

## CHAPTER 6 - INDIVIDUAL INCOME TAX

### SUBCHAPTER 6A - DIVISIONAL RULES

<b>17 NCAC 06A .0101</b>	<b>LOCATION</b>
<b>17 NCAC 06A .0102</b>	<b>GENERAL PURPOSES</b>
<b>17 NCAC 06A .0103</b>	<b>ADMINISTRATIVE ORGANIZATION</b>
<b>17 NCAC 06A .0104</b>	<b>INDIVIDUAL INCOME TAX</b>
<b>17 NCAC 06A .0105</b>	<b>INCOME TAX WITHHOLDING</b>

*History Note:* Authority G.S. 105-133 to 105-163.24; 143B-10; 143B-221;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1990;  
Repealed Eff. June 1, 1993.

### SECTION .0100 - FILING INDIVIDUAL INCOME TAX RETURNS

#### **17 NCAC 06B .0101 FORMS**

*History Note:* Authority G.S. 105-155; 105-262;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1991;  
Repealed Eff. August 1, 2002.

#### **17 NCAC 06B .0102 GENERAL**

Careful attention should be given to the answering of all questions and to the completion of all applicable schedules on the return. Incomplete or inaccurate information, or the failure to sign a return, may result in the returning of the forms to the taxpayer and in correspondence, thereby delaying the processing of the return and any refund due thereon.

*History Note:* Authority G.S. 105-153.8; 105-155; 105-251; 105-252; 105-262;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .0103 COMBINED RETURNS**

*History Note:* Authority G.S. 105-152(e); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 4, 1978;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06B .0104 COMPLETING A RETURN**

- (a) A taxpayer shall use the North Carolina income tax return forms and schedules for the year that his or her taxable year begins.
- (b) A person who files an income tax return for an unmarried individual who died during the taxable year shall enter the date of the individual's death and the individual's name on the return.
- (c) On a return, a taxpayer shall furnish his or her social security number and the name and social security number of his or her spouse and shall indicate whether the return is filed jointly or separately.
- (d) The same filing status claimed on the federal income tax return shall be claimed on the North Carolina income tax return. If the taxpayer has not filed a federal income tax return, the taxpayer shall claim the filing status to which the taxpayer would be entitled under section 2 of the Internal Revenue Code. However, if the taxpayer filed the federal return as married filing jointly and either the taxpayer or the taxpayer's spouse is a nonresident and had no North Carolina taxable income, the taxpayer may file the North Carolina tax return as either married filing jointly or married filing separately as explained in 17 NCAC 06B .3904.

- (e) Each applicable line of the tax return shall be completed and the entering of words or phrases, such as "unconstitutional" or "object - self incrimination" shall not meet the requirement of completing each applicable line on the return.
- (f) The tax shall be computed by multiplying North Carolina taxable income by the tax rate in G.S. 105-153.7. In the case of a delinquent return, the penalties prescribed by G.S. 105-236(a)(3) and G.S. 105-236(a)(4) and interest prescribed by G.S. 105-241.21 shall be added.
- (g) If an individual has moved into or out of North Carolina during the tax year or is a nonresident with income from sources within North Carolina, Form D-400 Schedule PN Part-Year Resident and Nonresident Schedule shall be completed. Credit for tax paid to another state shall not be allowed to an individual moving into or out of this State unless the individual has income derived from and taxed by another state or country while a resident of this State.
- (h) If a tax credit is claimed for tax paid to another state or country, there shall be attached to the return a true copy of the return filed with the other state or country and a canceled check, receipt, or other proof of payment of tax to the other state or country.
- (i) Every return shall be signed by the taxpayer or his or her authorized agent, and joint returns shall be signed by both spouses.
- (j) Where tax has been withheld, the State copy of the Wage and Tax Statement shall be attached to the return.
- (k) Any additional information that the taxpayer believes will assist in the processing and auditing of a return shall be indicated on the return or a worksheet or schedule attached to the return.
- (l) Anyone who is paid to prepare a return shall sign the return in the space provided.

*History Note:* Authority G.S. 105-153.3; 105-153.7; 105-153.8; 105-153.9; 105-154; 105-155; 105-163.5(e); 105-163.7; 105-163.10; 105-251; 105-252; 105-262;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2008; February 1, 2005; August 1, 2002; July 1, 1999; August 1, 1998;  
November 1, 1994; June 1, 1993; October 1, 1991; June 1, 1990;  
Readopted Eff. May 1, 2016;  
Amended Eff. May 1, 2018.

#### **17 NCAC 06B .0105 REPRODUCED COPIES**

*History Note:* Authority G.S. 105-155; 105-251; 105-252; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1993; May 1, 1984;  
Repealed Eff. July 1, 2000.

#### **17 NCAC 06B .0106 FEDERAL FORMS**

A taxpayer whose federal return reflects an address outside of North Carolina shall attach a copy of the federal return to the taxpayer's North Carolina return.

*History Note:* Authority G.S. 105-153.8; 105-155; 105-251; 105-252; 105-262;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1998; June 1, 1993; February 1, 1991; June 1, 1990; May 1, 1984;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0107 EXTENSIONS**

- (a) Application. -- If an income tax return cannot be filed by the due date, a taxpayer may apply for an automatic six-month extension of time to file the return. To receive the extension, an individual shall file Form D-410, Application for Extension for Filing Individual Income Tax Return, by the original due date of the return. A partnership, estate, or trust shall file Form D-410P, Application for Extension for Filing Partnership, Estate, or Trust Tax Return, by the original due date of the return.
- (b) Late Payment Penalty. -- A 10 percent late payment penalty shall apply to the remaining balance due if less than 90 percent of the total amount of tax due is paid by the due date. If the 90 percent requirement is met, any remaining balance due shall be paid with the income tax return before the expiration of the extension period to avoid the late payment penalty. If a taxpayer does not file the application for extension by the original due date of the return, the taxpayer is subject to both the five percent per month late filing penalty (25 percent maximum) and the 10 percent late payment penalty on the remaining balance due.

(c) Individuals Outside U.S. -- An individual who is "Out of Country" on the date the return is due shall be granted an automatic four-month extension for filing the North Carolina income tax return by marking the Out of Country indicator on the Form D-400 when the State return is filed. "Out of Country" means the individual is a United States citizen or resident who is living outside the United States and Puerto Rico and either the taxpayer's main place of work is outside the United States and Puerto Rico or the taxpayer is in the military service outside the United States and Puerto Rico. The time for payment of the tax shall also be extended; however, interest shall be due on any unpaid tax from the original due date of the return until the tax is paid. If an individual is unable to file the return within the automatic four-month extension period, an additional two-month extension may be obtained by following the provisions in Paragraph (a) of this Rule; however, the Form D-410 shall be filed by the automatic extension date of August 15.

(d) Return. -- A return may be filed at any time within the extension period but it shall be filed before the end of the extension period to avoid the late filing penalty.

*History Note:* Authority G.S. 105-155; 105-157; 105-160.6; 105-160.7; 105-236(a)(3); 105-236(a)(4); 105-262; 105-263;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2008; May 1, 2006; August 1, 2002; August 1, 1998; November 1, 1994; May 1, 1994; June 1, 1993; October 1, 1992;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0108 AMENDED RETURNS**

*History Note:* Authority G.S. 105-156; 105-159; 105-262;  
Eff. June 1, 1982;  
Amended Eff. May 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule Expired August 1, 2015.

#### **17 NCAC 06B .0109 FILING REQUIREMENTS - GENERAL STATEMENT**

The minimum gross income filing requirements under North Carolina law are different from the filing requirements under the Internal Revenue Code because North Carolina law does not allow the same standard deduction amount as the Internal Revenue Code or a personal exemption for the individual, the individual's spouse, the individual's children, or any other qualifying dependents on the State return.

*History Note:* Authority G.S. 105-153.5; 105-262;  
Eff. June 1, 1990;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0110 INDIVIDUALS REQUIRED TO FILE A N.C. INDIVIDUAL INCOME TAX RETURN** **17 NCAC 06B .0111 MINIMUM GROSS INCOME FILING REQUIREMENTS**

*History Note:* Authority G.S. 105-134.2; 105-134.5; 105-134.6(c); 105-152; 105-262;  
Eff. June 1, 1990;  
Amended Eff. October 1, 1991; February 1, 1991;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06B .0112 JOINT FEDERAL BUT SEPARATE STATE RETURN**

(a) Separate Return or Schedule. -- A spouse who files a joint federal return but files a separate North Carolina return pursuant to G.S. 105-153.8(c) shall complete a separate federal return and attach it to the North Carolina tax return to show how the spouse's adjusted gross income would be determined on a separate federal return. In lieu of completing a separate federal return, the spouse may submit a schedule showing the computation of the spouse's separate adjusted gross income. A spouse who submits a schedule shall attach a copy of the spouse's joint federal return if the federal return reflects an address outside North Carolina.

(b) Allowable Deductions. -- In completing a separate federal return or preparing a schedule computing a spouse's separate adjusted gross income, deductions are allowable only for items paid during the tax year. Deductions for separate obligations are allowable only to the spouse who paid the obligation and was responsible for paying the obligation. Deductions for joint obligations paid by one spouse from that spouse's separate account are allowable only to that spouse. Deductions for joint

obligations paid from a joint account are allowable to each spouse in proportion to the spouses' adjusted gross incomes for that tax year.

*History Note:* Authority G.S. 105-134.1; 105-153.5(a)(2); 105-153.8(e); 105-262;  
Eff. June 1, 1990;  
Amended Eff. August 1, 2002; August 1, 1998; February 1, 1991;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0113 TAXPAYERS DOMICILED IN COMMUNITY PROPERTY STATES**

(a) If a married couple is domiciled in a state or country recognized for federal income tax purposes as a community property state or country and the spouses file separate North Carolina returns with each spouse reporting one-half of the salary and wages received while domiciled in the community property state or country, each spouse shall claim one-half of the credit for the income tax withheld with respect to community wages.

