

1 Rule 17 NCAC 06B .0104 is amended without notice or comment pursuant to G.S. 150B-1(d)(4) as follows:

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3 **17 NCAC 06B .0104 COMPLETING A RETURN**

4 (a) A taxpayer shall use the North Carolina income tax ~~form~~ return forms and schedules for the year that his or her  
5 taxable year begins.

6 (b) A person who files an income tax return for an unmarried individual who died during the taxable year shall enter  
7 the date of the individual's death and the individual's name on the return.

8 (c) On a return, a taxpayer shall furnish his or her social security number and the name and social security number of  
9 his or her spouse and shall indicate whether the return is filed jointly or separately.

10 (d) The same filing status claimed on the federal income tax return shall be claimed on the North Carolina income  
11 tax return. If the taxpayer has not filed a federal income tax return, the taxpayer shall claim the filing status to which  
12 the taxpayer would be entitled under section 2 of the Internal Revenue Code. However, if the taxpayer filed the federal  
13 return as married filing jointly and either the taxpayer or the taxpayer's spouse is a nonresident and had no North  
14 Carolina taxable income, the taxpayer may file the North Carolina tax return as either married filing jointly or married  
15 filing separately as explained in 17 NCAC 06B .3904.

16 (e) Each applicable line of the tax return shall be completed and the entering of words or phrases, such as  
17 "unconstitutional" or "object - self incrimination" shall not meet the requirement of completing each applicable line  
18 on the return.

19 (f) The tax shall be computed by multiplying North Carolina taxable income by the tax rate in G.S. 105-153.7. In the  
20 case of a delinquent return, the ~~penalty~~ penalties prescribed by G.S. 105-236(a)(3) and G.S. 105-236(a)(4) and interest  
21 prescribed by ~~statute~~ G.S. 105-241.21 shall be added.

22 (g) If an individual has moved into or out of North Carolina during the tax year or is a nonresident with income from  
23 sources within North Carolina, ~~the Computation of North Carolina Taxable Income for Part Year Residents and~~  
24 ~~Nonresidents section on Form D-400 Schedule S North Carolina Supplemental Schedule~~ Form D-400 Schedule PN  
25 Part-Year Resident and Nonresident Schedule shall be completed. Credit for tax paid to another state shall not be  
26 allowed to an individual moving into or out of this State unless the individual has income derived from and taxed by  
27 another state or country while a resident of this State.

28 (h) If a tax credit is claimed for tax paid to another state or country, there shall be attached to the return a true copy  
29 of the return filed with the other state or country and a canceled check, receipt, or other proof of payment of tax to the  
30 other state or country.

31 (i) Every return shall be signed by the taxpayer or his or her authorized agent, and joint returns shall be signed by  
32 both spouses.

33 (j) Where tax has been withheld, the ~~state~~ State copy of the Wage and Tax Statement shall be attached to the return.

34 (k) Any additional information that the taxpayer believes will assist in the processing and auditing of a return shall  
35 be indicated on the return or a worksheet or schedule attached to the return.

36 (l) Anyone who is paid to prepare a return shall sign the return in the space provided.

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1 *History Note:* Authority G.S. 105-153.3; 105-153.7; 105-153.8; 105-153.9; 105-154; 105-155; 105-163.5(e); 105-  
2 163.7; 105-163.10; 105-251; 105-252; 105-262;  
3 *Eff. February 1, 1976;*  
4 *Amended Eff. September 1, 2008; February 1, 2005; August 1, 2002; July 1, 1999; August 1, 1998;*  
5 *November 1, 1994; June 1, 1993; October 1, 1991; June 1, 1990;*  
6 *Readopted Eff. May 1, 2016.*  
7 *Amended Eff. May 1, 2018*

1 Rule 17 NCAC 06B .3501 is amended without notice or comment pursuant to G.S. 150B-1(d)(4) as follows:

2

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

4 The starting point for preparing the North Carolina partnership income tax return (Form D-403) shall be the  
5 partnership's total income or loss loss. If the partnership provides a copy of its federal partnership income tax return  
6 (Form 1065) with its North Carolina partnership income tax return, the partnership can enter the sum of from lines 1  
7 through 11 of Schedule K, Federal Form 1065. 1065 as total income or loss on Form D-403, Part 1, line 1 in lieu of  
8 completing Form D-403, Part 6. The adjustments required for individuals under G.S. 105-153.5 and 105-153.6 shall  
9 apply to partnerships.

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

12 *Eff. February 1, 1976;*

13 *Amended Eff. June 1, 1990; December 1, 1986;*

14 *Readopted Eff. May 1, 2016.*

15 *Amended Eff. May 1, 2018*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 06B .3503

**DEADLINE FOR RECEIPT: Monday, April 9, 2018**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (c), line 26, please either do not strike "shall" and add "is" or, if you want to keep "is", delete "be" Please note, I recommend you retain "shall" instead.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 23, 2018

1 Rule 17 NCAC 06B .3503 is amended without notice or comment pursuant to G.S. 150B-1(d)(4) as follows:

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

4 (a) When Required -- A North Carolina partnership return, Form D-403, 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 shall be filed  
6 on or before April 15 if on a calendar year basis, or on or before the 15th day of the fourth month following the end  
7 of the fiscal year if on a fiscal year basis. The term "doing business in North Carolina" has the same meaning as in  
8 17 NCAC 05C .0102. Income from an intangible source, including gain realized from the sale of intangible property  
9 received in the course of "doing business in North Carolina" ~~this State~~ so as to have a taxable situs here (including  
10 income in the distributive share of partnership income, whether distributed or not) shall be included in the numerator  
11 of the fraction used in determining the portion of adjusted gross income that is taxable to North Carolina by a  
12 nonresident. The return shall include the names and addresses of the persons entitled to share in the net income of the  
13 partnership and shall be signed by one of the partners and the individual preparing the return.

