

HOUSE BILL 276

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; REQUIRING ANNUAL SUBMISSION OF STATEMENTS
OF WITHHOLDING FOR ALL EMPLOYERS; REQUIRING CERTAIN EMPLOYERS
TO FILE ELECTRONICALLY; PROVIDING A CIVIL PENALTY.

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

SECTION 1. Section 7-3-7 NMSA 1978 (being Laws 1961,
Chapter 243, Section 8, as amended) is amended to read:

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

A. ~~[Except for employers required to file quarterly
withholding information returns pursuant to the Withholding Tax
Act or required to file a wage and contribution report to the
workforce solutions department pursuant to Section 51-1-12 NMSA
1978]~~ Every employer shall file with the department an annual
statement of withholding for each employee. ~~[This]~~ The
statement shall be in a form prescribed by the department,

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1 ~~[and]~~ except employers with twenty-five or more employees shall
2 file statements using a department-approved electronic medium.
3 The statement shall be filed with the department on or before
4 the last day of ~~[February]~~ January of the year following that
5 for which the statement is made. It shall include the total
6 compensation paid the employee and the total amount of tax
7 withheld for the calendar year or portion of a calendar year if
8 the employee has worked less than a full calendar year.

9 B. ~~[Except for payors who file the quarterly~~
10 ~~withholding information returns pursuant to the Withholding Tax~~
11 ~~Act]~~ Every payor shall file with the department an annual
12 statement of withholding for each individual from whom some
13 portion of a pension or an annuity has been deducted and
14 withheld by that payor. ~~[This]~~ The statement shall be in a
15 form prescribed by the department, except employers with
16 twenty-five or more employees shall file statements using a
17 department-approved electronic medium. The statement shall be
18 in a form prescribed by the department and shall be filed with
19 the department on or before the last day of ~~[February]~~ January
20 of the year following that for which the statement is made. It
21 shall include the total amount of pension or annuity paid to
22 the individual and the amount of tax withheld for the calendar
23 year.

24 C. Every person required to deduct and withhold tax
25 from a payment of winnings that are subject to withholding

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1 shall file with the department an annual statement of
2 withholding for each wagerer from whom some portion of a
3 payment of winnings has been deducted and withheld by that
4 person. The statement shall be [~~in a form prescribed by the~~
5 ~~department~~] filed using a department-approved electronic medium
6 and shall be filed with the department on or before the last
7 day of [~~February~~] January of the year following that for which
8 the statement is made. It shall include the total amount of
9 winnings paid to the individual and the amount of tax withheld
10 for the calendar year. The department may also require any
11 person who is required to submit an information return to the
12 internal revenue service regarding the winnings of another
13 person to submit copies of the return to the department.

14 D. For taxable years beginning January 1, 2020, any
15 employer, payor or person required to file an annual statement
16 of withholding pursuant to this section who fails to do so by
17 the due date is subject to a penalty in the amount of two
18 percent per month of gross wages reported for all employees in
19 that year, not to exceed twenty percent of gross wages for that
20 year. The penalty may be waived if the violation is due to
21 reasonable cause rather than willful neglect."

22 **SECTION 2. APPLICABILITY.**--The provisions of this act
23 apply to taxable years beginning on or after January 1, 2019.

