

1 17 NCAC 01C .0322 is amended without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 01C .0322 ~~FEIN/SOCIAL SECURITY ACCOUNT NUMBERS REQUIRED FORMS AND~~**
4 **REQUIRED ACCOUNT IDENTIFICATION INFORMATION**

5 (a) All North Carolina tax and Department of Revenue forms referenced in Title 17 of the North Carolina Administrative
6 Code are available at www.dornc.com or by calling 1-877-252-3052. Federal income tax forms are available at www.irs.gov.

7 (b) All returns, reports, ~~schedules~~ schedules, and correspondence filed with the Department shall contain the taxpayer's North
8 Carolina identification number, federal employer identification ~~number~~ number, or social security ~~account number~~ number, or
9 combination thereof as required, ~~in order~~ to verify the identity of the taxpayer.

10
11 *History Note:* *Authority G.S. 105-251; 105-252; 105-262;*

12 *Eff. February 1, 1976;*

13 *Amended Eff. May 1, 2016; January 1, 1994.*

1 17 NCAC 06B .0109 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .0109 FILING REQUIREMENTS - GENERAL STATEMENT**

4 The minimum gross income filing requirements under North Carolina law are different from the filing requirements
5 under the Internal Revenue Code because North Carolina law does not ~~adjust the standard deduction and personal~~
6 ~~exemption for inflation as required by the Internal Revenue Code.~~ allow the same standard deduction amount as the
7 Internal Revenue Code or a personal exemption for the individual, the individual's spouse, the individual's children, or
8 any other qualifying dependents on the State return.

9
10 *History Note: Authority G.S. ~~105-134.6(e);~~ 105-153.5; 105-262;*
11 *Eff. ~~June 1, 1990.~~ June 1, 1990;*
12 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .0113 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

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3 **17 NCAC 06B .0113 TAXPAYERS DOMICILED IN COMMUNITY PROPERTY STATES**

4 (a) If a ~~husband and wife~~ married couple ~~who are~~ is domiciled in a ~~community property~~ state or country recognized as
5 ~~such~~ for federal income tax purposes as a community property state or country and the spouses file separate North
6 Carolina returns ~~and with~~ each spouse ~~reports~~ reporting one-half of the salary and wages received while domiciled in the
7 community property state or country, each spouse ~~is entitled to~~ shall claim one-half of the credit for the income tax
8 withheld with respect to ~~such~~ community wages.

9 (b) A schedule or statement shall be attached to the North Carolina return showing the name and social security number
10 of each ~~spouse and~~ spouse, that they were domiciled in a community property state or country, ~~and as such, and that~~ 50
11 percent of each spouse's income tax withheld is allocated to the other spouse's income tax return.

12
13 *History Note:* Authority G.S. 105-163.10; 105-262;
14 Eff. June 1, 1990;
15 Amended Eff. June 1, ~~1993~~ 1993;
16 Readopted Eff. May 1, 2016.

1 17 NCAC 06B .0114 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .0114 COMPUTATION OF TAXABLE INCOME - GENERAL**

4 The starting point in determining North Carolina taxable income is ~~taxable income for federal income tax purposes,~~
5 federal adjusted gross income, subject to the ~~additions~~ additions, ~~and deductions required in~~ deductions, and North
6 Carolina standard deduction or North Carolina itemized deductions as provided by G.S. 105-153.5 and 105-153.6. G.S.
7 105-134.6 and the transitional adjustments required in G.S. 105-134.7 because of differences in the way State and federal
8 law treated certain tax transactions prior to January 1, 1989. These adjustments do not apply to all ~~individuals; however,~~
9 ~~each~~ individuals. Each individual shall determine if any of the adjustments apply to ~~his~~ the individual's return.

10
11 *History Note: Authority ~~G.S. 105-134.1; 105-134.5; 105-134.6; 105-134.7; G.S. 105-153.3; 105-153.4; 105-153.5;~~*
12 *105-153.6; 105-262;*
13 *Eff. June 1, 1990;*
14 *Amended Eff. June 1, 1993; October 1, ~~1991.~~1991;*
15 *Readopted Eff. May 1, 2016.*
16

1 17 NCAC 06B .0115 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .0115 ADDITIONS TO ~~FEDERAL TAXABLE~~ ADJUSTED GROSS INCOME**

4 The additions under ~~G.S. 105-134.6(e)(1)~~ G.S. 105-153.5(c)(1) include the portion of an exempt interest dividend from a
5 regulated investment company that represents interest on direct obligations of states and their political subdivisions other
6 than North Carolina and interest from obligations of the District of Columbia.

7
8 *History Note:* Authority ~~G.S. 105-134.6(e)~~; G.S. 105-153.5(c)(1); 105-262;

9 Eff. June 1, 1990;

10 Amended Eff. May 1, 1994; June 1, 1993; October 1, 1992; October 1, ~~1991~~, 1991;

11 Readopted Eff. May 1, 2016.

1 17 NCAC 06B .0116 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .0116 DEDUCTIONS FROM ~~FEDERAL TAXABLE~~ ADJUSTED GROSS INCOME**

4 (a) Deductible Interest. -- The deduction for interest on obligations of the United States or its possessions provided in
5 ~~G.S. 105-134.6(b)(1)~~ G.S. 105-153.5(b)(1) applies to direct obligations of the United States to the extent the interest has
6 been included in federal adjusted gross income. For the interest to be deductible, the obligation shall be in writing, bear
7 interest, be a binding promise by the United States to pay specific amounts at specific dates, and be specifically
8 authorized by Congress. ~~obligations such as United States Treasury bonds, notes, bills, certificates, and saving bonds are~~
9 primary examples of direct obligations. ~~United States Savings Bonds and United States Treasury Bills.~~

10 (b) Nondeductible Interest. -- Interest earned on obligations that are ~~merely~~ backed or guaranteed ~~by~~ by, but not direct
11 obligations of, the United States Government ~~do~~ shall not qualify for deduction from an individual's federal ~~taxable~~
12 adjusted gross income. Interest earned on obligations where the United States is an insurer or guarantor, but the
13 obligation is not a direct obligation, shall not be deductible from federal adjusted gross income. Examples include
14 Federal Home Loan Mortgage Corporation ("Freddie Mac"), Federal National Mortgage Association ("Fannie Mae"),
15 and the Government National Mortgage Association ("Ginnie Mae"). Distributions representing gain from the sale or
16 other disposition of United States obligations or interest paid in connection with repurchase agreements issued by banks
17 and savings and loan associations shall not be deductible from federal adjusted gross income. The deduction from
18 federal taxable income federal adjusted gross income does shall not apply to any portion of a distribution from an
19 individual retirement account. ~~Individual Retirement Account (IRA).~~

20 (b) ~~State, Local, and Federal Retirement Plans.~~ -- ~~The deduction from federal taxable income provided in G.S.~~
21 ~~105-134.6(b)(6)a applies to all of the following:~~

- 22 (1) ~~Long term disability benefits paid under the Disability Income Plan of North Carolina. No deduction~~
23 ~~from federal taxable income is allowed for short term disability benefits paid under the Disability~~
24 ~~Income Plan of North Carolina;~~
25 (2) ~~Benefits paid to federal civil service employees who become disabled prior to becoming age 60; and~~
26 (3) ~~Benefits received by the survivors of a member of the armed forces paid under the Retired~~
27 ~~Serviceman's Family Protection Plan or the Survivor's Benefits Plan.~~

28 For purposes of the deduction allowed in G.S. 105-134.6(b)(6)b. and c., federal means the federal government of the
29 United States. For purposes of the deduction allowed in G.S. 105-134.6(b)(6)b. and c., state and local includes the
30 governments of territories and possessions of the United States. The deduction from federal taxable income provided in
31 G.S. 105-134.6(b)(6)c includes amounts received from an individual retirement account or from an individual retirement
32 annuity, both of which are described in Section 408 of the Internal Revenue Code. An individual is not required to have
33 ceased employment to qualify for the deduction for distributions from an individual retirement account or an individual
34 retirement annuity. A change in the structure of a corporate employer that causes a distribution to be paid to the
35 employee from the employer's retirement plan does not entitle the employee to claim the deduction for retirement benefits
36 provided in G.S. 105-134.6(b)(6)c.

