

## SECTION .1200 – SALE OF INTANGIBLE PROPERTY

### 17 NCAC 05G .1201 ASSIGNMENT OF RECEIPTS

The assignment of receipts to a state or states in the instance of a sale or exchange of intangible property depends upon the nature of the intangible property sold. For purposes of this Section, a sale or exchange of intangible property includes a license of that property where the transaction is treated for tax purposes as a sale of all substantial rights in the property and the receipts from the transaction are not contingent on the productivity, use, or disposition of the property.

- (1) In the case of a sale or exchange of intangible property where the property sold or exchanged is a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, the receipts from the sale shall be assigned to a state to the extent that the intangible property is used or is authorized to be used within the state. If the intangible property is used or may be used only in this State, the taxpayer shall assign the receipts from the sale to North Carolina. If the intangible property is used or is authorized to be used in North Carolina and one or more other states, the taxpayer shall assign the receipts from the sale to North Carolina to the extent that the intangible property is used in or authorized for use in North Carolina, through the means of a reasonable approximation.
- (2) In the case of a sale or exchange of intangible property where the receipts from the sale or exchange are contingent on the productivity, use, or disposition of the property, the receipts from the sale shall be assigned by applying the rules set forth in Section .1100 of this Subchapter.
- (3) In the case of a sale or exchange of intangible property where the substance of the transaction resembles a sale of goods or services and where the receipts from the sale or exchange do not derive from payments contingent on the productivity, use, or disposition of the property, the receipts from the sale shall be assigned by applying the rules set forth in Rule .1105 of this Subchapter.
- (4) Receipts from the sale of intangible property shall not be included in the sales factor in any case when the sale does not give rise to receipts within the meaning of Rule .0401 of this Subchapter. In addition, in any case where the sale of intangible property results in receipts within the meaning of Section .0400 of this Subchapter, those receipts shall be excluded from the numerator and the denominator of the taxpayer's sales factor if the receipts are not referenced in G.S. 105.130.4(1). The sale of intangible property that is excluded from the numerator and denominator of the taxpayer's sales factor under this provision includes the sale of business "goodwill," the sale of an agreement not to compete, or similar intangible value.

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