(b) A schedule or statement shall be attached to the North Carolina return showing the name and social security number of each spouse, that they were domiciled in a community property state or country, and that 50 percent of each spouse's income tax withheld is allocated to the other spouse's income tax return.

*History Note:* Authority G.S. 105-163.10; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0114 COMPUTATION OF TAXABLE INCOME - GENERAL**

The starting point in determining North Carolina taxable income is federal adjusted gross income, subject to the additions, deductions, and North Carolina standard deduction or North Carolina itemized deductions as provided by G.S. 105-153.5 and 105-153.6. These adjustments do not apply to all individuals. Each individual shall determine if any of the adjustments apply to the individual's return.

*History Note:* Authority G.S. 105-153.3; 105-153.4; 105-153.5; 105-153.6; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993; October 1, 1991;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0115 ADDITIONS TO ADJUSTED GROSS INCOME**

The additions under G.S. 105-153.5(c)(1) include the portion of an exempt interest dividend from a regulated investment company that represents interest on direct obligations of states and their political subdivisions other than North Carolina and interest from obligations of the District of Columbia.

*History Note:* Authority G.S. 105-153.5(c)(1); 105-262;  
Eff. June 1, 1990;  
Amended Eff. May 1, 1994; June 1, 1993; October 1, 1992; October 1, 1991;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0116 DEDUCTIONS FROM ADJUSTED GROSS INCOME**

(a) Deductible Interest. -- The deduction for interest on obligations of the United States or its possessions provided in G.S. 105-153.5(b)(1) applies to direct obligations of the United States to the extent the interest has been included in federal adjusted gross income. For the interest to be deductible, the obligation shall be in writing, bear interest, be a binding promise by the United States to pay specific amounts at specific dates, and be specifically authorized by Congress. United States Treasury bonds, notes, bills, certificates, and saving bonds are primary examples of direct obligations.

(b) Nondeductible Interest. -- Interest earned on obligations that are backed or guaranteed by, but not direct obligations of, the United States Government shall not qualify for deduction from an individual's federal adjusted gross income. Interest earned on obligations where the United States is an insurer or guarantor, but the obligation is not a direct obligation, shall not be deductible from federal adjusted gross income. Examples include Federal Home Loan Mortgage Corporation ("Freddie Mac"), Federal National Mortgage Association ("Fannie Mae"), and the Government National Mortgage Association ("Ginnie Mae"). Distributions representing gain from the sale or other disposition of United States obligations or interest paid in

connection with repurchase agreements issued by banks and savings and loan associations shall not be deductible from federal adjusted gross income. The deduction from federal adjusted gross income shall not apply to any portion of a distribution from an Individual Retirement Account (IRA).

(c) Indian Tribe. -- The income earned or received by an enrolled member of the Eastern Band of Cherokee Indians or another federally recognized Indian tribe shall be deductible from federal adjusted gross income if it is included in federal gross income and it is derived from activities on the Cherokee reservation or another federally recognized Indian reservation while the member resided on the reservation.

*History Note:* Authority G.S. 105-153.5; 105-262;  
*Eastern Band of Cherokee Indians v. Lynch* 632 F.2d 373 (4th Cir. 1980);  
Eff. June 1, 1990;  
Amended Eff. April 1, 2001; November 1, 1994; June 1, 1993; October 1, 1992; October 1, 1991;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .0117 TRANSITIONAL ADJUSTMENTS**

*History Note:* Authority G.S. 105-134.7; 105-262; 105-264;  
Eff. June 1, 1990;  
Amended Eff. August 1, 1998; May 1, 1994; June 1, 1993; October 1, 1992; October 1, 1991;  
Expired Eff. August 1, 2015 pursuant to G.S. 150B-21.3A.

#### **17 NCAC 06B .0118 ELECTRONIC FILING OF INDIVIDUAL INCOME TAX RETURNS**

*History Note:* Authority G.S. 105-262; Rev. Proc. 93-8, *Internal Revenue Bulletin* 1993-2, January 11, 1993;  
Eff. May 1, 1994;  
Amended Eff. August 1, 2002; July 1, 2000; August 1, 1998; November 1, 1994;  
Expired Eff. August 1, 2015 pursuant to G.S. 150B-21.3A.

#### **17 NCAC 06B .0119 REPORTING INCOME FROM CONVEYANCE OF REAL PROPERTY HELD IN TENANCY BY THE ENTIRETY**

When spouses file separate individual income tax returns, the spouses shall determine the portion of the income or loss from real property that shall be reported by each spouse. When real property conveyed jointly in the name of a married couple is located in another state and the share of ownership of each is not fixed in the deed or other instrument creating the co-tenancy, each spouse is considered as having received one-half of the income or loss from the real property, unless they can demonstrate that the laws of that particular state with respect to the right to the income from the property allocate the income or loss in a different manner.

*History Note:* Authority G.S. 39-13.6; 105-262;  
Eff. May 1, 2016.

### **SECTION .0200 - STATE AND FEDERAL DIFFERENCES**

#### **17 NCAC 06B .0201 GENERAL 17 NCAC 06B .0202 AREAS OF DIFFERENCE**

*History Note:* Authority G.S. 105-133 to 105-163.24; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 4, 1978;  
Repealed Eff. March 22, 1981.

### **SECTION .0300 - PERSONAL EXEMPTION**

#### **17 NCAC 06B .0301 GENERAL 17 NCAC 06B .0302 ONE THOUSAND ONE HUNDRED DOLLAR PERSONAL EXEMPTION**

**17 NCAC 06B .0303 TWO THOUSAND TWO HUNDRED DOLLAR PERSONAL EXEMPTION**  
**17 NCAC 06B .0304 BLIND PERSONS**  
**17 NCAC 06B .0305 INDIVIDUALS AGE 65 OR OVER**  
**17 NCAC 06B .0306 SEVERELY RETARDED DEPENDENT**  
**17 NCAC 06B .0307 HEMOPHILIACS**  
**17 NCAC 06B .0308 EXEMPTION FOR DEPENDENTS**  
**17 NCAC 06B .0309 DEPENDENT IN INSTITUTION OF HIGHER LEARNING**  
**17 NCAC 06B .0310 DECEASED OR INCOMPETENT INDIVIDUALS**  
**17 NCAC 06B .0311 PRORATED PERSONAL EXEMPTION**  
**17 NCAC 06B .0312 OTHER CONSIDERATIONS**

*History Note:* Authority G.S. 105-135; 105-149; 105-149(a)(2); 105-149(a)(4); 105-149(a)(5);  
105-149(a)(6); 105-149(a)(7); 105-149(a)(8); 105-149(a)(9); 105-149(a)(10); 105-149(a)(2a);  
105-149(a)(8a); 105-149(b); 105-149(c); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1989; November 1, 1988; August 1, 1986; May 1, 1984;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0313 DEAF INDIVIDUALS**  
**17 NCAC 06B .0314 RENAL DISEASE**

*History Note:* Authority G.S. 105-149(a)(8b); 105-149(a)(8c); 105-262;  
Eff. February 11, 1978;  
Amended Eff. November 1, 1988; April 19, 1981;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0315 PARAPLEGICS**

*History Note:* Authority G.S. 105-149(a)(8d); 105-262;  
Eff. April 19, 1981;  
Amended Eff. November 1, 1988; February 1, 1988;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0316 CYSTIC FIBROSIS**  
**17 NCAC 06B .0317 SPINA BIFIDA**  
**17 NCAC 06B .0318 MULTIPLE SCLEROSIS**  
**17 NCAC 06B .0319 SEVERE HEAD INJURY**

*History Note:* Authority G.S. 105-149(a)(8e); 105-149(a)(8f); 105-149(a)(8g); 105-149(a)(8h);  
105-262;  
Eff. August 1, 1986;  
Amended Eff. November 1, 1988;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0320 MUSCULAR DYSTROPHY**  
**17 NCAC 06B .0321 ORGAN AND TISSUE TRANSPLANTS**

*History Note:* Authority G.S. 105-149(a); 105-262;  
Eff. November 1, 1988;  
Amended Eff. December 1, 1988;  
Repealed Eff. June 1, 1990.

**SECTION .0400 - ANNUITIES AND PENSIONS**

<b>17 NCAC 06B .0401</b>	<b>GENERAL</b>
<b>17 NCAC 06B .0402</b>	<b>GENERAL RULES FOR ANNUITIES</b>
<b>17 NCAC 06B .0403</b>	<b>SPECIAL RULE</b>
<b>17 NCAC 06B .0404</b>	<b>VARIABLE ANNUITIES</b>
<b>17 NCAC 06B .0405</b>	<b>GUARANTEED PAYMENTS</b>
<b>17 NCAC 06B .0406</b>	<b>LUMP SUM</b>
<b>17 NCAC 06B .0407</b>	<b>INSTALLMENT OPTIONS</b>
<b>17 NCAC 06B .0408</b>	<b>FEDERAL EMPLOYEES PENSIONS</b>

*History Note:* Authority G.S. 105-141.1; 105-141(b)(2); 105-141(b)(14); 105-141(b)(18); 105-141(b)(20); 105-141(c); 105-141.1(d)(3); 105-141.1(g); 105-262; Eff. February 1, 1976; Amended Eff. November 1, 1988; May 1, 1984; June 1, 1982; March 22, 1981; Repealed Eff. June 1, 1990.

### **SECTION .0500 - DIVORCED OR SEPARATED PERSONS**

<b>17 NCAC 06B .0501</b>	<b>GENERAL</b>
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*History Note:* Authority G.S. 105-141.2; 105-147(21); 105-262; Eff. February 1, 1976; Amended Eff. August 1, 1986; March 22, 1981; Repealed Eff. June 1, 1990.

