

17 NCAC 05G .1103 LICENSE OF A PRODUCTION INTANGIBLE

(a) Where a license is granted for the right to use intangible property, other than in connection with the sale, lease, license, or other marketing of goods, services, or other items, and the license will be used in a production capacity (a "production intangible"), the licensing fees paid by the licensee for that right shall be assigned to North Carolina to the extent that the use for which the fees are paid takes place in North Carolina.

(b) License of a production intangible includes the license of a patent, a copyright, or trade secrets to be used in a manufacturing process, where the value of the intangible lies predominately in its use in that process.

(c) Where the actual use of intangible property pursuant to a license of a production intangible takes place in part in North Carolina, the entire use shall be in this State except to the extent that the taxpayer is able to demonstrate that the actual location of a portion of the use takes place outside North Carolina.

(d) When a license of a production intangible to a related entity, the taxpayer shall assign the receipts to where the intangible property is actually used. When a license of a production intangible to a party other than a related entity where the location of actual use is unknown, the use of the intangible property takes place in the state of the licensee's commercial domicile when a business, or the licensee's state of primary residence when an individual.

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