

\$600 Income Tax Rebate and Temporary Gross Receipts Tax Deduction for Food Services

During the 2021 legislative session, Senate Bill 1 was passed and signed into law. The new law provides a \$600 rebate for certain New Mexico resident taxpayers for tax year 2020 who file personal income tax. The bill also provides a temporary gross receipts tax deduction for food and beverage establishments. Below is a summary of which taxpayers may receive the rebate and the businesses that qualify to take the temporary deduction from gross receipts.

2020 Income Tax Rebate

New Mexico resident taxpayers who are not a dependent of another individual and were eligible to claim a Working Families Tax Credit against their income tax liability for tax year 2020 may be eligible for a tax rebate of \$600. In order to qualify, taxpayers must have an Adjusted Gross Income (AGI) under the following amounts for tax year 2020. For single individuals to qualify, they must have an AGI of \$31,200 or less. For heads of household, surviving spouses, and married individuals filing joint returns, they must have an AGI of \$39,000 or less.

The rebate does not appear on the 2020 PIT-1 tax return. However, the Taxation and Revenue Department will automatically apply the rebate for taxpayers who have claimed a Working Families Tax Credit for which they are eligible on the 2020 return and have a qualifying AGI. A taxpayer will also automatically receive the rebate if they amend their 2020 return to claim a Working Families Tax Credit for which they are eligible and have a qualifying AGI. Any remaining income tax liability may be deducted from the rebate amount, and the rest will be refunded.

The rebate will start to be issued in the next couple of weeks and will be issued separately from any 2020 personal income tax refund. Because the 2020 PIT-1 return is necessary to determine who qualifies, taxpayers will not receive the rebate until after they file their 2020 personal income tax return. **The rebate is not available after June 30, 2022.** Taxpayers that file a 2020 personal income tax return after that date will not receive the rebate.

Temporary Deduction from the Sales of Prepared Food and Drinks

Beginning March 1, 2021 and prior to July 1, 2021, receipts of a food or beverage establishment from the sale of prepared food or non-packaged beverages that are served at the establishment for immediate consumption, or that are picked up by customers or delivered to customers for immediate consumption, may be deducted from gross receipts. (Section 7-9-118 NMSA 1978)

This deduction does not include fast food restaurants that sell food intended to be ordered, prepared and served quickly, with minimal or no table service, and prepared in quantity by a standardized method for

consumption on and off premises. An establishment is considered a fast food restaurant when it tends to have any of the following characteristics:

- a menu consisting primarily of pre-cooked items or items prepared in advance and heated quickly;
- placement of orders at a fast serve drive-through or walk-up window;
- service of food solely in disposable wrapping or containers; or
- a menu that exclusively sells hamburgers, sandwiches, salads and other fast foods.

Mobile food services are not considered to be “fast food restaurants”, and may take the deduction, so long as they have been issued a permit that is in good standing. Licensed dispensers where alcoholic beverages are prepared and served for on-premises consumption, as well as licensed craft distillers, small brewers and winegrowers, may also take the deduction, but only with respect to receipts from food and non-packaged beverages.

Taxpayers will claim the deduction separately after all other allowable deductions available to them have been taken.

Paper filers will report all receipts being deducted for each location on a separate line and use the **special code “P,”** for “prepared food and drinks,” to identify the deduction. Additional locations where the deduction is being claimed will be entered on separate lines entering the special code “P.”

Electronic filers using Taxpayer Access Point (TAP) will claim all receipts being deducted for a particular location separately and select “**prepared food and drinks**” from the **rate type** drop down. Additional locations where the deduction is being claimed will be entered separately and be identified again by selecting “prepared food and drinks” from the rate type drop down.

Businesses taking this deduction during the allowable period may choose to either not charge their customers gross receipts tax on the deductible receipts, or they may continue to charge the tax on the amount they receive from customers and keep the tax charged. But such payments of tax received from the customer will not be considered gross receipts, and businesses should not report such tax payments as gross receipts, nor claim the deduction with respect to such payments. In this way businesses may keep the payment of gross receipts tax from customers as a direct relief payment.

Tax District Field Offices and the Department's call center can provide full service and general information about the Department's taxes, taxpayer access point, programs, classes, and forms. Information specific to your filing situation, payment plans and delinquent accounts.

TAX DISTRICT FIELD OFFICES

ALBUQUERQUE

10500 Copper Pointe Avenue NE
Albuquerque, NM 87123

SANTA FE

Manuel Lujan Sr. Bldg.
1200 S. St. Francis Dr.
Santa Fe, NM 87504

FARMINGTON

3501 E. Main St., Suite N
Farmington, NM 87499

LAS CRUCES

2540 S. El Paseo Bldg. #2
Las Cruces, NM 88004

ROSWELL

400 Pennsylvania Ave., Suite 200
Roswell, NM 8820

For forms and instructions visit the Department's web site at <http://www.tax.newmexico.gov>

Call Center Number:

1-866-285-2996

If faxing something to a tax district field office, please fax to:

Call Center Fax Number:

1-505-841-6327

If mailing information to a tax district field office, please mail to:

Taxation and Revenue Department
P.O. Box 8485
Albuquerque, NM 87198-8485

For additional contact information please visit the Department's website at <http://www.tax.newmexico.gov/contact-us.aspx>

General Information. FYIs and Bulletins present general information with minimum technical language. All FYIs and Bulletins are free of charge and available through all local tax offices and on the Taxation and Revenue Department's website at <http://www.tax.newmexico.gov/forms-publications.aspx>

This information is as accurate as possible as of the date specified on the publication. Subsequent legislation, new state regulations and case law may affect its accuracy. For the latest information please check the Taxation and Revenue Department's web site at www.tax.newmexico.gov.

This publication provides instructions or general information to the taxpayer. It does not constitute a regulation or ruling as defined under Section 7-1-60, New Mexico Statutes Annotated, 1978. 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 Bulletin.