1 (c) Indian Tribe. --The income earned or received by an enrolled member of the Eastern Band of Cherokee Indians or
2 another federally recognized Indian tribe ~~is shall be~~ deductible from federal ~~taxable~~ adjusted gross income if it is included
3 in federal gross income and it is derived from activities on the Cherokee reservation or another federally recognized
4 Indian reservation while the member resided on the reservation.

5 ~~(d) The deduction from federal taxable income provided in G.S. 105-134.6(b)(11) for severance wages does not include~~
6 ~~payments that represent compensation for past or future services. Compensation for past or future services includes~~
7 ~~payment for any of the following:~~

8 (1) ~~Accumulated sick leave, vacation time, or other unused benefits;~~

9 (2) ~~Bonuses based on job performance; and~~

10 (3) ~~Payments in consideration of any agreement not to compete with the employer or in consideration of a~~
11 ~~contractual or legal claim.~~

12 ~~(e) Other Adjustments. The deduction from federal taxable income provided in G.S. 105-134.6(d)(2) includes~~
13 ~~repayments of items of income included in gross income in a prior year under the claim-of-right doctrine for which the~~
14 ~~taxpayer reduces his or her tax under Section 1341 of the Internal Revenue Code in the year of repayment.~~

15
16 *History Note: Authority ~~G.S. 105-134.6;~~ G.S. 105-153.5; 105-262;*

17 *Eastern Band of Cherokee Indians v. Lynch 632 F.2d 373 (4th Cir. 1980);*

18 *Eff. June 1, 1990;*

19 *Amended Eff. April 1, 2001; November 1, 1994; June 1, 1993; October 1, 1992; October 1, ~~1991.~~*
20 *1991;*

21 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .0119 is adopted pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(d)(4) as
2 follows:

3
4 **17 NCAC 06B .0119 REPORTING INCOME FROM CONVEYANCE OF REAL PROPERTY HELD IN**
5 **TENANCY BY THE ENTIRETY**
6

7 When spouses file separate individual income tax returns, the spouses shall determine the portion of the income or loss
8 from real property that shall be reported by each spouse. When real property conveyed jointly in the name of a married
9 couple is located in another state and the share of ownership of each is not fixed in the deed or other instrument creating
10 the co-tenancy, each spouse is considered as having received one-half of the income or loss from the real property, unless
11 they can demonstrate that the laws of that particular state with respect to the right to the income from the property
12 allocate the income or loss in a different manner.
13

14 History Note: Authority G.S. 39-13.6; 105-262;

15 Eff. May 1, 2016.

1 17 NCAC 06B .3203 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3203 PENALTIES FOR FAILURE TO FILE AND PAY**

4 (a) General. -- Under the provisions of G.S. 105-236, both the ~~failure~~ “failure to file return” and ~~failure~~ “failure to pay
5 tax when due” penalties, if due, can be applied for the same period. ~~month.~~ If a return is filed late without payment of the
6 tax shown due, both the failure to file and failure to pay penalties ~~will~~ shall be assessed at the same time.

7 (b) Extension. -- If the return is filed under an extension, the failure to file penalty applies from the extended filing date
8 rather than from the original due date. The failure to pay penalty applies from the original due date of the ~~return.~~ return
9 and shall be assessed if the taxpayer does not meet the 90 percent requirement established in 17 NCAC 06B .0107. ~~The~~
10 ~~failure to pay penalty is assessed when the tax paid by the original due date of the return is less than 90 percent of the~~
11 ~~total amount of tax due.~~ If the 90 percent ~~rule~~ requirement is met, any remaining ~~balance tax~~ due ~~must~~ shall be paid with
12 the income tax return on or before the expiration of the extension period to avoid the failure to pay penalty. Interest is due
13 on any tax not paid by the original due date from the original due date to the date paid.

14 (c) Amended Return. -- The failure to pay penalty ~~does~~ shall not apply to amounts paid with an amended return if the
15 amount shown due on the return is paid when the return is filed.

16 (d) Assessment. -- ~~Effective January 1, 2008, the~~ The failure to pay penalty applies to a proposed assessment of
17 additional tax due that is not paid within 45 days of the assessment, unless a request for review is timely filed with the
18 Department in accordance with G.S. 105-241.11. ~~assessment.~~ If a taxpayer timely requests a Departmental review of a
19 proposed assessment, the failure to pay penalty applies to tax due that is not paid within 45 days of the date the
20 assessment becomes collectible pursuant to G.S. 105-241.22(3), G.S. 105-241.22(4), G.S. 105-241.22(5), or G.S. 105-
21 241.22(6).

22
23 *History Note:* Authority ~~G.S. 105-152(e);~~ 105-155; 105-157; 105-160.6; 105-160.7; 105-236; 105-241.22(3); 105-
24 241.22(4); 105-241.22(5); 105-241.22(6); 105-262; 105-263;
25 *Eff.* April 1, 1978;
26 *Amended Eff.* September 1, 2008; July 1, 1999; June 1, 1993; February 1, 1991; June 1, ~~1990.~~ 1990;
27 Readopted Eff. May 1, 2016.

1 17 NCAC 06B .3204 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3204 NEGLIGENCE PENALTIES**

4 ~~(a)–When the federal accuracy~~ accuracy-related penalty has been assessed for federal income tax purposes under Section
5 6662 of the Internal Revenue Code, the 10 percent negligence penalty ~~will~~ shall be assessed for state income tax purposes
6 unless the ~~25 percent negligence penalty–large individual income tax deficiency or other large tax deficiency penalty~~
7 applies pursuant to G.S. 105-236.5(a)(5)b. or c., respectively. applies.

8 ~~(b) There is no minimum dollar amount of negligence penalty.~~

9
10 *History Note:* Authority G.S. ~~105-236(5); 105-236(a)(5); 105-236(6);~~ 105-262;

11 *Eff. April 1, 1978;*

12 *Amended Eff. April 1, 1999; June 1, ~~1993~~, 1993;*

13 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .3407 is repealed through readoption without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3407 SERVICE MEMBERS CIVIL RELIEF ACT**

4
5 *History Note: Authority G.S. 105-262; 50 U.S.C. 501; P.L. 108-189;*

6 *Eff. February 1, 1976;*

7 *Amended Eff. February 1, ~~2005~~2005;*

8 *Repealed Eff. May 1, 2016.*

1 17 NCAC 06B .3501 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3501 GENERAL**

4 ~~The partnership's taxable income determined under the Internal Revenue Code is the~~ The starting point for preparing the
5 North Carolina partnership income tax ~~returns~~ return shall be the total income or loss from lines 1 through 11 of Schedule
6 K, Federal Form 1065. ~~The same additions, deductions and transitional adjustments to federal taxable income~~ required
7 for individuals under G.S. 105-153.5 and 105-153.6 shall apply to partnerships.

8
9 *History Note: Authority G.S. 105-154(b); G.S. 105-154(c); 105-262;*
10 *Eff. February 1, 1976;*
11 *Amended Eff. June 1, 1990; December 1, ~~1986~~ 1986;*
12 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .3503 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3503 PARTNERSHIP RETURNS**

4 (a) When Required -- A North Carolina partnership return, Form D-403, ~~must~~ shall be filed by every partnership doing
5 business in North Carolina if a federal partnership return was required to be filed. The partnership return ~~must~~ shall be
6 filed on or before April 15 if on a calendar year ~~basis~~ basis, ~~and or~~ and on or before the 15th day of the fourth month
7 following the end of the fiscal year if on a fiscal year basis. ~~For individual income tax purposes, the term "business~~
8 ~~carried on in this State" means the operation of any activity within North Carolina regularly, continuously, and~~
9 ~~systematically for the purpose of income or profit. A sporadic activity, a hobby, or an amusement diversion does not~~
10 ~~come within the definition of business carried on in this State.~~ Income from an intangible source, including gain realized
11 from the sale of intangible property received in the course of a "doing business carried on in this State State" so as to
12 have a taxable situs here (including income in the distributive share of partnership income, whether distributed or not) ~~is~~
13 shall be included in the numerator of the fraction used in determining the portion of federal taxable adjusted gross income
14 that is taxable to North Carolina by a nonresident. The return ~~must~~ shall include the names and addresses of the
15 ~~individuals~~ persons entitled to share in the net income of the partnership and ~~must~~ shall be signed by one of the partners
16 and the individual preparing the return.

