

SECTION .0500 – COMBINED RETURNS

17 NCAC 05F .0501 METHODOLOGY WHEN COMBINED RETURN REQUIRED OR PERMITTED

When the Secretary requires or allows a corporate taxpayer to submit a combined return, the following methodology applies:

- (1) The starting point is the federal taxable income of the pro forma 1120 for each corporation. The 1120s shall represent federal taxable income "as if" each corporation were not part of a consolidated federal 1120;
- (2) The taxpayer shall combine the pro forma 1120s of the corporations to be included in the combined group; this results in a combination of each corporation's line items in determining combined income.
- (3) The taxpayer shall eliminate the intercompany transactions between members of the combined group in arriving at combined federal taxable income.
- (4) The taxpayer shall make North Carolina modifications (additions and subtractions) as provided in G.S. 105-130.5 to determine combined income subject to apportionment.
- (5) The taxpayer shall include in the apportionment factors the property, payroll, and sales of all corporations included in the combined group as provided in G.S. 105-130.4. All sales into North Carolina by entities within the combined group shall be included in the sales factor numerator. Where an intercompany transaction has occurred and been eliminated in the calculation of combined income, this amount shall also be eliminated from the numerator and denominator of the applicable factor.
- (6) Only one apportionment factor is to be calculated by the taxpayer for the combined group. Unless otherwise provided in this section, the standard three factor formula, which uses the apportionment factors of property, payroll, and sales, shall be used. If more than 50 percent of the group's combined income subject to apportionment is generated from a business activity subject to special apportionment under subsections (m) through (s1) of G.S. 105-130.4, then that apportionment formula shall be used for the entire group. If the taxpayer believes the statutory apportionment method that otherwise applies to the combined group subjects a greater portion of the group's income to tax than is attributable to its business in this State, the taxpayer may propose, and the Secretary shall consider, an alternative method of apportionment. The taxpayer shall apply the combined apportionment factor to the combined apportionable income to determine income apportioned to this State.
- (7) The taxpayer shall add any nonapportionable income allocated to North Carolina to the income apportioned to this State to determine total income subject to North Carolina tax.
- (8) The combined group's income subject to tax may be reduced by net economic losses sustained by a corporation that becomes a member of the group, but not fully used by that corporation prior to becoming a member of the combined group, subject to the provisions of G.S. 105-130.8. Net economic losses brought by a corporation into the group remain with that corporation and, to the extent not used by the group during the years the corporation is part of the group, may be claimed by the corporation in the tax years after the corporation ceases to be a part of the group. The tax years that the corporation is part of the combined group count toward the 15-year carryforward period authorized in G.S. 105-130.8. A net economic loss sustained by the group in a combined return year shall be allocated among the members of the group that reported losses on their pro forma 1120s, after elimination of intercompany transactions between members of the combined group. The amount allocated to each member shall be determined by dividing that member's loss (after elimination of intercompany transactions) by the total losses (after elimination of intercompany transactions) of all members of the combined group in that tax year. To the extent not used by the group during the years the corporation is part of the group, the group's net economic losses allocated to a corporation that is a member of the group may be claimed by the corporation in the tax years after the corporation ceases to be a part of the group. Net economic losses shall be considered used in order beginning with earliest tax year. If more than one corporation brought net economic losses from the same tax year into the combined group and a portion of the losses from that year is used, the amount of used net economic losses shall be prorated among the members bringing losses from that year based on the percentage of each member's losses to the total losses carried forward from that year.

- (9) The combined group's income tax may be reduced by tax credits earned by a member of the combined group, but not fully used by that entity prior to becoming a member of the combined group, subject to the provisions of the specific credits. Because the eligibility for a tax credit is determined at the separate entity level, any unused installment or carryforward of a tax credit earned by a member of the combined group remains with that entity if that entity is no longer a member of the combined group or the group is no longer required to file a combined return. This is applicable whether the credit was earned by the entity before becoming a member of the combined group or while a member of the combined group. For franchise tax purposes, the tax credits may only be used by the entity generating the credit unless the group also files a combined return for franchise tax purposes.

History Note: Authority G.S. 105-130.4; 105-130.5; 105-130.5A; 105-130.8; 105-262.1;
Eff. January 31, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017.