a non-resident are not allocated to New Mexico.

**LINE 4. Rents and royalties**

All taxpayers with income from real property (including rents and royalties from oil and gas interests), tangible personal property, or intangibles located or used in New Mexico must allocate and apportion the income or loss based on the location of the income-earning property. Intangibles are listed next and definitions for the use of copyrights and patents follow, along with an example.

**Intangibles** are the following:

- Copyrights;
- Patents;
- Franchises;
- Trademarks; and
- Licenses.

**Copyright.** A copyright is used in New Mexico when printing or other production takes place in New Mexico.

**Patent.** A patent is used in New Mexico when it is employed in production, fabrication, manufacturing, or other processing in New Mexico or when a patented product is produced in New Mexico.

**EXAMPLE.** If rental property is located in New Mexico, include the income on PIT-B, line 4, column 2.

If you report income from real property, tangible personal property, or intangibles on federal Schedule C or similar business income schedules, show that income on PIT-B, line 8, **not** line 4.

**Line 4, Column 1**

Enter the net amount of rents and royalties from your federal Schedule E.

**Line 4, Column 2**

**All taxpayers.** Start with the net amount of rents and royalties from **all** of the following New Mexico sources:

- Rents from real property located in New Mexico

- Rents from tangible personal property located or used in New Mexico
- Income from royalties and working interests in oil and gas producing properties located in New Mexico
- Income from patents, copyrights, franchises, trademarks, and licenses used in New Mexico

In addition to these sources, **residents** allocate income from intangible and tangible personal property used in another state if the New Mexico **resident** is not subject to tax on the income in the other state. **First-year residents** and **part-year residents** allocate the income described above to New Mexico if the income was earned during a part of the year that the individual was a resident of New Mexico.

**Allocating rental or royalty income on tangible personal property.** If you do not know the extent to which tangible personal property was used in New Mexico, follow these steps to calculate the entry for line 4, column 2:

1. Find these numbers to use in your calculation:
  - Number of days the property was physically located in **New Mexico** during the rental or royalty period
  - Number of days the property was physically located **everywhere** during the rental or royalty period
  - Total amount of rents and royalties received for the tax year
2. Divide the days in New Mexico by the days everywhere. This gives you the percentage of time the property was located in New Mexico.
3. Multiply the total rents and royalties received for the tax year by the percentage in step 2.
4. Enter the step 3 result on line 4, column 2.

**EXAMPLE.** An out-of-state taxpayer rents a drilling rig to a New Mexico taxpayer. The drilling rig is in New Mexico for 90 days. The rig is rented for a total of 270 days during the tax year in several states. The total rents and royalties everywhere are \$25,000,000. The calculation for the line 4, column 2 entry is shown next.

90 days located in NM ÷  
270 total days everywhere =  
33.3% percent of time in NM x  
\$25,000,000 rents/royalties everywhere

The result is the rent and royalty income allocable to New Mexico. Enter this amount on line 4, column 2.

**What to do in special cases.** If you cannot determine the location of the tangible personal property during the rental or royalty period, enter the rental or royalty income from those in New Mexico to whom the property was delivered. On line 4, column 2, enter the total rental or royalty income for the tangible personal property shown in line 4, column 1.

If you are a resident of New Mexico, or if the business deriving the income has a commercial domicile in New Mexico, you may come across these situations:

- The basis for earnings from intangibles used in New Mexico and elsewhere does not permit allocation to a definite state.
- The accounting procedures do not clearly show the state or states where the intangible was used.

In either of these situations, enter the total income from all intangibles.

**LINE 5. Gains or losses from the sale or exchange of property**

**Line 5, Column 1**

Enter the net amount of gains or losses from the sale or exchange of property from your federal Schedule 1.

All taxpayers with income from the sale or exchange of property allocate and apportion the income or loss on line 5, column 1, based on the location of the income-earning property or activity. If a gain is realized on the sale of real property located in New Mexico, include the income in column 2.