<b>17 NCAC 06B .0502</b>	<b>INCOME</b>
<b>17 NCAC 06B .0503</b>	<b>DEDUCTIONS</b>
<b>17 NCAC 06B .0504</b>	<b>NONDEDUCTIBLE PAYMENTS</b>
<b>17 NCAC 06B .0505</b>	<b>MINOR CHILDREN</b>
<b>17 NCAC 06B .0506</b>	<b>PERIODIC PAYMENTS</b>
<b>17 NCAC 06B .0507</b>	<b>LUMP-SUM SETTLEMENT</b>
<b>17 NCAC 06B .0508</b>	<b>LARGE EARLY PAYMENTS</b>
<b>17 NCAC 06B .0509</b>	<b>SETTLEMENT OF PROPERTY RIGHTS</b>
<b>17 NCAC 06B .0510</b>	<b>TRANSFER OF APPRECIATED PROPERTY</b>
<b>17 NCAC 06B .0511</b>	<b>RETROACTIVE EFFECT OF A DECREE</b>
<b>17 NCAC 06B .0512</b>	<b>EFFECT OF LOCAL LAW</b>
<b>17 NCAC 06B .0513</b>	<b>PAYMENTS FROM A TRUST</b>
<b>17 NCAC 06B .0514</b>	<b>MEDICAL EXPENSES</b>
<b>17 NCAC 06B .0515</b>	<b>LIFE INSURANCE PREMIUMS</b>
<b>17 NCAC 06B .0516</b>	<b>TAXES: INTEREST: INSURANCE: UTILITIES</b>
<b>17 NCAC 06B .0517</b>	<b>BACK ALIMONY PAYMENTS</b>
<b>17 NCAC 06B .0518</b>	<b>PAYMENT AFTER WIFE'S DEATH OR REMARRIAGE</b>
<b>17 NCAC 06B .0519</b>	<b>LEGAL EXPENSES</b>
<b>17 NCAC 06B .0520</b>	<b>PERSONAL EXEMPTION</b>

*History Note:* Authority G.S. 105-141(a)(3); 105-141.2; 105-144; 105-147(2); 105-147(5); 105-147(6); 105-147(11); 105-147(21); 105-149; 105-262; Eff. February 1, 1976; Amended Eff. June 1, 1982; March 22, 1981; February 11, 1978; Repealed Eff. August 1, 1986.

### **SECTION .0600 - TAX CREDITS**

<b>17 NCAC 06B .0601</b>	<b>GENERAL</b>
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**17 NCAC 06B .0602 RESIDENTS**  
**17 NCAC 06B .0603 NONRESIDENTS**

*History Note:* Authority G.S. 105-130.4; 105-134; 105-135(13); 105-141(a); 105-142(c); 105-147(9); 105-147(18);  
105-149(b); 105-151; 105-262;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; August 1, 1986; May 1, 1984; June 1, 1982;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0604 OTHER TAX CREDITS**

*History Note:* Authority G.S. 105-151.1; 105-151.2; 105-151.3; 105-163.03; 105-262;  
Eff. February 11, 1978;  
Amended Eff. March 22, 1981;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .0605 RESIDENTIAL SOLAR ENERGY EQUIPMENT**

*History Note:* Authority G.S. 105-129.15; 105-129.16A; 105-262;  
Eff. June 1, 1982;  
Amended Eff. July 1, 2000; June 1, 1995; June 1, 1993; June 1, 1990; July 1, 1986;  
Repealed Eff. February 1, 2005.

**17 NCAC 06B .0606 CREDIT FOR CHILD AND DEPENDENT CARE EXPENSES**

*History Note:* Authority G.S. 105-151.11; 105-262;  
Eff. June 1, 1990;  
Amended Eff. July 1, 1999; November 1, 1994; June 1, 1993; October 1, 1991;  
Expired Eff. August 1, 2015 pursuant to G.S. 150B-21.3A.

**17 NCAC 06B .0607 CREDIT FOR INCOME TAX PAID TO ANOTHER STATE OR COUNTRY**

- (a) If credits are claimed for taxes paid to more than one state or country, a separate computation must be made for each state or country and the separate credits combined to determine the total credit.
- (b) No credit is allowed for income taxes paid to a city, county, or other political subdivision of a state or to the federal government.
- (c) If credit is claimed for the shareholder's part of the corporate tax paid, a schedule must be attached to the North Carolina return showing the total tax paid by the S corporation and how the pro rata share of the tax was determined.

*History Note:* Authority G.S. 105-153.9; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

**17 NCAC 06B .0608 CREDIT FOR CORPORATE TAX PAID BY S CORPORATION TO ANOTHER STATE**

*History Note:* Authority G.S. 105-131.8; 105-262;  
Eff. June 1, 1990;  
Repealed Eff. June 1, 1993.

**17 NCAC 06B .0609 CREDIT FOR NORTH CAROLINA DIVIDENDS**

*History Note:* Authority G.S. 105-151.19; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993;  
Repealed Eff. August 1, 1998.



**17 NCAC 06B .0610 CREDIT FOR THE DISABLED**

*History Note:* Authority G.S. 105-151.18; 105-262;  
Eff. February 1, 1991;  
Amended Eff. June 1, 1993;  
Expired Eff. August 1, 2015 pursuant to G.S. 150B-21.3A.

**17 NCAC 06B .0611 CREDIT FOR TAX PAID ON CERTAIN GOVERNMENT RETIREMENT BENEFITS**

*History Note:* Authority G.S. 105-151.20; 105-262;  
Eff. February 1, 1991;  
Repealed Eff. June 1, 1993.

**17 NCAC 06B .0612 TAX CREDIT FOR QUALIFIED BUSINESS INVESTMENTS**

*History Note:* Authority G.S. 105-131.8(b); 105-163.010; 105-163.011; 105-163.012; 105-163.013; 105-163.14;  
105-262;  
Eff. September 1, 1992;  
Amended Eff. July 1, 1996; May 1, 1994;  
Repealed Eff. September 1, 2008.

**17 NCAC 06B .0613 CREDIT FOR USE OF NORTH CAROLINA PORTS**

*History Note:* Authority G.S. 105-131.8; 105-151.22; 105-262;  
Eff. January 4, 1993;  
Expired Eff. August 1, 2015 pursuant to G.S. 150B-21.3A.

**SECTION .0700 - ACTIVE AND RESERVE DUTY MILITARY PAY**

- 17 NCAC 06B .0701 MILITARY PAY IN GENERAL**
- 17 NCAC 06B .0702 RESIDENT ARMED SERVICES PERSONNEL**
- 17 NCAC 06B .0703 NONRESIDENT ARMED SERVICES PERSONNEL**
- 17 NCAC 06B .0704 ESTIMATED INCOME TAX RETURNS**
- 17 NCAC 06B .0705 SERVICE INCOME AND DEDUCTIONS**
- 17 NCAC 06B .0706 EXTENSIONS**

*History Note:* Authority G.S. 105-134; 105-135(13); 105-141; 105-141(b)(25); 105-147;  
105-163.15; 105-163.18; 105-262; 105-263; 50 U.S.C. Sec. 574;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1986; May 1, 1984; June 1, 1982; March 22, 1981;  
Repealed Eff. June 1, 1990.

- 17 NCAC 06B .0707 PENALTY AND INTEREST**
- 17 NCAC 06B .0708 CANCELLATION AND ABATEMENT**

*History Note:* Authority G.S. 105-244.1; 105-249.2; 105-158; 105-262;  
Eff. February 1, 1976;  
Amended Eff. March 22, 1981;  
Repealed Eff. June 1, 1982.

**SECTION .0800 - INSTALLMENT SALES**

- 17 NCAC 06B .0801 GENERAL**

*History Note:* Authority G.S. 105-141(a); 105-142(f); 105-144; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; May 1, 1984; June 1, 1982;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0802 THE INSTALLMENT METHOD**  
**17 NCAC 06B .0803 OTHER SALES**  
**17 NCAC 06B .0804 REPOSSESSIONS**  
**17 NCAC 06B .0805 REPOSSESSION OF REAL PROPERTY**  
**17 NCAC 06B .0806 DISPOSITIONS**

*History Note:* Authority G.S. 105-142(f); 105-141(a); 105-144; 105-147(9),(10); 105-262;  
Eff. February 1, 1976;  
Amended Eff. March 29, 1981;  
Repealed Eff. June 1, 1982.

#### **SECTION .0900 - SALE OF PRINCIPAL RESIDENCE**

**17 NCAC 06B .0901 GENERAL**  
**17 NCAC 06B .0902 RULES**  
**17 NCAC 06B .0903 DEFINITIONS**  
**17 NCAC 06B .0904 PARTIALLY USED AS A RESIDENCE**  
**17 NCAC 06B .0905 CONVERTED TO RENTAL PROPERTY**  
**17 NCAC 06B .0906 EXCHANGE**  
**17 NCAC 06B .0907 ALLOCATION BETWEEN HUSBAND AND WIFE**  
**17 NCAC 06B .0908 ACQUIRED BY GIFT OR INHERITANCE**

*History Note:* Authority G.S. 105-144.2; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; August 1, 1986; May 1, 1984; March 21, 1981;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0909 65 OR OLDER**

*History Note:* Authority G.S. 105-144.2; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. March 22, 1981.

**17 NCAC 06B .0910 REPORTING SALE**

*History Note:* Authority G.S. 105-144.2; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982; March 29, 1981; February 21, 1979;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .0911 55 OR OVER**

*History Note:* Authority G.S. 105-141(b)(26); 105-262;  
Eff. March 29, 1981;  
Amended Eff. May 1, 1984;  
Repealed Eff. June 1, 1990.

#### **SECTION .1000 - PRIVATE ANNUITY TRANSACTIONS**

**17 NCAC 06B .1001      GENERAL**

*History Note:*    Authority G.S. 105-141(a); 105-144; 105-262;  
                          Eff. February 1, 1976;  
                          Amended Eff. June 1, 1982;  
                          Repealed Eff. June 1, 1990.