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

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

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31 *History Note: Authority G.S. 105-154(c); 105-154(d); 105-262;*  
32 *Eff. February 1, 1976;*  
33 *Amended Eff. February 1, 2005; August 1, 2003; July 1, 2000; August 1, 1998; May 1, 1994; June*  
34 *1, 1993; July 1, 1991; June 1, 1990;*  
35 *Readopted Eff. May 1, 2016.*  
36 *Amended Eff. May 1, 2018*

1 Rule 17 NCAC 06B .3513 is amended without notice or comment pursuant to G.S. 150B-1(d)(4) as follows:

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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, that treatment is only for purposes of determining the partnership's gross income  
6 and deductible business expenses. For other tax purposes, guaranteed payments are treated as a partner's distributive  
7 share of ordinary income.

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

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

19  
20 *History Note: Authority G.S. 105-153.4 (d); 105-153.5(b); 105-154; 105-262;*  
21 *Eff. February 1, 1976;*  
22 *Amended Eff. May 1, 1994; June 1, 1993; February 3, 1992; October 1, 1991;*  
23 *Readopted Eff. May 1, 2016.*  
24 *Amended Eff. May 1, 2018*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 06B .3716

**DEADLINE FOR RECEIPT: Monday, April 9, 2018**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (c), line 13, what do you mean by "indicate"? Do you mean "state"?*

*Please properly insert a period after "year" So, state "year. year indicated."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 23, 2018

1 Rule 17 NCAC 06B .3716 is amended without notice or comment pursuant to G.S. 150B-1(d)(4) as follows:

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3 **17 NCAC 06B .3716 INCOME TAX RETURN FOR ESTATES AND TRUSTS**

4 (a) The federal taxable income of the ~~fiduciary estate or trust~~ shall be the starting point for preparing a North Carolina  
5 Income Tax Return for Estates and Trusts, Form D-407. The fiduciary shall determine the estate's or trust's federal  
6 taxable income before completing Form D-407.

7 (b) The fiduciary shall file an income tax return for the estate or trust for which he or she acts if he or she is required  
8 to file a U.S. Income Tax Return for Estates and Trusts and:

9 (1) the estate or trust derives income from North Carolina sources; or

10 (2) the estate or trust derives any income ~~which that~~ is for the benefit of a resident of North Carolina.

11 (c) Fiduciaries shall be consistent in the use of the name and address of an estate or trust on a return. If a different  
12 name for an estate or trust is used in any year from that used in the prior year, ~~that fact shall be noted~~ the fiduciary  
13 shall note that fact on the first page of the return and indicate the name used in the prior year ~~indicated~~.

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15 *History Note: Authority G.S. 105-160.2; 105-160.5; 105-160.6; 105-262;*

16 *Eff. February 1, 1976;*

17 *Amended Eff. July 1, 1996; June 1, 1993; October 1, 1991; June 1, 1990; April 12, 1981;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26,*  
19 *2015.*

20 *Amended Eff. May 1, 2018*



1 Rule 17 NCAC 06C .0124 is amended without notice or comment pursuant to G.S. 150B-1(d)(4) as follows:

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

4 (a) Deductions. -- Additional withholding allowances may be claimed by taxpayers expecting to have allowable  
5 itemized deductions exceeding the standard deduction or allowable adjustments to income. For most taxpayers, one  
6 additional allowance may be claimed for each two thousand five hundred dollars (\$2,500) that the itemized deductions  
7 allowed under G.S. 105-153.5(a)(2) are expected to exceed the standard deduction allowed under G.S. 105-153.5(a)(1)  
8 and for each two thousand five hundred dollars (\$2,500) of net adjustments reducing income.

9 (b) Tax Credits. -- A taxpayer ~~who will be entitled to a tax credit~~ expecting to have allowable tax credits may claim  
10 ~~one additional allowance for each one hundred forty six dollars (\$146.00) of tax credit~~ additional withholding  
11 allowances. The number of additional allowances shall be determined by dividing the amount of the tax credit by the  
12 product determined by multiplying the withholding tax rate by two thousand five hundred dollars (\$2,500) and then  
13 rounding that number down to the nearest whole number. The withholding tax rate is the individual income tax rate  
14 plus one tenth of one percent (0.1%).

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16 *History Note: Authority G.S. 105-163.2(b); 105-163.2A; 105-163.5; 105-262;*

17 *Eff. June 1, 1990;*

18 *Amended Eff. April 1, 2001; July 1, 1999;*

19 *Readopted Eff. May 1, 2016.*

20 *Amended Eff. May 1, 2018*