**Line 5, Column 2**

Enter the net amount of a gain or loss from the sale or exchange of **any** of the following:

- **Real property** located in New Mexico;
- **Tangible personal property** located in New Mexico at the time of sale;
- **Tangible personal property** located in another state at the time of sale, if the taxpayer is a New Mexico resident or part-year resident (see the residency definitions in PIT-1 instructions);
- **Tangible personal property** of a business located in another state at the time of sale when the taxpayer is not subject to tax in that state, the taxpayer’s commercial domicile is in New Mexico, and the income is not subject to apportionment on line 8; **and**
- **Intangible personal property**, if the taxpayer is a New Mexico resident, part-year resident, or has a commercial domicile in New Mexico, and the income is not subject to

apportionment on line 8.

**LINE 6. Income or losses from pass-through entities**

Use this line to allocate and apportion to New Mexico income or losses from pass-through entities and trusts. Allocate distributions of ordinary income (losses) to partners, members or owners of partnerships, limited liability companies, and Sub-Chapter S corporations, based on where the income-producing activities occur. Business interest and dividends should be allocated and apportioned on this line.

**NOTE:** Nonbusiness interest and dividends should be allocated and apportioned on PIT-B, line 2.

Distributions of ordinary income or losses to partners, members, or owners of partnerships, limited liability companies, and Sub-Chapter S corporations are allocated on PIT-B, line 6, based on where the income producing activities occur. Distributions of other nonbusiness income is allocated on the remainder of PIT-B, based on the type of income and the residency status of the partner, member, or owner.

**NOTE:** Federal Schedules E and K-1 may include income from both business and non-business sources. New Mexico does not have a form equivalent to Schedule K-1. Each partnership, S corporation, estate, trust, or similar pass-through entity usually provides a statement or report showing the correct allocation, apportionment, and distribution of income to members, partners, shareholders, or beneficiaries for their records.

**Line 6, Column 1**

From your federal Schedule E, enter your share of income or losses from pass-through entities, including partnerships, S corporations, estates, trusts, or limited liability companies.

**EXAMPLE.** A taxpayer with business interest and dividends derived from a K-1 from another state would allocate that income on PIT-B, line 6, column 1 because the income is considered business related income.

**Line 6, Column 2**

Use the information from the pass-through entity or trust to complete this column. Enter the portion of column 1 income allocated and apportioned to New Mexico by the pass-through entity or the trust.

**NOTE:** Amounts reported on this line should include business interest and dividends allocable to New Mexico if the taxpayer’s commercial domicile is in New Mexico.

**NOTE:** All income that a pass-through entity or a trust allocates or apportions to New Mexico is taxable in New Mexico. Income from pass-through entities and trusts must be allocated or apportioned under the Uniform Division of Income for Tax Purposes Act (UDIPTA).

If the pass-through entity or trust does not provide the necessary New Mexico apportionment percentages or information necessary to calculate a percentage, New Mexico presumes

that all distributive amounts from the pass-through entity or trust is New Mexico-source income.

**NOTE:** If a New Mexico resident is required to allocate 100% of their income to New Mexico based on the above presumption, a Credit for Taxes Paid to another state may be taken. See PIT-1, Line 20 instructions for more information.

**LINE 7. All other income not included in lines 1 through 6 and line 8**

**Line 7, Column 1**

Enter the total of all other income shown on your federal Schedule 1, line 8 and not reported in another section of PIT-B. Do **not** enter business and farm income reported on line 8.

**IMPORTANT:** Do **not** enter a net operating loss carryforward on PIT-B, line 7.

**Line 7, Column 2**

Refer to *Table B-7. All other income not included in lines 1 through 6 and line 8 Column 2.*

**IMPORTANT:** You may **not** offset income from **gambling winnings** from a New Mexico source with gambling losses on PIT-B. Regardless of your residency status, you must report gambling winnings from a New Mexico source.

**NOTE:** Income from **unemployment compensation** is allocated to the recipient's state of residence at the time the payment was received, regardless of the state paying the unemployment compensation benefit.

**Section 2: Apportionment of Business and Farm Income**

**LINE 8. Business and farm income**

To apportion income from business and farm sources, use the *Worksheet for Apportionment of Business and Farm Income* on PIT-B, page 2. New Mexico uses an evenly weighted three-factor formula for all taxpayers, with these exceptions:

- Certain electing manufacturers allowed an optional formula to have their business income apportioned to New Mexico using a single weighted sales factor, **or**
- Businesses allowed or required to eliminate one or more

factors because the three-factor formula does not fairly represent the extent of their business activity in New Mexico.

For more information, see *Instructions for Page 2, Worksheet for Apportionment of Business and Farm Income* later in this section.