**17 NCAC 06B .1002      PURCHASE AND SALE  
17 NCAC 06B .1003      REPORTING BY THE TRANSFEROR  
17 NCAC 06B .1004      THE TRANSFEREE**

*History Note:*    Authority G.S. 105-141(a); 105-144; 105-262;  
                          Eff. February 1, 1976;  
                          Repealed Eff. June 1, 1982.

**SECTION .1100 - INVOLUNTARY CONVERSION**

**17 NCAC 06B .1101      GENERAL**

*History Note:*    Authority G.S. 105-144.1; 105-262;  
                          Eff. February 1, 1976;  
                          Amended Eff. April 1, 1978;  
                          Repealed Eff. June 1, 1990.

**17 NCAC 06B .1102      NONRECOGNITION OF GAIN  
17 NCAC 06B .1103      LOSSES  
17 NCAC 06B .1104      CONDEMNATION AWARDS  
17 NCAC 06B .1105      COMPUTING GAIN OR LOSS  
17 NCAC 06B .1106      SEVERANCE DAMAGES  
17 NCAC 06B .1107      EASEMENTS  
17 NCAC 06B .1108      THREAT OR IMMINENCE  
17 NCAC 06B .1109      BASIS OF NEW PROPERTY  
17 NCAC 06B .1110      SIMILAR OR RELATED PROPERTY  
17 NCAC 06B .1111      REPLACEMENT PERIOD  
17 NCAC 06B .1112      ASSESSMENTS**

*History Note:*    Authority G.S. 105-141(a); 105-144; 105-144.1; 105-147(9); 105-262;  
                          Eff. February 1, 1976;  
                          Repealed Eff. April 1, 1978.

**SECTION .1200 - COST BASIS OF PROPERTY**

**17 NCAC 06B .1201      GENERAL  
17 NCAC 06B .1202      CHANGES IN THE BASIS  
17 NCAC 06B .1203      COST BASIS GUIDE CHART**

*History Note:*    Authority G.S. 105-144; 105-262;  
                          Eff. February 1, 1976;  
                          Amended Eff. March 25, 1978;  
                          Repealed Eff. June 1, 1990.

## SECTION .1300 - TENANCY BY THE ENTIRETY

<b>17 NCAC 06B .1301</b>	<b>GENERAL</b>
<b>17 NCAC 06B .1302</b>	<b>HOW CREATED</b>
<b>17 NCAC 06B .1303</b>	<b>INCOME</b>
<b>17 NCAC 06B .1304</b>	<b>GAIN OR LOSS</b>
<b>17 NCAC 06B .1305</b>	<b>BASIS TO SURVIVOR</b>

*History Note:* Authority G.S. 39-13.6; 39-13.6(c); 105-144; 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1984; June 1, 1982; February 18, 1978;  
Repealed Eff. June 1, 1990.

### **17 NCAC 06B .1306 BASIS AFTER DIVORCE**

*History Note:* Authority G.S. 105-262;  
Eff. February 18, 1978;  
Repealed Eff. June 1, 1990.

## SECTION .1400 - INCOME AND DEDUCTIONS OF DECEDENTS

<b>17 NCAC 06B .1401</b>	<b>GENERAL</b>
<b>17 NCAC 06B .1402</b>	<b>THE REPORTING OF INCOME</b>
<b>17 NCAC 06B .1403</b>	<b>DEDUCTIONS</b>
<b>17 NCAC 06B .1404</b>	<b>REFUNDS</b>

*History Note:* Authority G.S. 28A-15-8; 28A-15-9; 31A-4; 105-142; 105-142.1; 105-152; 105-262;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1986; June 1, 1982; February 21, 1979;  
Repealed Eff. June 1, 1990.

## SECTION .1500 - STOCK DIVIDENDS AND STOCK RIGHTS

### **17 NCAC 06B .1501 GENERAL**

*History Note:* Authority G.S. 105-141(a); 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. June 1, 1990.

<b>17 NCAC 06B .1502</b>	<b>BASIS IN A NONTAXABLE DISTRIBUTION</b>
<b>17 NCAC 06B .1503</b>	<b>BASIS IN A TAXABLE DISTRIBUTION</b>
<b>17 NCAC 06B .1504</b>	<b>FRACTIONAL SHARES</b>
<b>17 NCAC 06B .1505</b>	<b>ANTITRUST LAWS</b>

*History Note:* Authority G.S. 105-141(a); 105-144.4; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.

## SECTION .1600 - BASIS OF DIVESTED STOCK

**17 NCAC 06B .1601      GENERAL**  
**17 NCAC 06B .1602      ALLOCATION OF BASIS**

*History Note:*    Authority G.S. 105-144.4; 105-262;  
                         Eff. February 1, 1976;  
                         Repealed Eff. June 1, 1990.

**SECTION .1700 - EXEMPT INCOME**

**17 NCAC 06B .1701      GENERAL**  
**17 NCAC 06B .1702      LIFE INSURANCE PROCEEDS**  
**17 NCAC 06B .1703      RETURN OF PREMIUMS**  
**17 NCAC 06B .1704      GIFTS**  
**17 NCAC 06B .1705      INHERITANCE**  
**17 NCAC 06B .1706      GOVERNMENT OBLIGATIONS**

*History Note:*    Authority G.S. 105-141; 105-141(a); 105-141(b)(1); 105-141(b)(2); 105-141(b)(3);  
                         105-141(b)(4); 105-144; 105-262;  
                         Eff. February 1, 1976;  
                         Amended Eff. February 1, 1989; August 1, 1986; June 1, 1982; March 29, 1981;  
                         Repealed Eff. June 1, 1990.

**17 NCAC 06B .1707      NONPROFIT EDUCATIONAL INSTITUTIONS**

*History Note:*    Authority G.S. 105-141(b)(4); 105-262;  
                         Eff. February 1, 1976;  
                         Repealed Eff. June 1, 1982.

**17 NCAC 06B .1708      ACCIDENT OR HEALTH INSURANCE**  
**17 NCAC 06B .1709      MEDICAL BENEFITS**

*History Note:*    Authority G.S. 105-141(a); 105-141(b)(5); 105-262;  
                         Eff. February 1, 1976;  
                         Amended Eff. May 1, 1984;  
                         Repealed Eff. June 1, 1990.

**17 NCAC 06B .1710      WORKMEN'S COMPENSATION**  
**17 NCAC 06B .1711      DAMAGES**  
**17 NCAC 06B .1712      MINISTER'S DWELLING**  
**17 NCAC 06B .1713      ORPHANAGE EMPLOYEES**  
**17 NCAC 06B .1714      SOCIAL SECURITY**

*History Note:*    Authority G.S. 105-141(b)(5)(6)(7); 105-262;  
                         Eff. February 1, 1976;  
                         Repealed Eff. June 1, 1982.

**17 NCAC 06B .1715      RETIREMENT BENEFITS FROM OTHER STATES**  
**17 NCAC 06B .1716      MEALS AND LODGING**

*History Note:*    Authority G.S. 105-141(a); 105-141(b)(8); 105-141(b)(9)a.; 105-262;  
                         Eff. February 1, 1976;  
                         Amended Eff. April 19, 1981; March 29, 1981; February 18, 1978;  
                         Repealed Eff. June 1, 1990.

**17 NCAC 06B .1717      GROUP LIFE INSURANCE**  
**17 NCAC 06B .1718      SCHOLARSHIPS**  
**17 NCAC 06B .1719      DEATH BENEFITS**  
**17 NCAC 06B .1720      COMBAT ZONE PAY**  
**17 NCAC 06B .1721      FIREMEN'S PENSIONS**  
**17 NCAC 06B .1722      LAW ENFORCEMENT OFFICERS**  
**17 NCAC 06B .1723      FORSYTH COUNTY AND WINSTON SALEM**  
**17 NCAC 06B .1724      FEDERAL EMPLOYEES**  
**17 NCAC 06B .1725      HOSTILE FIRE DUTY PAY**  
**17 NCAC 06B .1726      ARMED FORCES DISABILITY PAY**

*History Note:*      Authority G.S. 105-141(b)(9)b.,(10),(11),(12), (13),(14),(15),(16); 105-141.1;  
105-262; 128-31; 128-32; 143-166;  
Eff. February 1, 1976;  
Amended Eff. March 29, 1981; February 18, 1978;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .1727      ARMED FORCES RETIREMENT PAY**

*History Note:*      Authority G.S. 105-141(b)(18); 105-141(b)(20); 105-141.1; 105-262;  
Eff. February 1, 1976;  
Amended Eff. April 19, 1981; February 18, 1978;  
Repealed Eff. May 1, 1984.

**17 NCAC 06B .1728      TAX SHELTERED ANNUITIES**

*History Note:*      Authority G.S. 105-141(b)(17); 105-262;  
Eff. February 1, 1976;  
Amended Eff. April 19, 1981; February 18, 1978;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .1729      ANNUITY INCOME**

*History Note:*      Authority G.S. 105-144.1; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. April 19, 1981.

**17 NCAC 06B .1730      DEDUCTIBLE DIVIDENDS**  
**17 NCAC 06B .1731      RELOCATION EXPENSE**

*History Note:*      Authority G.S. 105-141(a); 105-142(e); 105-144; 105-147(7);  
105-262; 133-15;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982; April 19, 1981;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .1732      LAW ENFORCEMENT OFFICERS**

*History Note:*      Authority G.S. 143-166; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .1733      NORTH CAROLINA LOCAL GOVERNMENT**  
**17 NCAC 06B .1734      RAILROAD RETIREMENT**

*History Note:* Authority G.S. 105-141(a); 105-262; 128-31; 45 U.S.C. Sec. 231m;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .1735 VETERANS**

*History Note:* Authority G.S. 105-141(b)(16); 165-44; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. February 18, 1978.