17 (b) Schedule NC K-1 -- A partnership ~~must~~ shall provide a completed Schedule NC K-1, or ~~similar schedule~~, other
18 document containing all of the information that would be reported on Schedule NC K-1, to each person who was a
19 partner in the partnership at any time during the year reflecting that partner's share of the partnership's income,
20 adjustments, tax credits, and tax paid by the manager of the partnership. The ~~Schedule NC K-1 schedule~~ must shall be
21 provided to each partner on or before the day on which the partnership return is required to be filed. When reporting the
22 distributive share of tax credits, a list of the amount and type of tax credits ~~must~~ shall be provided to each taxpayer.
23 partner.

24 (c) Investment Partnerships -- A partnership whose only activity is as an investment partnership ~~is~~ shall not be
25 considered to be doing business in North Carolina. An investment partnership ~~is~~ shall be a partnership that is not a ~~dealer~~
26 "dealer in securities, securities," as defined in section 475(c)(1) of the Internal Revenue Code, and that derives income
27 exclusively from buying, holding, and selling securities for its own account. If any of the partnership's income is from
28 other activities, either within or outside this ~~State or State~~, either received directly or flowing through from other pass-
29 through entities, the partnership ~~is~~ shall not be an investment partnership for North Carolina tax purposes. Other
30 activities include ~~but are not limited to~~ providing services or products to customers and holding real property for
31 appreciation and income. An investment partnership ~~is~~ shall not be required to file an income tax return in North
32 Carolina or pay income tax to North Carolina on behalf of its nonresident partners.

33
34 *History Note: Authority G.S. 105-154(c); 105-154(d); 105-262;*

35 *Eff. February 1, 1976;*

36 *Amended Eff. February 1, 2005; August 1, 2003; July 1, 2000; August 1, 1998; May 1, 1994; June 1,*
37 *1993; July 1, 1991; June 1, ~~1990~~, 1990;*

1 17 NCAC 06B .3513 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3513 NONRESIDENT PARTNERS**

4 (a) Although a partnership may treat guaranteed payments to a partner for services or for use of capital as if they were
5 paid to a person who is not a partner, ~~such that~~ treatment is only for purposes of determining ~~it's~~ the partnership's gross
6 income and deductible business expenses. For other tax purposes, ~~such~~ guaranteed payments are treated as a partner's
7 distributive share of ordinary income.

8 (b) Deductions from ~~federal taxable~~ adjusted gross income do not include a partner's salary, interest on a partner's capital
9 account, partner relocation and mortgage interest differential payments, or payments to a retired partner regardless of
10 whether they were determined without regard to current profits. ~~These types of~~ The payments are listed in this Paragraph
11 shall be treated as part of the partnership income.

12 (c) A nonresident individual partner is not required to file a North Carolina individual income tax return when the only
13 income from North Carolina sources is the nonresident's share of income from a partnership doing business in North
14 ~~Carolina~~ Carolina, and the manager of the partnership has reported the income of the nonresident partners and paid the
15 tax due. A nonresident individual partner may file an individual income tax return and claim credit for the tax paid by
16 the manager of the partnership if the ~~payment is properly identified on~~ partner submits with the individual income tax
17 ~~return.~~ return the Schedule NC K-1 or other document from the partnership verifying that the partnership paid tax on
18 behalf of the partner.

19 ~~(d) A partnership's business activities are not segregated if it does not employ a method of accounting that clearly~~
20 ~~reflects the income or loss of its separate activities. A partnership must allocate to North Carolina the income derived~~
21 ~~from its business activities in North Carolina that are segregated from its other business activities. Income derived from a~~
22 ~~partnership's business activities outside of North Carolina that are segregated from its other business activities are not~~
23 ~~includable in determining the tax due for nonresident partners. This allocation of income does not affect the reporting of~~
24 ~~partnership income by the resident partner because he is taxed on his share of the net income of the partnership whether~~
25 ~~or not any portion of it is attributable to another state or country.~~

26
27 *History Note: Authority G.S. 105-~~153.4~~153.4(d); 105-153.5(b); 105-154; 105-262;*

28 *Eff. February 1, 1976;*

29 *Amended Eff. May 1, 1994; June 1, 1993; February 3, 1992; October 1, ~~1991~~1991;*

30 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .3529 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3529 INTEREST INCOME PASSED THROUGH TO PARTNERS**

4 (a) Although the interest income passed through to a partner in a partnership retains its same character as when received
5 by the partnership, the expenses incurred in earning ~~such interest income~~ are shall be either deductible by the partnership
6 and net interest income after expenses ~~is~~ shall be reflected in the partner's pro rata share of the income of the partnership,
7 or not deductible by the partnership and interest income before expenses shall be reflected in the partner's pro rata share
8 of the income of the partnership.

9 (b) Net interest income shall be reported if the activities are considered trade or business activities under federal law and
10 interest income before expenses shall be reported if the activities are considered investment activities under federal law.
11 If the activities are considered investment activities, the expenses incurred in earning that income shall be reported by the
12 partnership to its partners as a separately stated item and shall be deducted by the partner to the extent allowable on the
13 partner's income tax return.

14 (c) For interest income subject to federal income tax and considered trade or business activities, the partner's federal
15 gross income ~~reflects~~ shall include the net interest income after expenses incurred in earning the income. If that interest
16 income is deductible from federal adjusted gross income pursuant to G.S. 105-153.5(b), the individual partner shall
17 deduct the net income on the North Carolina return. For interest income subject to federal income tax and considered
18 investment activities, the partner's federal gross income includes the interest income before expenses incurred in earning
19 the income. If that interest income is deductible from federal adjusted gross income pursuant to G.S. 105-153.5(b), the
20 individual partner shall deduct the income before expenses on the North Carolina return. No addition shall be made for
21 the expenses incurred in earning that income to the extent those expenses are deductible by the individual partner in
22 arriving at federal adjusted gross income.

23 (d) Interest income not subject to federal income tax is not ~~reflected~~ included in the partner's federal ~~taxable-adjusted~~
24 gross income. For interest income not subject to federal tax but required to be added to federal adjusted gross income
25 pursuant to G.S. 105-153.5(c), the individual partner shall add the total interest income on the North Carolina return. No
26 deduction shall be made for expenses incurred in earning that income if the expenses are not deductible in arriving at
27 federal adjusted gross income. In these cases, a partner must adjust his federal taxable income as required by G.S.
28 105-134.6(b) or G.S. 105-134.6(c), for the net amount of interest attributable to the partnership.

29
30 *History Note: Authority G.S. ~~105-134.6(b); 105-134.6(c); 105-153.5(b); 105-153.5(c); 105-154; 105-262;~~*
31 *Eff. February 3, ~~1992~~ 1992;*
32 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .3718 is repealed through readoption without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3718 PAYMENT OF TAX**
4
5

6 *History Note: Authority G.S. 105-160.2; 105-160.7; 105-262;*
7 *Eff. February 1, 1976;*
8 *Amended Eff. October 1, 1991; June 1, ~~1990~~1990;*
9 *Repealed Eff. May 1, 2016.*

1 17 NCAC 06B .3723 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3723 ALLOCATION OF ADJUSTMENTS**

4 (a) The additions and deductions to federal taxable income of an estate or trust ~~must~~ shall be apportioned between the
5 estate or trust and the beneficiaries based on the distributions of income made during the taxable year. ~~Unless~~ If the trust
6 instrument or will that created the estate or trust ~~specifically provides~~ does not provide for the distribution of certain
7 classes of income to different beneficiaries, the apportionment of additions and deductions to the beneficiaries ~~is~~ shall be
8 determined on the basis that each beneficiary's share of the ~~"income for regular tax purposes" from~~ estate's or trust's
9 "total income," the sum of lines 1 through 8 on the beneficiary's Schedule K-1, Federal Form 4041 1041, relates to
10 "adjusted total income" from line 17 of Federal Form 1041. If the trust instrument or will specifically provides for the
11 distribution of certain classes of income to different beneficiaries, any addition or deduction directly attributable to a
12 particular class of income ~~must~~ shall be apportioned to the ~~beneficiary~~ beneficiaries to which that class of income is
13 distributed. After apportioning the additions and deductions to the beneficiaries, the balance is apportioned to the
14 fiduciary.