**Line 8, Column 1**

Enter the total business and/or farm income reported on your federal Schedules C, F, or other similar schedules.

**Line 8, Column 2**

If **all** of your income in column 1 is from New Mexico sources, enter the entire amount in column 2. If **none** of your income in column 1 is from New Mexico sources, enter zero.

If you have income from a farm or business earned in New Mexico **and** one or more other states, follow these steps:

1. Complete the worksheet on PIT-B, page 2, lines 1 to 5.
2. Multiply the amount on PIT-B, line 8, column 1 by the decimal amount on the worksheet, line 5.
3. Enter the result on PIT-B, line 8, column 2.

If line 8, column 1 includes income for multiple businesses or farms, and the total includes income allocated both inside and outside New Mexico, do the following:

1. Using a separate PIT-B, page 2 worksheet for each business or farm, complete a worksheet for each business or farm.
2. On line 8, column 2, summarize the amounts allocated to New Mexico. See the worksheet instructions.
3. Attach a PIT-B, page 2 worksheet for each business or farm to your PIT-1 return along with PIT-B, page 1.

For more information, see the *Instructions for Page 2, Worksheet for Apportionment of Business and Farm Income* later in this section.

**NOTE:** No business may use a separate accounting method.

**LINE 9. Add lines 1 through 8 and enter the amount here.**

**Table B-7. All other income not included in lines 1 through 6 and line 8 Column 2.**

Residency	Instruction
<b>Resident.</b>	Enter the same amount you entered in column 1. On line 7, you <b>must</b> allocate in full to New Mexico all other income not included in lines 1 to 6 and line 8 amounts.  If you paid tax to another state on any of your other income, you may claim a non-refundable <b>credit</b> for the tax paid to the other state on that income. To calculate the credit for taxes paid to another state, see page 29 of the 2023 PIT-1 instructions for line 20.
<b>First-year resident.</b>	Enter all other income earned from New Mexico sources <b>before</b> establishing New Mexico residency, and all other income earned, regardless of source, <b>after</b> establishing New Mexico residency.
<b>Part-year resident.</b>	Enter all other income earned, regardless of source, while you were a New Mexico resident, and all other income earned from New Mexico sources.
<b>Non-resident.</b>	Enter the portion of column 1 earned from sources in New Mexico.



**Line 9, Column 1**

Enter the total of lines 1 through 8, Column 1.

**Line 9, Column 2**

Enter the total of lines 1 through 8, Column 2.

**LINE 10. Federal adjustments to income**

**Line 10, Column 1**

Enter the total federal adjustments to income from your federal Schedule 1, line 22.

**Line 10, Column 2**

To calculate the allowable New Mexico adjustment to income PIT-B, line 10, column 2, complete the Line 10, Column 2 Worksheet for Calculating Allowable New Mexico Adjustment to Income. **Do not attach** this worksheet to your PIT-B.

Line 10, Column 2 Worksheet for Calculating Allowable New Mexico Adjustment to Income	
1. Enter the amount from line 9, column 2 from PIT-B	
2. Enter the amount from line 9, column 1 from PIT-B	
3. DIVIDE the amount on line 1 by the amount on line 2	
4. MULTIPLY the amount on line 3 by 100 and enter	
5. ROUND the percentage on line 4 to four decimal places (for example 26.6270%)	
6. Enter the amount from line 10, column 1 from PIT-B	
7. MULTIPLY the amount on line 5 by the amount on line 6. Enter on PIT-B, line 10 column 2	

**LINE 11. Total income**

**Line 11, Column 1**

Line 9, Column 1 minus Line 10, Column 1.

**Line 11, Column 2**

Line 9, Column 2 minus Line 10, Column 2.

For most taxpayers, total income on line 11, column 1 must equal or exceed the amount on PIT-1, line 9, **Federal Adjusted Gross Income**. If yours does not, check your figures

**IMPORTANT:** If you are a non-resident member of the U.S. Armed Forces or a non-resident member of the U.S. Public Health Service, reporting military wages or salary, complete line 11 as instructed. Calculations for PIT-B, line 1 may make your total income on line 11, column 1 less than the federal adjusted gross income you reported on your PIT-1, line 9. This is not an error.