**17 NCAC 06B .1736 POLLUTION ABATEMENT BONDS**

*History Note:* Authority G.S. 159C-14; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 18, 1978;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .1737 VETERANS ADMINISTRATION BENEFITS**  
**17 NCAC 06B .1738 DISABILITY INCOME**

*History Note:* Authority G.S. 105-141; 105-262; 38 U.S.C. sec. 3101;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .1739 BUSINESS DEVELOPMENT CORPORATIONS**

*History Note:* Authority G.S. 53A-15; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .1740 STATE EMPLOYEES' RETIREMENT**

*History Note:* Authority G.S. 135-9; 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1984; February 18, 1978;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .1741 STATE SUPPORTED SCHOOLS**

*History Note:* Authority G.S. 116-183; 116-196; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .1742 CAMPAIGN CONTRIBUTIONS**

**17 NCAC 06B .1743 TRAINING ALLOWANCES**

**17 NCAC 06B .1744 BROTHERHOOD RELIEF**

*History Note:* Authority G.S. 105-141(a); 105-141(b)(3); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .1745 NATIONAL GUARD PENSIONS**

**17 NCAC 06B .1746 RAILROAD UNEMPLOYMENT INSURANCE**

*History Note:* Authority G.S. 105-262; 127A-40(e); 45 USC Sec. 352(e);  
Eff. February 18, 1978;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .1747 INDIAN RESERVATION INCOME**

*History Note:* Authority United States Court of Appeals (Fourth Circuit) No. 79-1589;  
G.S. 105-141; 105-262;  
Eff. June 1, 1982;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .1748 NORTH CAROLINA LEGISLATIVE RETIREMENT BENEFITS**

*History Note:* Authority G.S. 120-4.4; 120-4.23; 105-262;  
Eff. May 1, 1984;  
Amended Eff. August 1, 1986;  
Repealed Eff. June 1, 1990.

- 17 NCAC 06B .1749 PUNITIVE DAMAGES**
- 17 NCAC 06B .1750 FOSTER PARENTS REIMBURSEMENT**
- 17 NCAC 06B .1751 CHILD AND DEPENDENT ASSISTANCE PAID BY EMPLOYER**
- 17 NCAC 06B .1752 FOREIGN INCOME EXCLUSION**

*History Note:* Authority G.S. 105-141(a); 105-141(b)5; 105-141(b)(9)c.; 105-141(b)(22); 105-262;  
Eff. August 1, 1986;  
Amended Eff. November 1, 1988;  
Repealed Eff. June 1, 1990.

**SECTION .1800 - SCHOLARSHIP AND FELLOWSHIP GRANTS**

**17 NCAC 06B .1801 GENERAL**

*History Note:* Authority G.S. 105-141(b)(10); 105-135; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .1802 FEDERAL PRACTICE TO BE FOLLOWED**

*History Note:* Authority G.S. 105-141(b)(10); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1990.

**SECTION .1900 - EMPLOYEE DEATH BENEFITS**

- 17 NCAC 06B .1901 GENERAL**
- 17 NCAC 06B .1902 THE FIVE THOUSAND DOLLAR EXCLUSION**
- 17 NCAC 06B .1903 NONFORFEITABLE RIGHTS**

*History Note:* Authority G.S. 105-141(a)(16); 105-141.1; 105-141(b)(11); 105-262;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1986; June 1, 1982; February 18, 1978;  
Repealed Eff. June 1, 1990.



**SECTION .2000 - DEPRECIATION AND DEPLETION**

**17 NCAC 06B .2001      GENERAL**  
**17 NCAC 06B .2002      JOINT FEDERAL RETURNS**

*History Note:*    Authority G.S. 105-147(12); 105-262;  
                         Eff. February 1, 1976;  
                         Repealed Eff. June 1, 1982.

**17 NCAC 06B .2003      STATE AND FEDERAL DIFFERENCES**  
**17 NCAC 06B .2004      FEDERAL PRACTICE TO BE FOLLOWED**

*History Note:*    Authority G.S. 105-147(12); 105-262;  
                         Eff. February 1, 1976;  
                         Amended Eff. May 1, 1984; June 1, 1982;  
                         Repealed Eff. June 1, 1990.

**SECTION .2100 - CONSERVATION AND LAND CLEARING**

**17 NCAC 06B .2101      GENERAL**

*History Note:*    Authority G.S. 105-147(1); 105-262;  
                         Eff. February 1, 1976;  
                         Repealed Eff. June 1, 1982.

**17 NCAC 06B .2102      FEDERAL PRACTICE TO BE FOLLOWED**

*History Note:*    Authority G.S. 105-147(1); 105-262;  
                         Eff. February 1, 1976;  
                         Repealed Eff. June 1, 1990.

**SECTION .2200 - TRAVEL EXPENSES**

**17 NCAC 06B .2201      GENERAL**

*History Note:*    Authority G.S. 105-147(1); 105-147(2); 105-262;  
                         Eff. February 1, 1976;  
                         Amended Eff. February 1, 1989;  
                         Repealed Eff. June 1, 1990.

**17 NCAC 06B .2202      ORDINARY AND NECESSARY**

*History Note:*    Authority G.S. 105-147(1); 105-147(2); 105-262;  
                         Eff. February 1, 1976;  
                         Repealed Eff. June 1, 1982.

**17 NCAC 06B .2203      FEDERAL PRACTICE TO BE FOLLOWED**

*History Note:*    Authority G.S. 105-147(1); 105-147(2); 105-262;  
                         Eff. February 1, 1976;  
                         Amended Eff. February 1, 1988; June 1, 1982;

*Repealed Eff. June 1, 1990.*

**17 NCAC 06B .2204 REIMBURSEMENT FOR MEALS**

*History Note: Authority G.S. 105-147(1); 105-262;  
Eff. March 29, 1981;  
Repealed Eff. June 1, 1990.*

**SECTION .2300 - EDUCATION EXPENSES**

**17 NCAC 06B .2301 GENERAL  
17 NCAC 06B .2302 FEDERAL PRACTICE TO BE FOLLOWED**

*History Note: Authority G.S. 105-147(2); 105-147(3); 105-148(1); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988;  
Repealed Eff. June 1, 1990.*

**17 NCAC 06B .2303 EMPLOYER'S EDUCATIONAL ASSISTANCE**

*History Note: Authority G.S. 105-141(b)(23); 105-262;  
Eff. March 29, 1981;  
Repealed Eff. June 1, 1990.*

**SECTION .2400 - MOVING EXPENSES**

**17 NCAC 06B .2401 GENERAL  
17 NCAC 06B .2402 FEDERAL PRACTICE TO BE FOLLOWED**

*History Note: Authority G.S. 105-141(a)(21); 105-147(8); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; March 11, 1978;  
Repealed Eff. June 1, 1990.*

**17 NCAC 06B .2403 MEMBERS OF THE ARMED FORCES**

*History Note: Authority G.S. 105-141(a)(21); 105-147(8); 105-262;  
Eff. March 11, 1978;  
Repealed Eff. June 1, 1990.*

**17 NCAC 06B .2404 FOREIGN MOVES**

*History Note: Authority G.S. 105-141(a)(21); 105-147(8); 105-262;  
Eff. May 1, 1984;  
Repealed Eff. June 1, 1990.*

**SECTION .2500 - RETIREMENT PLANS**

**17 NCAC 06B .2501 GENERAL**

*History Note: Authority G.S. 105-147(20); 105-262;  
Eff. February 1, 1976;*

*Repealed Eff. June 1, 1982.*

**17 NCAC 06B .2502 FEDERAL PRACTICE TO BE FOLLOWED**

*History Note: Authority G.S. 105-147(20); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; August 1, 1986; May 1, 1984; June 1, 1982;  
Repealed Eff. June 1, 1990.*

**17 NCAC 06B .2503 INDIVIDUAL RETIREMENT CONTRIBUTIONS**

*History Note: Authority G.S. 105-147(20); 105-262;  
Eff. February 1, 1976;  
Amended Eff. December 17, 1978;  
Repealed Eff. June 1, 1982.*

**17 NCAC 06B .2504 FEDERAL PRACTICE TO BE FOLLOWED**

*History Note: Authority G.S. 105-147(20); 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1984; June 1, 1982;  
Repealed Eff. June 1, 1990.*

**SECTION .2600 - CARRY-OVER LOSS**

**17 NCAC 06B .2601 GENERAL**

*History Note: Authority G.S. 105-147(9)d.; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. June 1, 1990.*

**17 NCAC 06B .2602 DEFINITION**

*History Note: Authority G.S. 105-147(9)d.; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.*

**17 NCAC 06B .2603 BUSINESS-CONNECTED DEDUCTION**

**17 NCAC 06B .2604 APPORTIONMENT**

*History Note: Authority G.S. 105-147(9)d.; 105-262;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1986; June 1, 1982;  
Repealed Eff. June 1, 1990.*

**SECTION .2700 - INTEREST DEDUCTION**

**17 NCAC 06B .2701 GENERAL**

**17 NCAC 06B .2702 CASH AND ACCRUAL BASIS**

**17 NCAC 06B .2703 BUSINESS DEDUCTION**

**17 NCAC 06B .2704 HUSBAND AND WIFE**

**17 NCAC 06B .2705 MORTGAGES**

**17 NCAC 06B .2706 LIFE INSURANCE LOANS**  
**17 NCAC 06B .2707 COOPERATIVE OWNERS**  
**17 NCAC 06B .2708 NOTE DISCOUNT**

*History Note:* Authority G.S. 105-135(11); 105-141.3; 105-142; 105-147(5); 105-147(19); 105-262;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; June 1, 1982;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .2709 TAX EXEMPT INCOME**  
**17 NCAC 06B .2710 CARRYING CHARGES**

*History Note:* Authority G.S. 105-147(5); 105-262;  
Eff. February 1, 1976;  
Amended Eff. March 11, 1978;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .2711 REVOLVING CHARGE ACCOUNTS**  
**17 NCAC 06B .2712 OTHER INTEREST PAYMENTS**  
**17 NCAC 06B .2713 RETIREMENT SYSTEMS**

*History Note:* Authority G.S. 105-147(5); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1990.