15 (b) In allocating the adjustments, for State purposes the amount of ~~"income for regular tax purposes"~~ "total income" on
16 Federal Schedule K-1 ~~must~~ shall be adjusted for distributions to the beneficiary ~~which that~~ that are not reflected in "total
17 income." ~~"income for regular tax purposes."~~ The "adjusted total income" on Federal Form 1041 ~~must~~ shall be adjusted:

- 18 (1) to exclude classes of income that are not part of the distribution to the beneficiary;
19 (2) to include classes of income that are a part of the distribution to the ~~beneficiary~~ beneficiary, but ~~are~~
20 shall not be included in adjusted total income; and
21 (3) by any deduction treated differently for State and federal tax purposes that ~~adjust~~ adjusts federal
22 taxable income pursuant to G.S. 105-153.5 and 134.6 and ~~G.S. 105-134.7.~~ G.S. 105-153.6.

23
24 *History Note:* Authority ~~G.S. 405-134.5; 105-153.4; 105-153.5; 105-153.6; 405-134.6; 105-134.7; 105-160.2;~~
25 ~~105-160.5; 105-262;~~
26 *Eff. June 1, 1990;*
27 *Amended Eff. June 1, 1993-1993;*
28 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .3804 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3804 MISCELLANEOUS RULES DEPOSIT OF PAYMENT**

4 (a) When a payment is received by the Department of Revenue for less than the correct tax, penalty, and interest due
5 ~~under the law and the facts~~, and the payment includes the statement, "paid in full" or other similar statements, the
6 payment will be deposited as required by G.S. 147-77.

7 (b) ~~Tenancy by the Entirety: When filing separate returns a determination must be made as to that portion of the income~~
8 ~~or loss from real property that must be reported by each spouse. When real property conveyed jointly in the name of~~
9 ~~husband and wife is located in another state and the share of ownership of each is not fixed in the deed or other~~
10 ~~instrument creating the co-tenancy, each spouse is considered as having received one-half of the income or loss from the~~
11 ~~real property unless they can demonstrate that the laws of that particular state with respect to the right to the income~~
12 ~~from the property allocate the income or losses in a different manner.~~

13 (c) ~~Effective for sales on or after January 1, 1992, every individual, fiduciary, partnership, corporation, or unit of~~
14 ~~government buying real property located in North Carolina from a nonresident individual, partnership, estate or trust is~~
15 ~~required to complete Form NC 1099NRS, Sale of Real Property by Nonresidents, reporting the seller's name, address,~~
16 ~~and social security number, or federal employer identification number; the location of the property; the date of closing;~~
17 ~~and the gross sales price of the real property and its associated tangible personal property.~~

18 ~~Within 15 days of the closing date of the sale, the buyer must file one copy of the report with the Department and also~~
19 ~~furnish a copy of the report to the seller.~~

20
21 *History Note: Authority G.S. 39-13.6; 105-154; 105-262;*

22 *Eff. June 1, 1990;*

23 *Amended Eff. June 1, 1993; October 1, 1991; February 1, ~~1991~~, 1991;*

24 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .3904 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .3904 TAXABLE INCOME OF NONRESIDENTS AND PART-YEAR RESIDENTS**

4 (a) Nonresidents and part-year residents ~~are required to~~ shall prorate their ~~federal taxable adjusted gross income income,~~
5 adjusted as required under G.S. 105-153.5 and G.S. 105-153.6, to determine the portion that is subject to North Carolina
6 tax.

7 (b) ~~For tax years beginning on or after January 1, 2006, an~~ An individual who files a joint federal income tax return with
8 his or her spouse and is not required to file a joint North Carolina income tax return because the spouse is a nonresident
9 and had no North Carolina taxable ~~income income,~~ may file the State return as either married filing jointly or married
10 filing separately. However, once the individual files a joint North Carolina income tax return, ~~they cannot choose to the~~
11 individual shall not amend the return to file as married filing separately for that tax year after the due date of the return.
12 An individual who files a joint federal income tax return and chooses to file a separate State return ~~must shall~~ calculate
13 the individual's ~~federal taxable adjusted gross~~ income on a federal income tax form as a married person filing a separate
14 federal income tax return and attach it to the individual's North Carolina return to show how the separate ~~federal taxable~~
15 adjusted gross income was determined. The individual filing the separate federal income tax return ~~must shall~~ report
16 only the individual's ~~income, income exemptions,~~ and deductions. In lieu of making the calculation on a federal form, an
17 individual may submit a schedule showing the computation of the individual's separate ~~federal taxable adjusted gross~~
18 income. An individual who submits a schedule ~~must shall~~ attach a copy of pages one and two of the individual's joint
19 federal return if the federal return reflects an address outside North Carolina.

20 (c) An individual who has income from sources within another state or country while a resident of North Carolina and is
21 subject to tax on the income by the other state or country may be eligible to claim a tax credit for tax paid to another state
22 or country under G.S. ~~405-151, 105-153.9.~~

23 (d) A nonresident is not entitled to the tax credit for tax paid to another state or country.

24
25 *History Note: Authority G.S. ~~405-134.5; 405-151; 405-152; 105-153.4; 105-153.8; 105-153.9; 105-262;~~*
26 *Eff. June 1, 1990;*
27 *Amended Eff. September 1, 2008; July 1, 1999; August 1, 1998; June 1, ~~1993-1993;~~*
28 *Readopted Eff. May 1, 2016.*

17 NCAC 06B .3905 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

17 NCAC 06B .3905 NONRESIDENT MEMBERS OF PROFESSIONAL ATHLETIC TEAMS

(a) Determination of North Carolina source income.

(1) ~~To determine the portion of his or her total compensation for services rendered as a member of a professional athletic team during the taxable year that shall be considered~~The North Carolina source income of a ~~and shall be included in the numerator of the fraction determined under G.S. 105-153.4(b), the nonresident individual who is a member of a professional athletic team shall be determined by multiplying such individual's~~ multiply his or her total compensation for services rendered as a member of a professional athletic team during the taxable year by a fraction, the numerator of which is the number of duty days spent in North Carolina rendering services for the team in any manner during the taxable year. The denominator ~~is shall be~~ the total number of duty days spent both within and ~~without~~ outside North Carolina during the taxable year.

(2) Travel days that do not involve ~~either a game, practice, team meeting, promotional caravan~~ any of the activities set forth in Subparagraph (b)(3), or other similar team event activity, are not considered duty days spent in North ~~Carolina.~~ Carolina and compensation for those days shall not be included in the numerator of the fraction determined under G.S. 105-153.4(b). However, such the travel days shall be considered duty days spent within and ~~without~~ outside North ~~Carolina.~~ Carolina and compensation for those days is included in the denominator of the fraction determined under G.S. 105-153.4(b).

(3) ~~Definitions. For purposes of this Rule:~~

(A) ~~The term "professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer or hockey team.~~

(B) ~~The term "member of a professional athletic team" shall include those employees who are active players, players on the disabled list and any other persons required to travel and who do travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers and trainers.~~

(C) ~~The term "duty days" shall mean all days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days shall also include days on which a member of a professional athletic team renders a service for a team on a date which that does not fall within the aforementioned period. Such The services include participation in instructional leagues, the "Pro Bowl" or promotional caravans. This includes days during the member's off-season where the member conducts training activities at the facilities of the team. Duty days, days include game days, practice days, days spent at team meetings, promotional caravans and pre-season training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete. Duty days for any person who joins a team during the season shall begin on the day such the person joins~~

the team, and for any person who leaves a team shall end on the day such the person leaves the team. Where a person switches teams during the taxable year, a separate duty day calculation shall be made for the period such the person was with each team. Days for which a member of a professional athletic team is not compensated and is not rendering services for the team in any manner, including days when such the member of a professional athletic team has been suspended without pay and prohibited from performing any services for the team, shall not be treated as duty days. Days for which a player is on the disabled list shall be presumed not to be duty days spent in North Carolina. However, such the days are considered to be included in total duty days spent within and without North Carolina.

- (D) — The term "total compensation for services rendered as a member of a professional athletic team" means the total compensation received during the taxable year for services rendered:
- (i) — from the beginning of the official pre season training period through the last game in which the team competes or is scheduled to compete during that taxable year; and
 - (ii) — for an event during the taxable year which that occurs on a date which that does not fall within the aforementioned period such as participation in instructional leagues, the "Pro Bowl" or promotional caravans.

Such The compensation shall include, but is not limited to, salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. Such The compensation shall not include strike benefits, severance pay, termination pay, contract or option year buy out payments, expansion or relocation payments, or any other payments not related to services rendered to the team.

