

SUBCHAPTER 5B - FRANCHISE TAX

SECTION .0100 - GENERAL INFORMATION

17 NCAC 05B .0101	SCOPE AND NATURE
17 NCAC 05B .0102	CORPORATION DEFINED
17 NCAC 05B .0103	PERIOD COVERED

History Note: Authority G.S. 105-114; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .0104 INACTIVE CORPORATIONS

A corporation that is inactive and without assets is subject annually to a minimum franchise tax. A return is required containing a statement of the status of the corporation. Failure to file this return and pay the minimum tax will result in suspension of the articles of incorporation or certificate of authority.

History Note: Authority G.S. 105-114; 105-262;
Eff. February 1, 1976;
Amended Eff. November 1, 1991; November 1, 1987.

17 NCAC 05B .0105 DISSOLUTION OR WITHDRAWAL OF CORPORATE RIGHTS

Corporations are not subject to franchise tax after the end of the income year in which articles of dissolution or withdrawal are filed with the Secretary of State unless they engage in business activities not incidental to winding up their affairs. Therefore, no franchise tax is required with the income return filed for the year in which the application is filed or with any subsequent income returns that may be required in connection with winding up the affairs of the corporation.

History Note: Authority G.S. 105-114; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994; October 31, 1981.

17 NCAC 05B .0106 PAYMENT OF FRANCHISE TAXES

History Note: Authority G.S. 105-127; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 1, 1993.

17 NCAC 05B .0107 EXTENSION OF FILING DATE

Rule 17 NCAC 5C .2004 sets out the procedure for a corporation to obtain an extension of time to file its corporate franchise and income tax return.

History Note: Authority G.S. 105-129; 105-262; 105-263;
Eff. February 1, 1976;
Amended Eff. July 1, 1999; January 1, 1994; April 1, 1991; January 1, 1978.

17 NCAC 05B .0108 ELECTRONIC FILING OF GENERAL BUSINESS FRANCHISE TAX RETURNS

The Department of Revenue participates in the Federal/State Electronic Filing Program and accepts general business franchise tax returns filed under that program.

History Note: Authority G.S. 105-262;
Eff. March 1, 2006.

SECTION .0200 - RAILROADS

17 NCAC 05B .0201 BASIS FOR TAXATION
17 NCAC 05B .0202 DUE DATE OF THE TAX

History Note: Authority G.S. 105-115; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .0203 BILLED FOR THE TAX

History Note: Authority G.S. 105-115; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 1, 1993.

SECTION .0300 - ELECTRIC: POWER: GAS: WATER AND SEWERAGE COMPANIES

17 NCAC 05B .0301 BASIS FOR TAXATION
17 NCAC 05B .0302 DUE DATE OF THE REPORT AND TAX
17 NCAC 05B .0303 FORM TO BE USED FOR FILING
17 NCAC 05B .0304 SPECIAL EXEMPTION
17 NCAC 05B .0305 DISTRIBUTION TO MUNICIPALITIES

History Note: Authority G.S. 105-116; 105-262;
Eff. February 1, 1976;
Amended Eff. October 23, 1977;
Repealed Eff. October 31, 1981.

SECTION .0400 - PULLMAN: SLEEPING: CHAIR AND DINING CARS

17 NCAC 05B .0401 BASIS FOR TAXATION
17 NCAC 05B .0402 DUE DATE OF THE REPORT AND TAX

History Note: Authority G.S. 105-117; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .0403 FORM TO BE USED FOR FILING

History Note: Authority G.S. 105-117; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. December 1, 1997.

SECTION .0500 - EXPRESS COMPANIES

17 NCAC 05B .0501 BASIS FOR TAXATION
17 NCAC 05B .0502 DUE DATE OF THE REPORT AND TAX

History Note: Authority G.S. 105-118; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .0503 FORM TO BE USED FOR FILING

History Note: Authority G.S. 105-118; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. December 1, 1997.

SECTION .0600 - TELEGRAPH COMPANIES

17 NCAC 05B .0601 BASIS FOR TAXATION
17 NCAC 05B .0602 DUE DATE OF THE REPORT AND TAX

History Note: Authority G.S. 105-119; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .0603 FORM TO BE USED FOR FILING

History Note: Authority G.S. 105-119; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. July 1, 2000.