#### **SECTION .2800 - TAXES PAID**

**17 NCAC 06B .2801 GENERAL**  
**17 NCAC 06B .2802 CASH AND ACCRUAL BASIS**  
**17 NCAC 06B .2803 WHO MAY CLAIM THE DEDUCTION**  
**17 NCAC 06B .2804 BUSINESS DEDUCTION**  
**17 NCAC 06B .2805 DEDUCTIBLE BY RESIDENTS**  
**17 NCAC 06B .2806 NONDEDUCTIBLE**

*History Note:* Authority G.S. 105-135(11); 105-141.3; 105-147(6); 105-147(19); 105-262;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; February 1, 1988; August 1, 1986; April 5, 1981;  
Repealed Eff. June 1, 1990.

#### **SECTION .2900 - CASUALTY AND THEFT LOSSES**

**17 NCAC 06B .2901 GENERAL**

*History Note:* Authority G.S. 105-147(9)a.; 105-147(9)b.; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; May 1, 1984; June 1, 1982;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .2902 DEFINITIONS**  
**17 NCAC 06B .2903 SOME DEDUCTIBLE LOSSES**  
**17 NCAC 06B .2904 SOME NONDEDUCTIBLE LOSSES**  
**17 NCAC 06B .2905 WHO MAY CLAIM THE LOSS**  
**17 NCAC 06B .2906 WHEN DEDUCTIBLE**

<b>17 NCAC 06B .2907</b>	<b>TREATMENT ON RETURN</b>
<b>17 NCAC 06B .2908</b>	<b>COMPENSATION</b>
<b>17 NCAC 06B .2909</b>	<b>AMOUNT OF LOSS</b>
<b>17 NCAC 06B .2910</b>	<b>REAL OR PERSONAL PROPERTY</b>
<b>17 NCAC 06B .2911</b>	<b>ORNAMENTAL PLANTS</b>
<b>17 NCAC 06B .2912</b>	<b>APPRAISAL AND PROOF OF LOSS</b>
<b>17 NCAC 06B .2913</b>	<b>REIMBURSEMENT</b>
<b>17 NCAC 06B .2914</b>	<b>ADJUSTMENT TO BASIS AFTER CASUALTY</b>
<b>17 NCAC 06B .2915</b>	<b>DISASTER LOSSES</b>

*History Note:* Authority G.S. 105-147(9)a.; 105-147(9)b.; 105-147(9)e.; 105-262;  
 Eff. February 1, 1976;  
 Amended Eff. April 5, 1981;  
 Repealed Eff. June 1, 1982.

### **SECTION .3000 - CONTRIBUTIONS**

<b>17 NCAC 06B .3001</b>	<b>GENERAL</b>
<b>17 NCAC 06B .3002</b>	<b>QUALIFIED ORGANIZATIONS</b>
<b>17 NCAC 06B .3003</b>	<b>GRATUITOUS SERVICE EXPENSES</b>
<b>17 NCAC 06B .3004</b>	<b>WHEN DEDUCTIBLE</b>
<b>17 NCAC 06B .3005</b>	<b>LIMITATIONS</b>
<b>17 NCAC 06B .3006</b>	<b>AMOUNT DEDUCTIBLE</b>
<b>17 NCAC 06B .3007</b>	<b>NONDEDUCTIBLE CONTRIBUTIONS</b>
<b>17 NCAC 06B .3008</b>	<b>PARTNERSHIP CONTRIBUTIONS</b>

*History Note:* Authority G.S. 105-147(15); 105-147(15a); 105-147(16);  
 105-163.16(e); 105-262;  
 Eff. February 1, 1976;  
 Amended Eff. November 1, 1988; August 1, 1986; May 1, 1984; June 1, 1982;  
 Repealed Eff. June 1, 1990.

### **17 NCAC 06B .3009 CONTRIBUTIONS BY NONRESIDENTS**

*History Note:* Authority G.S. 105-147(15); 105-147(16); 105-147(18)b.; 105-262;  
 Eff. February 1, 1976;  
 Repealed Eff. June 1, 1982.

### **SECTION .3100 - MEDICAL EXPENSES**

<b>17 NCAC 06B .3101</b>	<b>GENERAL</b>
<b>17 NCAC 06B .3102</b>	<b>DEFINITIONS</b>
<b>17 NCAC 06B .3103</b>	<b>LIMITATIONS</b>
<b>17 NCAC 06B .3104</b>	<b>HUSBAND AND WIFE</b>
<b>17 NCAC 06B .3105</b>	<b>DEPENDENTS</b>
<b>17 NCAC 06B .3106</b>	<b>FUNERAL EXPENSES</b>
<b>17 NCAC 06B .3107</b>	<b>COMMON DEDUCTIBLE EXPENSES</b>
<b>17 NCAC 06B .3108</b>	<b>SPECIAL CASES</b>
<b>17 NCAC 06B .3109</b>	<b>NONDEDUCTIBLE EXPENSES</b>
<b>17 NCAC 06B .3110</b>	<b>MEDICAL CARE FOR A DECEDENT</b>
<b>17 NCAC 06B .3111</b>	<b>REIMBURSEMENT</b>

*History Note:* Authority G.S. 105-142.1; 105-147(11); 105-262;

*Eff. February 1, 1976;*  
*Amended Eff. May 1, 1984; June 1, 1982; April 12, 1981; March 11, 1978;*  
*Repealed Eff. June 1, 1990.*

## **SECTION .3200 - PENALTIES: INDIVIDUAL INCOME TAX**

### **17 NCAC 06B .3201      GENERAL** **17 NCAC 06B .3202      SCHEDULE OF PENALTIES**

*History Note:      Authority G.S. 105-159; 105-161(j); 105-163.15; 105-163.17; 105-236; 105-241.1(i); 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. October 1, 1991; July 1, 1986; March 11, 1978;*  
*Repealed Eff. June 1, 1993.*

### **17 NCAC 06B .3203      PENALTIES FOR FAILURE TO FILE AND PAY**

(a) General. -- Under the provisions of G.S. 105-236, both the "failure to file return" and "failure to pay tax when due" penalties, if due, can be applied for the same period. If a return is filed late without payment of the tax shown due, both the failure to file and failure to pay penalties shall be assessed at the same time.

(b) Extension. -- If the return is filed under an extension, the failure to file penalty applies from the extended filing date rather than from the original due date. The failure to pay penalty applies from the original due date of the return and shall be assessed if the taxpayer does not meet the 90 percent requirement established in 17 NCAC 06B .0107. If the 90 percent requirement is met, any remaining tax due shall be paid with the income tax return on or before the expiration of the extension period to avoid the failure to pay penalty. Interest is due on any tax not paid by the original due date from the original due date to the date paid.

(c) Amended Return. -- The failure to pay penalty shall not apply to amounts paid with an amended return if the amount shown due on the return is paid when the return is filed.

(d) Assessment. -- The failure to pay penalty applies to a proposed assessment of additional tax due that is not paid within 45 days of the assessment, unless a request for review is timely filed with the Department in accordance with G.S. 105-241.11. If a taxpayer timely requests a Departmental review of a proposed assessment, the failure to pay penalty applies to tax due that is not paid within 45 days of the date the assessment becomes collectible pursuant to G.S. 105-241.22(3), G.S. 105-241.22(4), G.S. 105-241.22(5), or G.S. 105-241.22(6).

*History Note:      Authority G.S. 105-155; 105-157; 105-160.6; 105-160.7; 105-236; 105-241.22(3); 105-241.22(4); 105-241.22(5); 105-241.22(6); 105-262; 105-263;*  
*Eff. April 1, 1978;*  
*Amended Eff. September 1, 2008; July 1, 1999; June 1, 1993; February 1, 1991; June 1, 1990;*  
*Readopted Eff. May 1, 2016.*

### **17 NCAC 06B .3204      NEGLIGENCE PENALTIES**

When the accuracy-related penalty has been assessed for federal income tax purposes under Section 6662 of the Internal Revenue Code, the 10 percent negligence penalty shall be assessed for state income tax purposes unless the large individual income tax deficiency or other large tax deficiency penalty applies pursuant to G.S. 105-236.5(a)(5)b. or c., respectively.

*History Note:      Authority G.S. 105-236(a)(5); 105-262;*  
*Eff. April 1, 1978;*  
*Amended Eff. April 1, 1999; June 1, 1993;*  
*Readopted Eff. May 1, 2016.*

### **17 NCAC 06B .3205      FAILURE TO REPORT FEDERAL CHANGES**

*History Note:      Authority G.S. 105-159; 105-236(3); 105-262;*  
*Eff. April 1, 1978;*  
*Amended Eff. June 1, 1990;*  
*Repealed Eff. June 1, 1993.*

**17 NCAC 06B .3206 FRAUD PENALTY**

When an audit is based upon a federal audit report and the fraud penalty has been assessed for federal purposes, the 50 percent fraud penalty shall be assessed for State purposes. When the fraud penalty is assessed, no penalty for negligence shall be assessed with respect to the same deficiency; however, the penalty for failure to file and interest on the underpayment of estimated income tax shall be assessed if applicable with respect to the same deficiency.