- (E) — For purposes of Subparagraph (a)(4) of this Rule, "bonuses" included in "total compensation for services rendered as a member of a professional athletic team" subject to the allocation described in Paragraph (a) of this Rule are:

- (i) — bonuses earned as a result of play, such as performance bonuses, during the season, including bonuses paid for championship, play off or "bowl" games played by a team, or for selection to all star league or other honorary positions; and
- (ii) — bonuses paid for signing a contract, unless all of the following conditions are met:
 - (I) — the payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team, or even making the team;
 - (II) — the signing bonus is payable separately from the salary and any other compensation; and
 - (III) — the signing bonus is nonrefundable.

- (4) Where the method of apportioning and allocating the compensation provided in this rule Rule produces substantially incorrect results, does not fairly and equitably apportion and allocate the

1 ~~compensation of a nonresident member of a professional athletic team for services rendered in North~~
2 ~~Carolina,~~ the Secretary of Revenue may require ~~such the~~ the member of a professional athletic team to
3 apportion and allocate ~~such the~~ the compensation under another method prescribed by the Secretary as
4 long as the prescribed method ~~results in a fair and equitable apportionment and allocation.~~ better
5 reflects the compensation received for services rendered in North Carolina. A nonresident member of a
6 professional athletic team may request ~~submit a proposal for a~~ an alternative method to apportion and
7 allocate ~~such the~~ the compensation, demonstrating that the method provided under this ~~section~~ Rule
8 produces substantially incorrect results. ~~does not fairly and equitably apportion and allocate such~~
9 ~~compensation.~~ If the Secretary approves the alternative method, a copy of the Secretary's written
10 approval ~~approved, the proposed method must~~ shall be fully explained in included with the North
11 Carolina income tax return filed by the nonresident member.

12 (b) Definitions. For purposes of this Rule:

13 ~~(A)~~ (1) The term "professional athletic team" includes any professional baseball, basketball, football, soccer,
14 hockey, or other team.

15 ~~(B)~~ (2) The term "member of a professional athletic team" shall include those employees who are active
16 players, players on the disabled list, and any other persons required to travel and who do travel with
17 and perform services on behalf of a professional athletic team on a regular basis. This includes
18 coaches, managers and trainers.

19 ~~(C)~~ (3) The term "duty days" shall mean all days during the taxable year from the beginning of the
20 professional athletic team's official pre-season training period through the last game in which the team
21 competes or is scheduled to compete. Duty days shall also include days on which a member of a
22 professional athletic team renders a service for a team on a date that does not fall within the period
23 from the beginning of the professional athletic team's official pre-season training period through the
24 last game in which the team competes or is scheduled to compete. The services include participation
25 in instructional leagues, the "Pro Bowl," or promotional caravans. This includes days during the
26 member's off-season where the member conducts training activities at the facilities of the team. Duty
27 days include game days, practice days, days spent at team meetings, promotional caravans and pre-
28 season training camps, and days served with the team through all post-season games in which the team
29 competes or is scheduled to compete. Duty days for any person who joins a team during the season
30 shall begin on the day the person joins the team, and for any person who leaves a team shall end on the
31 day the person leaves the team. Where a person switches teams during the taxable year, a separate
32 duty day calculation shall be made for the period the person was with each team. Days for which a
33 member of a professional athletic team is not compensated and is not rendering services for the team in
34 any manner, including days when the member of a professional athletic team has been suspended
35 without pay and prohibited from performing any services for the team, shall not be treated as duty
36 days. Days for which a player is on the disabled list shall not be considered duty days ~~spent in North~~
37 ~~Carolina. However, the days~~ and shall be included in total duty days spent within and outside North

Carolina, in the denominator of the fraction described in Subparagraph (a)(1) of the Paragraph, but shall not be considered duty days spent in North Carolina and shall not be included in the numerator of the fraction.

~~(D)~~ (4) The term "total compensation for services rendered as a member of a professional athletic team" means the total compensation received during the taxable year for services rendered:

~~(i)~~ (A) from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year; and

~~(ii)~~ (B) for an event during the taxable year that occurs on a date that does not fall within the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete, such as participation in instructional leagues, the "Pro Bowl," or promotional caravans.

The compensation shall include salaries, wages, bonuses, and any other type of compensation identified in Internal Revenue Code Section 61 and its regulations and paid during the taxable year to a member of a professional athletic team for services performed in that year. The compensation shall not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered to the team.

~~(E)~~ (5) For purposes of Subparagraph (b)(4) of this Rule, "bonuses" included in "total compensation for services rendered as a member of a professional athletic team" subject to the allocation described in Paragraph (a) of this Rule are:

~~(i)~~ (A) bonuses earned as a result of play, such as performance bonuses, during the season, including bonuses paid for championship, play-off, or "bowl" games played by a team, or for selection to all-star league or other honorary positions; and

~~(ii)~~ (B) bonuses paid for signing a contract, unless all of the following conditions are met:

(I) the payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team, or even making the team;

(II) the signing bonus is payable separately from the salary and any other compensation; and

(III) the signing bonus is nonrefundable.

(c) Withholding requirements.

(1) A professional athletic team shall withhold income tax from the North Carolina source income of a nonresident member of the team at the ~~highest~~ rate for individuals with no withholding allowances ~~for any withholding exemptions~~ as provided in G.S. 105-163.5. Taxes shall be withheld from the income of a resident member of the team as provided in G.S. 105-163.2.

(2) A professional athletic team that is not domiciled in this State shall be classified as a quarterly employer and shall file a return reporting the amount of taxes withheld and pay the amounts withheld as provided in G.S. 105-163.6. A professional athletic team that is domiciled in this State shall determine its filing and paying requirements based on its average monthly withholding as provided in G.S. 105-163.6.

1 ~~(3) — A professional athletic team must shall include with the annual report required by G.S. 105-163.7 a list~~
2 ~~of all employees who received North Carolina source income during the year. The list must shall~~
3 ~~include the following information:~~

4 ~~(A) — The name, social security number, and mailing address of each employee;~~

5 ~~(B) — Whether the employee is a resident of this State;~~

6 ~~(C) — The total amount of income;~~

7 ~~(D) — The amount of North Carolina source income;~~

8 ~~(E) — The total amount deducted and withheld.~~

9 ~~(e)~~ (d) Income tax return filing requirements.

10 (1) A nonresident member of a professional athletic team is not required to file a North Carolina
11 individual income tax return when the only income from North Carolina sources is the compensation
12 received for services rendered as a member of the team and the team has withheld taxes from the
13 North Carolina source income as ~~prescribed~~ set forth in Paragraph ~~(b)~~ (c) of this Rule. The individual
14 may file an individual income tax return and claim credit for the tax withheld.

15 (2) ~~The individual is liable for any additional tax, penalty, or interest due if the professional athletic team~~
16 ~~does not properly determine the individual's North Carolina source income or properly withhold tax~~
17 ~~from that income. The professional athletic team, as well as the individual, shall be personally and~~
18 ~~individually liable for any additional tax due if the professional athletic team does not properly~~
19 ~~determine the North Carolina source income of a member of the professional athletic team or properly~~
20 ~~withhold tax from the income.~~

21
22 *History Note:* Authority G.S. ~~405-134.5~~; 105-153.4; 105-163.2; 105-163.2; 105-163.3; 105-163.5; 105-163.6; 105-
23 163.7; 105-163.8; 105-262;
24 Eff. November 1, 1995;
25 Amended Eff. August 1, ~~2002~~ 2002;
26 Readopted Eff. May 1, 2016.

17 NCAC 06B .3906 is adopted pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(d)(4) as follows:

17 NCAC 06B .3906 PURCHASE OF REAL PROPERTY LOCATED IN NORTH CAROLINA FROM A NONRESIDENT

(a) Every individual, fiduciary, partnership, corporation, or unit of government buying real property located in North Carolina from a nonresident individual, partnership, estate, or trust shall complete Form NC-1099NRS, Report of Sale of Real Property by Nonresidents, to report the following:

- (1) the seller's name, address, and social security number, or federal employer identification number;
- (2) the location of the property;
- (3) the date of closing; and
- (4) the gross sales price of the real property and its associated tangible personal property.

