

## SECTION .1300 – SPECIAL RULES

### 17 NCAC 05G .1301 SOFTWARE TRANSACTIONS

(a) A license or sale of pre-written software for purposes other than commercial reproduction, or other exploitation of the intellectual property rights, transferred on a tangible medium shall be treated as the sale of tangible personal property, rather than as either the license or sale of intangible property or the performance of a service. In these cases, the receipts shall be in North Carolina as determined under the rules for the sale of tangible personal property set forth under G.S. 105-130.4 and the rules of this Subchapter.

(b) In all other cases, the receipts from a license or sale of software shall be assigned to North Carolina as determined otherwise under this Subchapter. This determination shall be based on the facts, and:

- (1) the development and sale of custom software as set forth in Section .0900 of this Subchapter;
- (2) the license of a marketing intangible, as set forth in Rule .1102 of this Subchapter;
- (3) the license of a production intangible, as set forth in Rule .1103 of this Subchapter;
- (4) the license of intangible property where the substance of the transaction resembles a sale of goods or services, as set forth in Rule .1105 of this Subchapter; or
- (5) as a sale of intangible property, as set forth in Rule .1201 of 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).