SECTION .0700 - TELEPHONE COMPANIES

17 NCAC 05B .0701 BASIS FOR TAXATION
17 NCAC 05B .0702 DUE DATE OF THE REPORT AND TAX
17 NCAC 05B .0703 FORM TO BE USED FOR FILING
17 NCAC 05B .0704 DISTRIBUTION TO MUNICIPALITIES

History Note: Authority G.S. 105-120; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

SECTION .0800 - STREET TRANSPORTATION COMPANIES

17 NCAC 05B .0801 BASIS FOR TAXATION
17 NCAC 05B .0802 DUE DATE OF THE TAX

History Note: Authority G.S. 105-120.1; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .0803 CORPORATION BILLED FOR THE TAX

History Note: Authority G.S. 105-120.1; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. July 1, 2000.

SECTION .0900 - MUTUAL BURIAL ASSOCIATION

17 NCAC 05B .0901 BASIS FOR TAXATION
17 NCAC 05B .0902 DUE DATE OF THE TAX

History Note: Authority G.S. 105-121.1; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .0903 CORPORATION BILLED FOR THE TAX

History Note: Authority G.S. 105-121.1; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. July 1, 2000.

SECTION .1000 - GENERAL BUSINESS CORPORATIONS

17 NCAC 05B .1001 BASIS FOR THE TAX
17 NCAC 05B .1002 FRANCHISE TAX BASES
17 NCAC 05B .1003 CORPORATIONS REQUIRED TO FILE
17 NCAC 05B .1004 FORMS TO BE USED FOR FILING
17 NCAC 05B .1005 REPORT AND PAYMENT DUE
17 NCAC 05B .1006 TAX RATE

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;

Repealed Eff. October 31, 1981.

SECTION .1100 - CAPITAL STOCK: SURPLUS AND UNDIVIDED PROFITS BASE

- 17 NCAC 05B .1101 BASED ON THE YEAR ENDING BALANCE SHEET**
17 NCAC 05B .1102 SURPLUS DEFINED
17 NCAC 05B .1103 ITEMS INCLUDABLE AND EXCLUDABLE

History Note: Authority G.S. 105-120.2; 105-122; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .1104 EXCLUSION OF RETAINED EARNINGS BY PARENT CORPORATION

A parent corporation may exclude any retained earnings of existing subsidiary corporations which it has capitalized or otherwise recorded on its books from the calculation of the capital stock, surplus and undivided profits base under G.S. 105-122.

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994.

17 NCAC 05B .1105 INVESTMENT IN SUBSIDIARY

For purposes of G.S. 105-122, the capital stock, surplus, and undivided profits base may not be reduced by the amount invested in a subsidiary.

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. July 1, 1999; January 1, 1994.

- 17 NCAC 05B .1106 BORROWED CAPITAL TREATMENT: DEBTOR CORPORATION**
17 NCAC 05B .1107 BORROWED CAPITAL TREATMENT: CREDITOR CORPORATION

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .1108 EXCLUSION PROVISION LIMITED TO INDEBTEDNESS OWED

The exclusion from the Capital Stock Base of indebtedness owed which is permitted the debtor corporation and the deduction permitted the creditor corporation in G.S. 105-122 are applicable only to indebtedness owed to or due from a parent, subsidiary or affiliated corporation. These provisions do not apply where the indebtedness is merely endorsed or guaranteed.

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994.

17 NCAC 05B .1109 EQUITY CAPITAL NOT DEDUCTIBLE

The equity capital of a wholly owned subsidiary does not represent "indebtedness" owed to a parent corporation which the parent is entitled to deduct from its franchise tax base.

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976.

17 NCAC 05B .1110 RECIPROCAL INDEBTEDNESS BETWEEN AFFILIATES

A corporation which owes indebtedness to a parent, subsidiary or affiliated corporation and at the same time is owed indebtedness by the same parent, subsidiary or affiliated corporation may net the payable and receivable for purposes of the indebtedness computation in arriving at the capital stock, surplus and undivided profits base under G.S. 105-122. If the indebtedness is owed to one corporation and the receivable is due from another corporation, each amount must be treated separately.

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994.

17 NCAC 05B .1111 INDEBTEDNESS DEFINED

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 1, 1993.

17 NCAC 05B .1112 BORROWED CAPITAL DEFINED

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. November 2, 1992;
Repealed Eff. July 1, 2000.

17 NCAC 05B .1113 DEDUCTION FOR QUALIFIED RECYCLING FACILITIES

17 NCAC 05B .1114 HOLDING COMPANIES

History Note: Authority G.S. 105-120.2; 105-122; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .1115 CASH BASIS CORPORATIONS

Corporations using the cash basis method of accounting for income tax purposes may not compute the capital stock, surplus and undivided profits base by this method. Assets and liabilities must be accrued and reported for franchise tax purposes.

