

**17 NCAC 05C .0604      WHEN A TAXPAYER IS SUBJECT TO TAX**

(a) If the taxpayer voluntarily files and pays an income tax to a state other than North Carolina when not required to do so by the laws of that state or pays a minimal fee for qualification, organization or for the privilege of doing business in that state, but does not actually engage in business activities in that state, or does actually engage in some activity, not sufficient for nexus, and the minimum tax bears no relation to the corporation's activities within such state, the taxpayer is not subject to tax within that state and is therefore not taxable in another state. The filing of a unitary-combined return in another state with other related corporations does not standing alone constitute business activity for purposes of determining if a corporation is subject to income tax in this State is allowed to allocate and apportion income.

(b) In some states other types of taxes may be imposed as a substitute for an income tax. Therefore, only income tax or any tax measured by net income, shall be considered in determining whether the taxpayer is taxable in another state.

*History Note:      Authority G.S. 105-130.4; 105-262;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1994; November 2, 1992; October 31, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,  
2017.*