(b) Within 15 days of the closing date of the sale, the buyer shall file one copy of the report with the Department and also furnish a copy of the report to the seller.

History Note: Authority G.S. 105-154(b); 105-262;

Eff. May 1, 2016

1 17 NCAC 06B .4003 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .4003 NONRESIDENT SHAREHOLDERS**

4 (a) A nonresident shareholder of an S corporation ~~takes~~ shall take into account only his or her share of the S
5 corporation's income attributable to North Carolina in the numerator of the fraction in determining that portion of ~~federal~~
6 ~~taxable-adjusted gross~~ income that is taxable to North Carolina. If an S corporation does business in North Carolina and
7 one or more other states, the income attributable to North Carolina ~~is~~ shall be determined under G.S. 105-130.4.

8 (b) A nonresident shareholder in an S corporation may claim credit on the shareholder's North Carolina individual
9 income tax return for the proportionate share of the tax paid on his or her behalf by the S corporation to North Carolina
10 on his or her share of the S corporation income.

11 (c) A nonresident shareholder in an S corporation ~~is~~ shall not ~~be~~ required to file a North Carolina individual income tax
12 return when the only income from North Carolina sources is his or her share of S corporation income and the S
13 corporation pays the tax on his or her behalf.

14
15 *History Note: Authority G.S. 105-130.4; 105-131.1; 105-131.5; 105-131.7; ~~105-134.5(d); 105-153.4(d); 105-262;~~*

16 *Eff. June 1, 1990;*

17 *Amended Eff. June 1, 1993; October 1, ~~1991~~ 1991;*

18 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .4005 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .4005 BASIS IN STOCK**

4 (a) Due to different tax treatment of an S corporation's income for State and federal purposes for taxable years beginning
5 before January 1, 1989, a shareholder's basis in the stock of an S corporation for State tax purposes may be different than
6 for federal tax purposes; thereby causing ~~transitional~~ adjustments in determining North Carolina taxable income upon
7 receipt by the shareholder of distributions from the S corporation and upon disposition of the S corporation stock.

8 (b) The initial basis of the stock in an S corporation to a nonresident of North Carolina is zero, and the nonresident
9 shareholder ~~is~~ shall not ~~be~~ taxed on distributions from the corporation and recognizes no income or loss upon disposition
10 of the stock. A nonresident shareholder's basis in the S corporation stock ~~is~~ shall be adjusted for his ~~or her~~ pro rata share
11 of the income or loss of the corporation.

12 (c) A resident shareholder's initial basis in the stock of an S corporation ~~is~~ shall be determined as of the later of the date
13 the stock is acquired, the effective date of the S corporation election, or the date the shareholder became a resident of
14 North Carolina. A resident shareholder's basis in the stock ~~is~~ shall be increased by his ~~or her~~ pro rata share of the
15 corporation's ~~income~~ income, subject to the adjustments required under G.S. 105-153.5 and G.S. 105-153.6, adjusted
16 ~~pursuant to G.S. 105-131.2~~ except for income exempt from federal or State income taxes and deductions for depletion in
17 excess of the basis of the property being depleted. The basis ~~is~~ shall be decreased ~~by~~ by:

18 (1) distributions to the extent deemed a return of basis;

19 (2) a pro rata share of the losses of the corporations as ~~adjusted~~; adjusted under G.S. 105-153.5 and G.S. 105-153.6;

20 (3) nondeductible expenses of the corporation; and

21 (4) the amount of the shareholder's deduction for depletion of oil and gas wells to the extent the deduction does not
22 exceed the proportionate share of the adjusted basis of that property allocated to the shareholder.

23 The adjustments to the basis do not apply to tax periods beginning prior to January 1, 1989.

24
25 *History Note: Authority G.S. 105-131.3; 105-262;*

26 *Eff. June 1, ~~1990~~ 1990;*

27 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .4101 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .4101 GENERAL**

4 ~~A distribution received from~~ (a) Exempt interest dividends paid by a regulated investment company ("mutual fund") ~~by~~
5 ~~to a shareholder who was a North Carolina resident which was and~~ not included in ~~his~~ the shareholder's federal adjusted
6 ~~gross income because it was determined to be an "exempt interest dividend" for federal income tax purposes, must shall~~
7 ~~be added to federal taxable adjusted gross~~ income to the extent it represents interest on obligations of ~~states~~ states, other
8 than North ~~Carolina~~ Carolina, and their political subdivisions.

9 (b) The total distribution designated as exempt interest dividends by a regulated investment company ("mutual fund")
10 shall be added to adjusted gross income in computing the shareholder's North Carolina taxable income, unless the
11 regulated investment company provides a statement to the shareholder that designates the portion of the exempt interest
12 dividends that represents interest from obligations of the State of North Carolina or its political subdivisions or the
13 United States or its possessions.

14
15 *History Note: Authority G.S. ~~405-134.5~~; 105-153.4; 105-153.5(c)(1); 105-262;*

16 *Eff. June 1, 1990;*

17 *Amended Eff. June 1, ~~1993~~ 1993;*

18 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06B .4102 is repealed through readoption without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .4102 EXEMPT INTEREST DIVIDENDS**

4
5 *History Note: Authority G.S. 105-~~134.6~~153.5(c); 105-262;*

6 *Eff. June 1, 1990;*

7 *Amended Eff. October 1, ~~1991~~1991;*

8 *Repealed Eff. May 1, 2016.*

1 17 NCAC 06B .4103 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06B .4103 ORDINARY DIVIDENDS**

4 (a) Interest received in the form of dividends from regulated investment companies ~~is~~ shall be deductible from an
5 individual's ~~federal taxable adjusted gross~~ income to the extent the distributions represent interest on direct obligations of
6 the United States Government. ~~The fund must furnish the taxpayer a statement verifying the amount of interest paid to~~
7 ~~him which accrued from direct obligations of the United States Government.~~ Interest earned on obligations that are
8 merely backed or guaranteed by the United States Government ~~will~~ shall not qualify for the deduction. Further, this
9 deduction ~~does~~ shall not apply to distributions ~~which that~~ represent gain from the sale or other disposition of the
10 securities nor to interest paid in connection with repurchase agreements issued by banks and savings and loan
11 associations.

12 (b) The taxpayer may not deduct mutual fund dividends on the basis of a percentage of investments held by the fund
13 (i.e., a fund has 75 percent of its investments in United States Treasury Notes). ~~The fund must regulated investment~~
14 ~~company shall furnish the taxpayer shareholder a statement verifying the amount of interest paid to the shareholder him~~
15 ~~which that accrued from direct obligations of the United States Government.~~ The statement to support the deduction ~~must~~
16 shall specify the amount ~~received by~~ dividend to the shareholder ~~taxpayer which that~~ represents ~~interests~~ interest on
17 direct obligations of the United States Government.

18 (c) ~~The procedure in this Rule will also apply with respect to interest on obligations of the State of North Carolina and~~
19 ~~any of its political subdivisions to the extent included in federal taxable adjusted gross income.~~

20
21 *History Note: Authority G.S. ~~405-134.6~~; 105-153.5(b)(1); 105-262;*
22 *Eff. June 1, 1990;*
23 *Amended Eff. June 1, 1993; December 1, ~~1990~~; 1990;*
24 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06C .0110 is repealed through readoption without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06C .0110 COMMON CARRIERS**

4
5 *History Note: Authority G.S. 105-163.2; 105-262; 49 U.S.C. Sec. 26; Sec. 301A; Sec. 923; Sec. 1512;*
6 *Eff. February 1, 1976;*
7 *Amended Eff. July 1, 1999; November 1, 1994; December 1, 1990; November 1, ~~1988~~1988;*
8 *Repealed Eff. January 1, 2016.*

1 17 NCAC 06C .0117 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06C .0117 SUPPLEMENTAL WAGE PAYMENTS**

4 (a) If an employer pays supplemental wages separately (or combines them with regular wages in a single payment and
5 specifies the amount of each), the income tax withholding method depends ~~partly~~ on whether the employer withholds
6 income tax from the employee's regular ~~wages~~. wages and whether the wages and supplemental wages are paid in a
7 single payment.