History Note: Authority G.S. 105-122; 105-258;
Eff. April 1, 1991.

17 NCAC 05B .1305 INDEBTEDNESS DEDUCTION

History Note: *Authority G.S. 105-122; 105-262;*
 Eff. February 1, 1976;
 Repealed Eff. October 31, 1981.

17 NCAC 05B .1306 REFINANCING OF A LOAN

For purposes of G.S. 105-122, when an existing loan incurred in the purchase or improvement of real estate is refinanced and additional funds are secured and spent for purposes other than the purchase or improvement of real estate, the portion deductible from the tangible properties base is determined by applying a ratio, of which the numerator is the unpaid balance of the original loan and the denominator is the total balance of the refinanced loan, to the year end mortgage balance.

History Note: *Authority G.S. 105-122; 105-262;*
 Eff. February 1, 1976;
 Amended Eff. January 1, 1994; October 31, 1981.

17 NCAC 05B .1307 POLLUTION ABATEMENT FACILITIES
17 NCAC 05B .1308 DEDUCTION FOR QUALIFIED RECYCLING FACILITIES

History Note: *Authority G.S. 105-122; 105-262;*
 Eff. February 1, 1976;
 Repealed Eff. October 31, 1981.

17 NCAC 05B .1309 DETERMINATION OF INCLUSION BY DEPRECIATION

When two or more corporations are in doubt as to which should include property in the investment in tangible property base pursuant to G.S. 105-122, such property shall be included by the corporation allowed depreciation under the Internal Revenue Code.

History Note: *Authority G.S. 105-122; 105-262;*
 Eff. February 1, 1976;
 Amended Eff. January 1, 1994.

17 NCAC 05B .1310 NO LIMITATION ON HOLDING COMPANIES

History Note: *Authority G.S. 105-120.2; 105-262;*
 Eff. February 1, 1976;
 Repealed Eff. October 1, 1993.

SECTION .1400 - APPRAISED VALUATION OF TANGIBLE AND INTANGIBLE PROPERTY BASE

17 NCAC 05B .1401 BASIS FOR TANGIBLE PROPERTY

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .1402 CARRIER OPERATIONS APPRAISED PROPERTY EXEMPT

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. May 1, 1998.

17 NCAC 05B .1403 AVERAGE BANK BALANCE

17 NCAC 05B .1404 INTANGIBLE PROPERTY

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.

17 NCAC 05B .1405 NO LIMITATION ON HOLDING COMPANIES

History Note: Authority G.S. 105-120.2; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 1, 1993.

17 NCAC 05B .1406 INVESTMENT BASE PROPERTY INCLUDED

A corporation including property in the investment in tangible property base shall also include the value of this property in the appraised valuation base.

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976.

SECTION .1500 - CHANGE OF INCOME YEAR

17 NCAC 05B .1501 COMPUTATION OF TAX

A change in income year automatically establishes a new franchise year. A combined franchise and income tax return is required for the short income period. Credit is permitted on such return against the franchise tax to the extent that the new franchise year overlaps the old year.

History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. October 31, 1981.

17 NCAC 05B .1502 COMPUTATION OF TAX WHEN MERGER IS INVOLVED

(a) Since franchise tax is prepaid, a special computation is sometimes required to prevent a duplication of tax when two, or more, corporations with different income years merge or otherwise transfer the entire assets from one corporation to the other.

(b) The surviving corporation shall be allowed to deduct from franchise tax computed on an annual basis the amount of franchise tax paid by the submerged corporation applicable to the period that overlaps the surviving corporation's income year.

*History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994; October 31, 1981.*

SECTION .1600 - NEW CORPORATIONS

17 NCAC 05B .1601 INITIAL REQUIREMENTS

17 NCAC 05B .1602 FRANCHISE TAX PAYABLE IN ADVANCE

*History Note: Authority G.S. 105-123; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.*

SECTION .1700 - CORPORATIONS CONDITIONALLY OR PARTIALLY EXEMPT

17 NCAC 05B .1701 NON-PROFIT ORGANIZATIONS

17 NCAC 05B .1702 CORPORATIONS FULLY EXEMPT

*History Note: Authority G.S. 105-125; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.*

17 NCAC 05B .1703 FRANCHISE MOTOR CARRIERS

*History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. May 1, 1998.*

17 NCAC 05B .1704 REGULATED INVESTMENT COMPANIES

*History Note: Authority G.S. 105-125; 105-262;
Eff. February 1, 1976;
Repealed Eff. October 31, 1981.*