**LINE 12. Divide amounts on line 11**

Calculate the percentage of New Mexico income to enter on line 12 by following these steps:

1. Divide the amount on line 11, column 2 by the amount on line 11, column 1. Multiply by 100.
2. Round to four decimal places and enter the result on line 12. This percentage cannot be less than zero.

**NOTE:** If the New Mexico percentage is over 100% due to loss allocation, enter 100.0000.

**LINE 13. Tax applicable to PIT-1**

Calculate the New Mexico income tax to allocate for your line 12 entry by following these steps:

1. Calculate the tax due on the New Mexico taxable income reported on PIT-1, line 17, using the tax rate tables.
2. Calculate the tax, if any, on the lump-sum distributions from PIT-1, line 19.
3. Add the amounts from steps 1 and 2, and enter the total on PIT-B, line 13.

**NOTE for PIT-1:** If you used PIT-B to calculate the New Mexico tax liability on your PIT-1, and also computed tax on a lump-sum distribution on PIT-1, line 19, **do not** add lines 18 and 19 when completing PIT-1, line 22, as instructed on line 22.

When completing PIT-1, line 22, **do not** add back the additional amount of tax for lump-sum distributions on PIT-1, line 19. Line 19 was included in your PIT-B percentage calculation. Add only line 18, then subtract lines 20 and 21.

**LINE 14. Apportioned tax**

Multiply the percentage on line 12 by the tax on line 13. This is your allocated New Mexico income tax liability. Enter this amount on PIT-B, line 14. For your PIT-1, do the following:

1. On PIT-1, line 18, enter the amount from PIT-B, line 14.
2. In the box on line 18a on PIT-1, enter **B** to show the tax calculation comes from PIT-B.

**INSTRUCTIONS FOR PAGE 2, WORKSHEET FOR AP-PORTIONMENT OF BUSINESS AND FARM INCOME**

**Who Must Complete This Worksheet**

Complete if you have business or farm income reported on Line 8, Column 1 from both inside and outside New Mexico. Complete all items on the worksheet on PIT-B, page 2. When you submit your return, attach:

- The page 2 worksheet to PIT-B, page 1; **and**
- Both page 1 and the page 2 worksheet of PIT-B to your PIT-1 return.

**NOTE:** If you have multiple businesses or farms on line 8, column 1, and the total includes income allocated from both inside and outside New Mexico, complete a separate PIT-B, page 2 worksheet for each business or farm. On line 8, column 2 enter the total amounts allocated to New Mexico.

**IMPORTANT:** You may not use a separate page formatted the same as the PIT-B, page 2 worksheet instead of attach-

ing multiple pages of page 2.

**Three-Factor Apportionment Formula**

New Mexico uses an evenly weighted three-factor apportionment formula. The three factors are property, payroll, and sales.

$$\frac{\text{property factor} + \text{payroll factor} + \text{sales factor}}{3}$$

3

The three-factor formula is for all taxpayers except for the following exclusions:

- **Exclusion 1.** Qualifying manufacturers who elect to use the special manufacturers apportionment formula, **or**
- **Exclusion 2.** A taxpayer whose principal business activity in New Mexico is a headquarters operation and who elects to use the single weighted sales factor apportionment formula, **or**
- **Exclusion 3.** Allowed or required to eliminate one or more factors because the three-factor formula does not fairly represent the extent of their business activity in New Mexico.

Each exclusion is described next as **Exclusions 1, 2 and 3.**

**Exclusion 1  
Electing Manufacturers Apportionment Formula**

Taxpayers whose principal activity is manufacturing may elect to use a special apportionment formula. For tax years beginning on or after January 1, 2014, the election allows taxpayers to apportion the business income to New Mexico using a single weighted calculation by dividing total sales within New Mexico by total everywhere sales.

On or after January 1, 2020, if eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing or operating a computer processing facility, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

The statutory authority for this elective method is in Section 7-4-10(B) NMSA 1978.

**Definition of Manufacturing**

“Manufacturing” means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

- a. construction;
- b. farming;
- c. power generation; provided that for taxable years beginning prior to January 1, 2024, “manufacturing” includes electricity generation at a facility that does not require location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the Public Utility Act;
- d. processing natural resources, including hydrocarbons; or

e. processing or preparation of meals for immediate consumption.