*History Note: Authority G.S. 105-159; 105-163.15; 105-236; 105-262;  
Eff. April 1, 1978;  
Amended Eff. May 1, 2006; July 1, 1999; June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*

**17 NCAC 06B .3207 FAILURE TO FILE INFORMATIONAL RETURNS**

*History Note: Authority G.S. 105-236; 105-262;  
Eff. April 1, 1978;  
Amended Eff. June 1, 1993;  
Repealed Eff. January 1, 1999.*

**17 NCAC 06B .3208 UNDERPAYMENT OF ESTIMATED TAX**

**17 NCAC 06B .3209 WAIVER OF PENALTY**

*History Note: Authority G.S. 105-163.15; 105-237; 105-262;  
Eff. April 1, 1978;  
Amended Eff. June 1, 1990;  
Repealed Eff. June 1, 1993.*

**SECTION .3300 - ACCOUNTING PERIODS AND METHODS**

**17 NCAC 06B .3301 GENERAL**

**17 NCAC 06B .3302 ACCOUNTING METHODS**

**17 NCAC 06B .3303 ACCOUNTING PERIODS**

**17 NCAC 06B .3304 CHANGE IN INCOME YEAR**

**17 NCAC 06B .3305 ANNUALIZING INCOME**

*History Note: Authority G.S. 105-135(5); 105-142(a); 105-142(b); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; June 1, 1982; April 12, 1981;  
Repealed Eff. June 1, 1990.*

**SECTION .3400 - STATUTE OF LIMITATIONS AND FEDERAL CHANGES**

**17 NCAC 06B .3401 GENERAL**

*History Note: Authority G.S. 105-159; 105-163.16; 105-241.1; 105-262; 105-266; 105-266.1;  
105-267;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1993.*

**17 NCAC 06B .3402 LIMITATIONS FOR ASSESSMENTS**

A return from which material particulars are missing is not a return for the purpose of determining when the statute of limitations will run. The date the final return is filed is the determining date. There is no statutory provision prohibiting the

making of an assessment for a given year after an assessment has already been made for that year. A second assessment can be made upon the discovery of new facts.

*History Note:* Authority G.S. 105-241.8; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1993; February 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3403 FEDERAL CHANGES**

*History Note:* Authority G.S. 105-159; 105-163.16; 105-241.1; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1991;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06B .3404 FEDERAL CHANGES AND FRAUD**

When there is a federal change and a fraud penalty is assessed by the federal government, the state may open the year on the basis of either fraud or the federal assessment.

*History Note:* Authority G.S. 105-159; 105-236(a)(3); 105-236(a)(6); 105-241.8; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3405 FAILURE TO PAY TAX**

*History Note:* Authority G.S. 105-242(c); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06B .3406 REFUNDS**

If the taxpayer has been granted an extension of time for filing the return, the three year period referred to in G.S. 105-241.6 is three years from the extended date.

*History Note:* Authority G.S. 105-262; 105-263; 105-241.6;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2008; May 1, 1994; October 1, 1992; October 1, 1991; June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3407 SERVICE MEMBERS CIVIL RELIEF ACT**

*History Note:* Authority G.S. 105-262; 50 U.S.C. 501; P.L. 108-189;  
Eff. February 1, 1976;  
Amended Eff. February 1, 2005;  
Repealed Eff. May 1, 2016.

#### **17 NCAC 06B .3408 WAIVER OF TIME LIMITATION**

*History Note:* Authority G.S. 105-241.1; 105-262; 105-266; 105-266.1;  
Eff. December 17, 1978;  
Amended Eff. June 1, 1993;  
Repealed Eff. July 1, 2000.

### **SECTION .3500 - PARTNERSHIPS**



**17 NCAC 06B .3501      GENERAL**

The starting point for preparing the North Carolina partnership income tax return (Form D-403) shall be the partnership's total income or loss. If the partnership provides a copy of its federal partnership income tax return (Form 1065) with its North Carolina partnership income tax return, the partnership can enter the sum of lines 1 through 11 of Schedule K, Form 1065 as total income or loss on Form D-403, Part 1, line 1 in lieu of completing Form D-403, Part 6. The adjustments required for individuals under G.S. 105-153.5 and 105-153.6 shall apply to partnerships.

*History Note:*      *Authority G.S. 105-154(b); 105-154(c); 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. June 1, 1990; December 1, 1986;*  
*Readopted Eff. May 1, 2016;*  
*Amended Eff. May 1, 2018.*

**17 NCAC 06B .3502      TAXING PARTNERSHIP INCOME**

*History Note:*      *Authority G.S. 105-142(c); 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. June 1, 1982;*  
*Repealed Eff. June 1, 1990.*

**17 NCAC 06B .3503      PARTNERSHIP RETURNS**

(a) When Required -- A North Carolina partnership return, Form D-403, shall be filed by every partnership doing business in North Carolina if a federal partnership return was required to be filed. The partnership return shall be filed on or before April 15 if on a calendar year basis, or on or before the 15th day of the fourth month following the end of the fiscal year if on a fiscal year basis. The term "doing business in North Carolina" has the same meaning as in 17 NCAC 05C .0102. Income from an intangible source, including gain realized from the sale of intangible property received in the course of "doing business in North Carolina" so as to have a taxable situs here (including income in the distributive share of partnership income, whether distributed or not) shall be included in the numerator of the fraction used in determining the portion of adjusted gross income that is taxable to North Carolina by a nonresident. The return shall include the names and addresses of the persons entitled to share in the net income of the partnership and shall be signed by one of the partners and the individual preparing the return.

(b) Schedule NC K-1 -- A partnership shall provide a completed Schedule NC K-1, or other document containing all of the information that would be reported on Schedule NC K-1, to each person who was a partner in the partnership at any time during the year reflecting that partner's distributive share of the partnership's income, adjustments, tax credits, and tax paid by the manager of the partnership. A partner's distributive share of partnership income includes any guaranteed payments made to the partner. The Schedule NC K-1 shall be provided to each partner on or before the day on which the partnership return is required to be filed. When reporting the distributive share of tax credits, a list of the amount and type of tax credits shall be provided to each partner.

(c) Investment Partnerships -- A partnership whose only activity is as an investment partnership shall not be considered to be doing business in North Carolina. An investment partnership means a partnership that is not a "dealer in securities," as defined in section 475(c)(1) of the Internal Revenue Code, and that derives income exclusively from buying, holding, and selling securities for its own account. If any of the partnership's income is from other activities, either within or outside this State, either received directly or flowing through from other pass-through entities, the partnership is not an investment partnership for North Carolina tax purposes. Other activities include providing services or products to customers and holding real property for appreciation and income. An investment partnership shall not be required to file an income tax return in North Carolina or pay income tax to North Carolina on behalf of its nonresident partners.

*History Note:*      *Authority G.S. 105-154(c); 105-154(d); 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. February 1, 2005; August 1, 2003; July 1, 2000; August 1, 1998; May 1, 1994; June 1,*  
*1993; July 1, 1991; June 1, 1990;*  
*Readopted Eff. May 1, 2016;*  
*Amended Eff. May 1, 2018.*

**17 NCAC 06B .3504      ACCOUNTING PERIOD**

**17 NCAC 06B .3505      ACCOUNTING METHODS**

**17 NCAC 06B .3506      ITEMS EXEMPT FROM INCOME**  
**17 NCAC 06B .3507      BUSINESS DEDUCTIONS**  
**17 NCAC 06B .3508      CONTRIBUTIONS**  
**17 NCAC 06B .3509      DEDUCTIBLE DIVIDENDS**

*History Note:*      Authority G.S. 105-141; 105-142(a); 105-142(b); 105-142(c); 105-147(1)(b);  
105-147(2); 105-147(7); 105-147(15); 105-147(16); 105-154(b); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .3510      ADDITIONAL FIRST YEAR DEPRECIATION**

*History Note:*      Authority G.S. 105-147(12); 105-262;  
Eff. February 1, 1976;  
Amended Eff. January 21, 1979;  
Repealed Eff. June 1, 1982.

**17 NCAC 06B .3511      NONDEDUCTIBLE ITEMS**  
**17 NCAC 06B .3512      OUT-OF-STATE INCOME**

*History Note:*      Authority G.S. 105-136; 105-140; 105-141(a); 105-142(c); 105-151; 105-154(b); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1990.

**17 NCAC 06B .3513      NONRESIDENT PARTNERS**

(a) Although a partnership may treat guaranteed payments to a partner for services or for use of capital as if they were paid to a person who is not a partner, that treatment is only for purposes of determining the partnership's gross income and deductible business expenses. For other tax purposes, guaranteed payments are treated as a partner's distributive share of ordinary income.

(b) Deductions from adjusted gross income do not include a partner's salary, interest on a partner's capital account, partner relocation and mortgage interest differential payments, or payments to a retired partner regardless of whether they were determined without regard to current profits. The payments listed in this Paragraph shall be treated as part of the partnership income.

(c) A nonresident individual partner is not required to file a North Carolina individual income tax return when the only income from North Carolina sources is the nonresident's share of income from a partnership doing business in North Carolina, and the manager of the partnership has reported the income of the nonresident partner, including any guaranteed payments made to the partner, and paid the tax due. A nonresident individual partner may file an individual income tax return and claim credit for the tax paid by the manager of the partnership if the partner submits with the individual income tax return the Schedule NC K-1 or other document from the partnership verifying that the partnership paid tax on behalf of the partner.

*History Note:*      Authority G.S. 105-153.4 (d); 105-153.5(b); 105-154; 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1994; June 1, 1993; February 3, 1992; October 1, 1991;  
Readopted Eff. May 1, 2016;  
Amended Eff. May 1, 2018.

**17 NCAC 06B .3514      LIMITATION ON LOSSES**  
**17 NCAC 06B .3515      BASIS OF A PARTNER'S INTEREST**  
**17 NCAC 06B .3516      LIQUIDATION**  
**17 NCAC 06B .3517      PROPERTY RETAINED**  
**17 NCAC 06B .3518      GAIN OR LOSS ON DISTRIBUTION**  
**17 NCAC 06B .3519      DISPOSITION OF PARTNER'S INTEREST**  
**17 NCAC 06B .3520      FAMILY PARTNERSHIPS**

*History Note:* Authority G.S. 105-142(a); 105-142(c); 105-144(a); 105-147(9)a.; 105-154(b); 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06B .3521 ESTIMATED INCOME TAX**

No estimated income tax is required of a partnership. A resident individual partner who meets the statutory requirements of G.S. 105-163.15 must pay estimated income tax on Form NC-40. Nonresident individual partners are not required to pay estimated tax on their distributive share of partnership income.