8 (b) If tax has been withheld on the regular wages and the supplemental amount is not paid in a single payment together
9 with regular wages, the employer may treat the supplemental wages as wholly separate from the regular wages and apply
10 ~~a flat~~ the rate of ~~six five and three-fourths~~ percent to the supplemental wage payment without consideration for
11 allowances claimed on the employee's withholding allowance certificate. ~~making any allowance for exemptions.~~
12 Otherwise, the supplemental wages ~~are~~ shall be added to the regular wages for the most recent payroll period. The
13 income tax ~~is~~ shall be figured as if the regular wages and supplemental wages constitute a single payment. The tax
14 already withheld from the regular wages is subtracted from this amount.

15 (c) The remaining tax determined under Paragraph (b) shall be ~~is then~~ withheld from the supplemental wages. If the
16 employer did not withhold income tax from the employee's regular wages, the employer ~~must~~ shall add the supplemental
17 wages to the employee's regular wages paid for the current or last preceding payroll period and withhold tax as though
18 the supplemental wages and regular wages were one payment.

19 (d) Tips shall be treated as supplemental wages. The employer ~~withholds~~ shall withhold the income tax on tips from
20 wages or collect the tax from funds the employee provides. ~~makes available.~~ If an employee receives regular wages and
21 reports tips, the employer ~~figures~~ shall figure income tax as if the tips were supplemental wages. If the employer has not
22 withheld income tax from the regular wages, the employer ~~adds~~ shall add the tips to the regular wages and ~~withholds~~
23 withhold income tax on the total. If the employer withheld income tax from the regular wages, the employer ~~can~~ shall
24 withhold on the tips as explained in Paragraphs (b) and (c). ~~in this Paragraph.~~

25
26 *History Note: Authority G.S. 105-153.7; 105-163.1(13); 105-163.2; 105-262;*

27 *Eff. February 1, 1976;*

28 *Amended Eff. June 1, ~~1990~~1990;*

29 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06C .0123 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06C .0123 EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE**

4 (a) Requirement. -- Each new employee, before beginning employment, ~~must~~ shall furnish his or her employer with a
5 signed North Carolina Employee's Withholding Allowance Certificate, Form NC-4, Form NC-4 EZ, or Form NC-4 NRA.
6 ~~NC-4.~~ A federal exemption certificate ~~is~~ shall not be acceptable. A certificate filed by a new employee ~~is~~ shall be
7 effective upon the first payment of wages after it is filed and remains in effect until the employee furnishes a new one.
8 ~~one is furnished. State and Federal definitions of dependent, single person, G.S. 105-153.3 defines the terms married~~
9 ~~individual, married, head of household, and qualifying widow(er) surviving spouse (qualifying widow(er)) by reference~~
10 ~~to the Internal Revenue Code; are the same;~~ however, the number of allowances to which an individual is entitled may
11 differ under federal and state law. If an employee fails to furnish an ~~exemption~~ allowance certificate, Form NC-4, Form
12 NC-4 EZ, or Form NC-4 NRA, the employer ~~must~~ shall withhold tax as if the employee is single with no allowances.

13 (b) Notice. -- The employer is not required to ascertain whether or not the total amount of allowances claimed is greater
14 than the total number to which the employee is entitled. If, however, the employer has reason to believe that the number
15 of allowances claimed by an employee is greater than the number to which the employee is entitled, the employer ~~must~~
16 shall notify the Department of Revenue ~~immediately.~~ at the time for filing the quarterly report for the quarter during
17 which the certificate is received, if the employer files quarterly withholding reports. If the employer files monthly
18 withholding reports, the employer shall notify the Department of Revenue of certificates received during the quarter at
19 the time for filing the monthly report for the third month of the quarter.

20 (c) Military spouse – A military spouse exempt from withholding under the Military Spouse Residency Relief Act shall
21 furnish an employer a Form NC-4 EZ certifying the spouse meets the requirements of the Military Spouse Residency
22 Relief Act and the state in which the spouse is domiciled, a copy of the spouse's spousal military identification card, and
23 a copy of the servicemember's most recent leave and earnings statement. A new Form NC-4 EZ shall be submitted each
24 calendar year, along with the supplemental information set forth in this Paragraph.

25
26 *History Note: Authority G.S. ~~405-163.3~~; 105-163.2; 105-163.5; 105-262; 50 U.S.C. 571;*

27 *Eff. June 1, 1990;*

28 *Amended Eff. August 1, 2002; June 1, 1993; October 1, ~~1991~~ 1991;*

29 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06C .0124 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06C .0124 ADDITIONAL WITHHOLDING ALLOWANCES**

4 (a) Deductions. -- Additional withholding allowances may be claimed by taxpayers expecting to have allowable itemized
5 deductions exceeding the standard deduction or allowable adjustments to income. For most taxpayers, one additional
6 allowance may be claimed for each two thousand five hundred dollars (\$2,500) that the itemized deductions allowed
7 under G.S. 105-153.5(a)(2) are expected to exceed the standard deduction allowed under G.S. 105-153.5(a)(1) and for
8 each two thousand five hundred dollars (\$2,500) of net adjustments reducing income. ~~For taxpayers whose annual~~
9 ~~income equals or exceeds the applicable threshold for their filing status, an additional allowance may be claimed for each~~
10 ~~two thousand dollars (\$2,000) that their itemized deductions are expected to exceed the standard deduction and for each~~
11 ~~two thousand dollars (\$2,000) of adjustments reducing income. The thresholds are:~~

Filing Status	Applicable Threshold
Head of Household	\$80,000
Married	\$50,000
Single	\$60,000

16 (b) Tax Credits. -- A taxpayer who will be entitled to a tax credit may claim one additional allowance for each ~~one~~
17 ~~hundred seventy five dollars (\$175.00)~~ one hundred forty-six dollars (\$146.00) of tax credit. ~~credit, unless the taxpayer's~~
18 ~~annual income equals or exceeds the applicable threshold set out in Paragraph (b) of this Rule for the taxpayer's filing~~
19 ~~status. In that circumstance, the taxpayer may claim an additional allowance of only one hundred forty dollars (\$140.00)~~
20 ~~for each tax credit.~~

21
22 *History Note:* *Authority G.S. 105-163.2(b); 105-163.2A; 105-163.5; 105-262;*
23 *Eff. June 1, 1990;*
24 *Amended Eff. April 1, 2001; July 1, ~~1999~~, 1999;*
25 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06C .0126 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06C .0126 SUBMISSION OF CERTAIN WITHHOLDING ALLOWANCE CERTIFICATES**

4 (a) An employer is required to submit ~~copies~~ a copy of any withholding allowance ~~certificates~~ certificate on which the
5 employee claims more than ~~ten~~ 10 withholding allowances or claims exemption from withholding and the employee's
6 wages would normally exceed two hundred dollars (\$200.00) per week.

7 (b) An employer filing quarterly withholding reports ~~is required to~~ shall submit copies of the certificates received during
8 the quarter when filing the quarterly report. An employer filing monthly withholding reports ~~is required to~~ shall submit
9 copies of the certificates received during the quarter when filing the monthly report for the third month of the calendar
10 quarter. Copies may be submitted earlier and for shorter reporting periods.

11 (c) Copies of the certificates, along with a letter showing the employer's name, address, withholding identification
12 number, and the number of certificates submitted, ~~are to~~ shall be mailed to: North Carolina Department of Revenue, Tax
13 Compliance - Withholding Section~~Tax~~, P.O. Box 25000, Raleigh, North Carolina 27640.

14 (d) The employer shall withhold on the basis of the certificate until written notice is received from the Department that
15 the certificate is defective. As part of that written notice, the Department ~~will~~ shall advise the employer to ignore the
16 allowance certificate filed and to withhold ~~on a~~ using the number of allowances specified.

17 (e) The employer shall ~~promptly~~ furnish the employee a copy of the written notice upon receipt. ~~notice.~~

18 (f) If the employee files a new certificate, the employer shall honor that certificate only if the employee does not claim
19 exempt and claims a number smaller than the number allowed in the Department's written notice. If the new certificate
20 claims a number larger than the employee has been allowed and the employee specifies, in writing, any circumstances as
21 justification to support the claims, the employer ~~must~~ shall, upon receipt, forward a copy of the certificate and the
22 employee's written statement to the Department for review. The employer shall continue to withhold as specified in the
23 Department's written notice until written notice is received from the Department advising the employer to withhold on the
24 basis of the new certificate.