**How to Make the Election**

To elect to use the manufacturers apportionment formula, you must notify the Department in writing no later than the filing date of the first return to which your election applies.

Submit your notification to make your election or to terminate your election to:

Taxation and Revenue Department  
CIT Correspondence Unit  
P.O. Box 630  
Santa Fe, NM 87504-0630

For assistance, call (505) 827-0825 or toll free: (866) 809-2335, option 4. Or, e-mail: [CIT.taxreturnhelp@tax.nm.gov](mailto:CIT.taxreturnhelp@tax.nm.gov)

**Election Period:** If the election is made for taxable years beginning prior to January 1, 2020, it applies to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier.

Elections made for a taxable year beginning on or after January 1, 2020, apply to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months.

**Exclusion 2  
Electing Headquarters Operation Apportionment Formula**

Taxpayers whose principal business activity in New Mexico is a headquarters operation may elect to use a single weighted sales factor apportionment formula. For tax years beginning on or after January 1, 2014, the election allows the taxpayer to apportion the business income to New Mexico using a single weighted calculation by dividing total sales within New Mexico by total everywhere sales.

On or after January 1, 2020, if a filing group, or a taxpayer that is not a member of a filing group, has a headquarters operation in New Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

The statutory authority for this elective method is in Section 7-4-10(C) NMSA 1978.

**Definition of Headquarters Operation**

“Headquarters operation” means:

- 1. the center of operations of a business:
  - a. where corporate staff employees are physically employed;
  - b. where centralized functions are performed, including administrative, planning, managerial, human

resources, purchasing, information technology and accounting, but not including a call center;

c. the function and purpose of which is to manage and direct most aspects and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or

2. the center of operations of a business:

a. the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and

b. from which final authority over one or more centralized functions is issued.

**How to Make the Election**

To elect to use the headquarters operation apportionment formula, you must notify the Department in writing no later than the filing date of the first return to which your election applies.

Submit your notification to make your election or to terminate your election to:

Taxation and Revenue Department  
CIT Correspondence Unit  
P.O. Box 630  
Santa Fe, NM 87504-0630

For assistance, call (505) 827-0825 or toll free: (866) 809-2335, option 4. Or, e-mail: [CIT.taxreturnhelp@tax.nm.gov](mailto:CIT.taxreturnhelp@tax.nm.gov)

**Election Period:** If the election is made for taxable years beginning prior to January 1, 2020, it applies to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier.

Elections made for a taxable year beginning on or after January 1, 2020, apply to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months.

Use the instructions below to calculate the apportionment percentage on PIT-B, line 5.

Complete the property factor and payroll factor information in column 1 and column 2. Although an election for a single weighted formula has been made, this information is still necessary. The percentage factors for property and payroll are not included in the calculation of the Average New Mexico Percentage.

Compute the sales factor on line 3. Transfer the amount in line 3 to line 5.

**Exclusion 3**

**Eliminating one or more factors.**

If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of your business activity in New Mexico, an election may be made for, or the Department may require, the exclusion of any one or more insignificant factors. A factor is considered insignificant if column 1 (the denominator) is less than 3% of net income.

**Top of Worksheet**

Enter the primary taxpayer's social security number, the name of the business for which you are completing this worksheet, and **either** the FEIN (Federal Employer Identification Number) or NMBTIN (New Mexico Business Tax Identification Number).

**PROPERTY FACTOR**

The property factor is based on the average value of real and tangible personal property you owned or rented and used in New Mexico for the production of business or farm income during the tax period.

**LINE 1a.** To determine the average value of real and tangible personal property, use the following rules:

- Property you owned during the tax period is valued at its original cost. Original cost is the basis of the property for federal income tax purposes (before federal adjustments) at the time you acquired the property. This cost is adjusted by subsequent capital additions, improvements, or partial dispositions.
- Property you rented from others and used for business or farm purposes is valued at eight times the net annual rental rate. The net annual rental rate is the annual rent you paid, less any annual rent you received from subtenants of the same property.
- Determine the average value of property by adding the total value of property you held at the **beginning** of the tax period to the total value of property held at the **end** of the tax period. Then divide by two.
- You may calculate an average value on a monthly basis. If the Department determines that a monthly average is necessary to correctly reflect the average value of your property, the Department may require you to calculate an average value on a monthly basis

**Column 1**

Enter the average value of property for everywhere, including New Mexico.

