

17 NCAC 05G .0503 SECRETARY'S AUTHORITY TO ADJUST A TAXPAYER'S RETURN

The Secretary's ability to review and adjust a taxpayer's assignment of receipts on a return to assign receipts consistent with the rules of this Subchapter, includes each of the following potential actions:

- (1) when a taxpayer fails to properly assign receipts from a sale in accordance with the rules set forth in this Subchapter, including the failure to apply a hierarchy of rules consistent with the principles of Rule .0201(2) of this Subchapter, the Secretary shall adjust the assignment of the receipts in accordance with the applicable rules in this Subchapter;
- (2) when a taxpayer uses a method of approximation to assign its receipts and the Secretary determines that the method of approximation employed by the taxpayer is not reasonable, the Secretary shall either substitute a method of approximation that the Secretary determines is appropriate, as provided in Article 9 of G.S. 105, or exclude the receipts from the taxpayer's numerator and denominator;
- (3) when the Secretary determines that a taxpayer's method of approximation has not been applied in a consistent manner with respect to similar transactions or year to year, the Secretary may require that the taxpayer apply its method of approximation in a consistent manner;
- (4) when a taxpayer excludes receipts from the denominator of its sales factor on the basis that the assignment of the receipts cannot be reasonably approximated, the Secretary may determine that the exclusion of those receipts is not appropriate, and may instead substitute a method of approximation that the Secretary determines is appropriate, as provided in Article 9 of G.S. 105;
- (5) when a taxpayer fails to retain contemporaneous records that explain the determination and application of its method of assigning its receipts, including its underlying assumptions, or fails to provide those records to the Secretary upon request, the Secretary shall treat the taxpayer's assignment of receipts as unsubstantiated, and shall adjust the assignment of the receipts in a manner consistent with the applicable rules in this Subchapter; or
- (6) when the Secretary concludes that a customer's billing address was selected by the taxpayer for tax avoidance purposes, the Secretary shall adjust the assignment of receipts from sales to that customer in a manner consistent with the applicable rules in this Subchapter.

History Note: Authority G.S. 105-130.4; S.L. 2016-94;
Eff. January 1, 2020 (See S.L. 2019-246, s. 3).