25 (g) To increase ~~withholding~~ withholding, an employee or a recipient of a pension payment may claim less than his or her
26 allowable allowances or may enter into an agreement with his or her withholding agent and request that an additional
27 amount be withheld by entering the desired amount on Form ~~NC-4~~ NC-4, NC-4 EZ, NC-4 NRA, or NC-4P.

28 (h) An employee working for two or more employers or a recipient receiving pension payments from two or more
29 pension payers ~~must~~ shall claim his or her allowable ~~allowance~~ allowances with only one withholding agent and claim
30 zero allowances with the other withholding agents.

31 (i) If an employee claims total exemption from withholding, ~~his~~ the employee's wages ~~will~~ shall be exempt from
32 withholding of North Carolina income tax for the remainder of the calendar ~~year~~ year, and through February 15 of the
33 succeeding year unless the employee withdraws the statement during the year. An employee claiming exemption from
34 withholding ~~must~~ shall complete a new certificate by February 15. If the employee does not complete a new certificate,
35 the employer ~~must~~ shall withhold on the basis of a single individual with ~~zero withholding~~ no allowances.

36
37 *History Note: Authority G.S. 105.163.2; 105-163.2A; 105-163.5; 105-262;*

- 1 *Eff. June 1, 1990;*
- 2 *Amended Eff. April 1, 2001; June 1, ~~1993~~, 1993;*
- 3 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06C .0203 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06C .0203 ANNUAL REPORTS**

4 (a) At the end of each calendar ~~year~~ year, employers shall furnish wage and tax statements, Form ~~W-2~~ W-2, to
5 employees and Form NC-1099PS or NC-1099 ITIN to contractors from whom tax was withheld. Federal Form 1099-
6 MISC may be filed in lieu of Form NC-1099 PS or NC-1099 ITIN if it reflects the amount or North Carolina income tax
7 withheld. Two copies ~~must~~ shall be furnished to the employee or contractor and one copy ~~must~~ shall be furnished to the
8 Department. Pension payers ~~must~~ shall report pension income and State tax withheld on federal Form 1099-R. ~~The~~
9 ~~pension payer must give the Department a copy of a 1099 R given to a recipient of a pension payment if the 1099 R~~
10 ~~shows State tax withheld.~~

11 (b) ~~Reports of payments of income, interest, rents, premiums, dividends, annuities, remunerations, emoluments, fees,~~
12 ~~gains, profits, taxable meal reimbursements, and other determinable annual or periodic gains during a calendar year must~~
13 ~~be made on Information at the Source Reports, Form NC-1099, if the payments have not otherwise been reported. Form~~
14 ~~NC-1099 reports Form NC-1099 PS, NC-1099 ITIN, NC-1099 NRS, and any federal report of Form 1099-MISC or~~
15 ~~1099-R shall be filed with North Carolina; however, other reports of 1099 information (interest, rents, premiums,~~
16 ~~dividends) are shall not required to be filed if the payments have been reported to with North Carolina unless the~~
17 ~~payments have not been reported to the Internal Revenue Service. Service under the provisions of Section 6041 of the~~
18 ~~Code, the payments have otherwise been reported to the Department, or no North Carolina income tax was withheld from~~
19 ~~the payments.~~

20 (c) ~~Notwithstanding the above, Paragraph (b),~~ any person required to file Form NC-1099 NRS under the provisions of 17
21 NCAC 06B ~~3804(c)~~ .3906 ~~must~~ shall do so regardless of any requirement to report the sale to the Internal Revenue
22 Service.

23
24 *History Note: Authority G.S. 105-154; 105-163.2; 105-163.2A; 105-163.3; 105-163.7; 105-262;*

25 *Eff. February 1, 1976;*

26 *Amended Eff. September 1, 2008; February 1, 2005; April 1, 2001; August 1, 1998; June 1, 1993;*

27 *February 3, 1992; October 1, 1991; February 1, ~~1991~~ 1991;*

28 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06C .0204 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06C .0204 AMOUNTS WITHHELD ARE HELD IN TRUST FOR SECRETARY OF**
4 **REVENUE**

5 (a) A withholding agent who fails to withhold or pay the amount required to be withheld is personally and individually
6 liable for the tax, including any penalties and interest due. ~~tax.~~ If a withholding agent has failed to withhold or to pay
7 over income tax withheld or required to have been withheld, the unpaid principal amount of tax may be asserted against
8 the responsible persons of the withholding agent when the taxes ~~cannot be immediately collected from~~ that have become
9 collectible under G.S. 105-241.22 are not paid by the withholding agent. More than one person may be liable as a
10 responsible person; however, the amount of the income tax withheld or required to have been withheld ~~will~~ shall be
11 collected only once, whether from the withholding agent or one or more responsible persons. The term "responsible
12 person" is defined in G.S. 105-242.2(a)(2). ~~includes the president, treasurer, or chief financial officer of a corporation, the~~
13 ~~manager of a limited liability company or partnership, an officer of a corporation, a member or company official of a~~
14 ~~limited liability company, or a partner in a partnership who has a duty to deduct, account for, or pay the tax, or a partner~~
15 ~~who is liable for the debts and obligations of a partnership under G.S. 59-3445 or G.S. 59-403. Responsibility is a matter~~
16 ~~of status, duty, and authority, not knowledge. It is not necessary that the failure to collect and pay the withholding~~
17 ~~amounts was willful; it is only necessary that the responsible person failed to pay the tax withheld or required to have~~
18 ~~been withheld to the Secretary of Revenue~~ Any responsible person who fails to pay the tax withheld or required to be
19 withheld by the Secretary of Revenue shall be personally and individually liable for this failure, regardless of the person's
20 reasons or knowledge of the failure. A finding of willfulness shall not be required.

21 (b) When the Department of Revenue determines that collection of the tax from an employer is in jeopardy, the employer
22 may be required to report and pay the tax at any time after payment of the wages, compensation, or pension payments.

23
24 *History Note: Authority G.S. 105-163.8; 105-241.23; 105-242.2; 105-262;*

25 *Eff. June 1, 1990;*

26 *Amended Eff. September 1, 2008; April 1, 2001; June 1, 1993; February 1, ~~1991~~ 1991;*

27 *Readopted Eff. May 1, 2016.*

1 17 NCAC 06D .0102 is readopted with changes without notice pursuant to G.S. 150B-1(d)(4) as follows:

2
3 **17 NCAC 06D .0102 REQUIREMENTS FOR FILING**

4 (a) ~~Married individuals~~ A married couple may make joint payments of estimated income tax even if ~~they are~~ the couple
5 is not living together; however, ~~they~~ the married couple may not make joint estimated tax payments if ~~they are~~ the couple
6 is separated under a decree of divorce or of separate maintenance. ~~Also, they~~ The married couple may not make joint
7 estimated tax payments if either ~~of them~~ spouse is a nonresident alien or if either ~~of them~~ have spouse has a different tax
8 year. years. Whether a ~~man and wife make~~ married couple makes joint estimated tax payments or separate payments
9 shall not affect ~~their~~ the couple's choice of filing a joint income tax return or separate return. If ~~they make~~ the married
10 couple makes joint payments and then ~~file~~ the couple files separate returns, ~~they~~ the spouses may determine how to
11 divide the estimated tax payments between them.

12 (b) A taxpayer filing a short period return because of changing his or her income year shall make estimated income tax
13 payments on the installment dates ~~which that~~ fall within the short period and 15 days after the close of the short period
14 ~~which that~~ would have been due had ~~he~~ the taxpayer not changed his or her income year. Interest on an underpayment of
15 estimated income tax for a short period shall be computed for the period of underpayment based on the tax shown due on
16 the short period return and computed in the same manner as it would have been computed had the taxpayer not changed
17 his income year.

18 (c) An individual may elect to have his or her income tax refund applied only to estimated income tax for the following
19 year. A return reflecting an election to apply a refund to estimated tax for the following year ~~must~~ shall be filed by the
20 last allowable date for making estimated tax payments for that year for the election to be valid.

21 (d) If an individual makes a valid election, that individual may not revoke the election after the return has been filed in
22 order to have the amount refunded or applied in any other manner, such as an offset against any subsequently determined
23 tax liability.

24
25 *History Note: Authority G.S. 105-163.15; 105-262;*

26 *Eff. February 1, 1976;*

27 *Amended Eff. May 1, 2006; June 1, 1993; October 1, 1991; June 1, 1990; February 1, ~~1988~~ 1988;*

28 *Readopted Eff. May 1, 2016.*