**Column 2**

Enter the average value of property for New Mexico only.

**LINE 1b.** The property factor is a percentage. To calculate the percentage. This can be determined by dividing line 1a, column 2 by line 1a, column 1.

Amount in Line 1a, Column 2

Amount in Line 1a, Column 1

\*Round each percentage to four decimal places (example: 26.6270%)

**NOTE:** Residents who use their homes in any way in a business or farm operation have a property factor in New Mexico.

## PAYROLL FACTOR

The payroll factor is based on the amount of compensation you paid.

**LINE 2a.** If any one of the following conditions is present, compensation was paid in New Mexico:

- The employee's service was performed entirely in New Mexico.
- The employee's service was performed both inside and outside New Mexico, but service performed outside New Mexico was incidental to service performed inside New Mexico.
- Some of the employee's service was performed in New Mexico, **and** New Mexico was the base of operations or the place from which the service was directed or controlled.
- Some of the employee's service was performed in New Mexico, **and** the employee was a resident of New Mexico during the tax period. In this case, it does not matter if some of the employee's service was performed in another state that was the base of operations or the place from which the service was directed or controlled.

**LINE 2b.** The payroll factor is a percentage determined by dividing the amount in column 2 by the amount in column 1,  
$$\frac{\text{Amount in Column 2}}{\text{Amount in Column 1}}$$

- Column 1 is the total amount paid as compensation to employees everywhere during the tax period.
- Column 2 is the total amount paid as compensation to employees in New Mexico during the tax period.

## SALES FACTOR

"Sales" means all gross receipts from transactions and activities in the regular course of business.

"Gross receipts" means all income from transactions and activities in the regular course of business including income from licensing intangible personal property.

**Sales of tangible personal property** are New Mexico sales if either of the following is true. The property is:

- Delivered or shipped to a purchaser other than the U.S. government within New Mexico regardless of the FOB (free on board) point or other conditions of the sale, **or**
- Shipped from an office, store, warehouse, factory, **or** other place of storage in New Mexico, **and**
  - The purchaser was the U.S. government, **or**
  - The taxpayer:
    - is not taxable in the state of the purchaser, **and**
    - did not make an election for apportionment of business income pursuant to Subsection B or C of Section 7-4-10 NMSA 1978

**Sales other than sales of tangible personal property** are New Mexico sales if any of the following are true:

- In the case of sales, rental, lease or license of real property, if and to the extent the real property is located in this state;
- In the case of rental, lease or license of tangible personal property, if and to the extent the tangible personal property is
  - located in this state;
- In the case of sale of a service, if and to the extent the service is delivered to a location in this state, and
- In the case of sale, rental, lease or license of intangible property, if and to the extent the intangible property is used in this state.
- Special rule: Gross receipts for the performance of personal services are attributable to this state to the extent such services are performed in this state.

## LINE 3a

### Column 1

Enter the total sales everywhere, excluding non-business income.

### Column 2

Enter the total sales in New Mexico, excluding non-business income.

**Line 3b.** The sales factor is a percentage determined by dividing the amount in column 2 by the amount in column 1.  
$$\frac{\text{Amount in Column 2}}{\text{Amount in Column 1}}$$

**LINE 4.** Enter the total of lines 1b, 2b and 3b.

**Line 4a.** Count all the factors you used and enter the total count here.

## LINE 5. Apportionment Percentage

To calculate the apportionment percentage:

1. Divide line 4 by the number of factors you entered on line 4a.
2. Multiply this percentage by the amount on PIT-B, line 8, column 1.
3. Enter the result on PIT-B, line 8, column 2.

In the rectangular box at the bottom of the worksheet, enter the effective date of your election to use the three-factor method in **MM/DD/CCYY** format. For example, if the effective date was January 04, 2023, enter 01/04/2023.

**If you are eliminating one or more insignificant factors,** use the number of significant factors to calculate the apportionment percentage on line 5. If you include an insignificant factor, attach an explanation.



TAX INFORMATION AND POLICY OFFICE

DRAFT FORM

The Department encourages all taxpayers to file online. Electronic filing is fast and secure.

It provides the fastest turnaround for a refund and saves tax dollars, costing less to process than a paper return.

DO NOT FILE

TAX INFORMATION AND POLICY OFFICE