*History Note:* Authority G.S. 105-163.15; 105-262;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1994; June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3522 INFORMATION RETURNS**

*History Note:* Authority G.S. 105-154(a); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06B .3523 COMMON TRUST FUNDS 17 NCAC 06B .3524 INVESTMENT CLUBS 17 NCAC 06B .3525 TENANCY BY THE ENTIRETY**

*History Note:* Authority G.S. 105-142(c); 105-152(a)(3); 105-154(b); 105-262;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; May 1, 1984;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06B .3526 TAX CREDITS**

*History Note:* Authority G.S. 105-151.19; 105-262;  
Eff. June 1, 1990;  
Repealed Eff. August 1, 1998.

#### **17 NCAC 06B .3527 DISPOSITION OF PARTNER'S INTEREST**

(a) An interest in a partnership is intangible personal property. Gain from the sale of a nonresident partner's interest in a partnership is not included in the numerator of the fraction the nonresident uses to determine the amount of income subject to tax in North Carolina unless the sale of the partnership interest conveys title to tangible partnership property. If a partnership owning an interest in another partnership sells its interest in that partnership, the nonresident partners of the partnership selling its interest do not include their distributive shares of the gain realized by the partnership from the sale of its partnership interest in the numerator unless the partnership selling its interest is carrying on a trade or business in this State.

(b) Nonresident partners must include their distributive share of the gains or losses from the sale or other disposition of the partnership's assets in the numerator of the fraction in determining North Carolina taxable income. If the sale of partnership interests conveys title to tangible partnership property instead of to limited interests in the partnership, the transaction is considered a sale of partnership assets for purposes of determining North Carolina taxable income.

*History Note:* Authority G.S. 105-153.4; 105-153.8; 105-154; 105-262;  
Eff. July 1, 1991;  
Amended Eff. August 1, 2003; June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3528 PART-YEAR RESIDENT PARTNERS**

A part-year resident receiving partnership income from a partnership doing business in North Carolina and in one or more other states, must prorate his share of the partnership's income attributable and not attributable to North Carolina between his periods of residence and nonresidence in accordance with the number of days in each period. The amount required to be included in the numerator of the fraction for determining taxable income is the taxpayer's share of partnership income determined for the period of residence, plus the taxpayer's share of the partnership income attributable to North Carolina during the period of nonresidence.

*History Note:* Authority G.S. 105-153.4; 105-154; 105-262;  
Eff. October 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3529 INTEREST INCOME PASSED THROUGH TO PARTNERS**

(a) Although the interest income passed through to a partner in a partnership retains its same character as when received by the partnership, the expenses incurred in earning interest income shall be either deductible by the partnership and net interest income after expenses shall be reflected in the partner's pro rata share of the income of the partnership, or not deductible by the partnership and interest income before expenses shall be reflected in the partner's pro rata share of the income of the partnership.

(b) Net interest income shall be reported if the activities are considered trade or business activities under federal law and interest income before expenses shall be reported if the activities are considered investment activities under federal law. If the activities are considered investment activities, the expenses incurred in earning that income shall be reported by the partnership to its partners as a separately stated item and shall be deducted by the partner to the extent allowable on the partner's income tax return.

(c) For interest income subject to federal income tax and considered trade or business activities, the partner's federal gross income shall include the net interest income after expenses incurred in earning the income. If that interest income is deductible from federal adjusted gross income pursuant to G.S. 105-153.5(b), the individual partner shall deduct the net income on the North Carolina return. For interest income subject to federal income tax and considered investment activities, the partner's federal gross income includes the interest income before expenses incurred in earning the income. If that interest income is deductible from federal adjusted gross income pursuant to G.S. 105-153.5(b), the individual partner shall deduct the income before expenses on the North Carolina return. No addition shall be made for the expenses incurred in earning that income to the extent those expenses are deductible by the individual partner in arriving at federal adjusted gross income.

(d) Interest income not subject to federal income tax is not included in the partner's federal adjusted gross income. For interest income not subject to federal tax but required to be added to federal adjusted gross income pursuant to G.S. 105-153.5(c), the individual partner shall add the total interest income on the North Carolina return. No deduction shall be made for expenses incurred in earning that income if the expenses are not deductible in arriving at federal adjusted gross income.

*History Note:* Authority G.S. 105-153.5(b); 105-153.5(c); 105-154; 105-262;  
Eff. February 3, 1992;  
Readopted Eff. May 1, 2016.

#### **SECTION .3600 - LIFE ESTATE AND REMAINDER INTEREST**

<b>17 NCAC 06B .3601</b>	<b>GENERAL</b>
<b>17 NCAC 06B .3602</b>	<b>DEFINITIONS</b>
<b>17 NCAC 06B .3603</b>	<b>BASIS OF LIFE ESTATE PROPERTY</b>
<b>17 NCAC 06B .3604</b>	<b>ALLOCATION OF BASIS</b>
<b>17 NCAC 06B .3605</b>	<b>BASIS TO REMAINDERMAN</b>
<b>17 NCAC 06B .3606</b>	<b>BASIS TO REMAINDERMAN'S SUCCESSOR</b>
<b>17 NCAC 06B .3607</b>	<b>DEPRECIATION AND DEPLETION</b>
<b>17 NCAC 06B .3608</b>	<b>CASUALTY LOSS DEDUCTION</b>
<b>17 NCAC 06B .3609</b>	<b>CAPITAL EXPENDITURES</b>
<b>17 NCAC 06B .3610</b>	<b>SALE OF LIFE ESTATE AND REMAINDER INTERESTS</b>
<b>17 NCAC 06B .3611</b>	<b>TABLES</b>

*History Note:* Authority G.S. 8-46; 8-47; 105-144; 105-144(a); 105-147(9)b.;

105-147(12); 105-148(2); 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. June 1, 1990.

## SECTION .3700 - ESTATES AND TRUSTS

### 17 NCAC 06B .3701 GENERAL

*History Note:* Authority G.S. 105-160 to 105-163; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1990;  
Repealed Eff. June 1, 1993.

### 17 NCAC 06B .3702 GROSS INCOME

*History Note:* Authority G.S. 105-161(a); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.

### 17 NCAC 06B .3703 SIMPLE AND COMPLEX TRUSTS 17 NCAC 06B .3704 INCOME TAXABLE TO FIDUCIARIES 17 NCAC 06B .3705 OTHER INCOME 17 NCAC 06B .3706 EXEMPT INCOME

*History Note:* Authority G.S. 105-152; 105-161(b); 105-161(c)(3); 105-161(d)(5); 105-161(d)(7); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1989;  
Repealed Eff. June 1, 1990.

### 17 NCAC 06B .3707 EXEMPT TRUSTS

*History Note:* Authority G.S. 105-161(f); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.

### 17 NCAC 06B .3708 PERSONAL EXEMPTIONS 17 NCAC 06B .3709 ORDINARY DEDUCTIONS 17 NCAC 06B .3710 DEDUCTION FOR CHARITABLE PURPOSES 17 NCAC 06B .3711 DISTRIBUTABLE NET INCOME 17 NCAC 06B .3712 DISTRIBUTIONS TO BENEFICIARIES 17 NCAC 06B .3713 BASIS OF PROPERTY

*History Note:* Authority G.S. 105-142.1(e); 105-144(a); 105-161(c)(1); 105-161(d); 105-161(d)(4); 105-161(d)(5);  
105-161(d)(6); 105-161(d)(7); 105-162(e); 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; August 1, 1986; June 1, 1982;  
Repealed Eff. June 1, 1990.

### 17 NCAC 06B .3714 TAX CREDITS

(a) A fiduciary required to pay an income tax to North Carolina on behalf of a trust or an estate may claim a credit for tax imposed and paid to another state or country on income from sources within the other state or country under the provisions of G.S. 105-160.4(a).

(b) A resident beneficiary of an estate or trust, the fiduciary of which pays an income tax to another state or country on distributable income reportable to North Carolina that is derived from sources in the other state or country may claim a credit against the beneficiary's North Carolina tax for the beneficiary's share of tax paid the other state or country under the provisions of G.S. 105-160.4(e).

(c) A schedule is provided on the fiduciary return for use in computing the tax credit allowable to the estate or trust. Before this schedule may be completed, however, there must be an allocation between the estate or trust and its beneficiaries of the tax paid and the gross income on which tax was paid to the other state or country.

(d) The fiduciary's share and each beneficiary's share of the gross income on which tax has been paid to another state or country is determined by the governing instrument and should be entered in the appropriate schedule on the fiduciary return. The fiduciary's share of the total gross income to be used in the tax credit computation schedule is the total gross income from Federal Form 1041.

(e) If additional tax credits are claimed, a separate schedule must be attached to the fiduciary return showing how the credits were determined and how they are allocated between the beneficiaries and the fiduciary.

*History Note:* Authority G.S. 105-131.8; 105-153.9; 105-160.3; 105-160.4; 105-262;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1998; June 1, 1993; June 1, 1990; June 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3715 INCOME TAXABLE TO BENEFICIARIES**

*History Note:* Authority G.S. 105-162(a); 105-162(b); 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1984; June 1, 1982;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06B .3716 INCOME TAX RETURN FOR ESTATES AND TRUSTS**

(a) The federal taxable income of the estate or trust shall be the starting point for preparing a North Carolina Income Tax Return for Estates and Trusts, Form D-407. The fiduciary shall determine the estate's or trust's federal taxable income before completing Form D-407.

(b) The fiduciary shall file an income tax return for the estate or trust for which he or she acts if he or she is required to file a U.S. Income Tax Return for Estates and Trusts and:

- (1) the estate or trust derives income from North Carolina sources; or
- (2) the estate or trust derives any income that is for the benefit of a resident of North Carolina.

(c) Fiduciaries shall be consistent in the use of the name and address of an estate or trust on a return. If a different name for an estate or trust is used in any year from that used in the prior year, the fiduciary shall note that fact on the first page of the return and state the name used in the prior year.

*History Note:* Authority G.S. 105-160.2; 105-160.5; 105-160.6; 105-262;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1996; June 1, 1993; October 1, 1991; June 1, 1990; April 12, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;  
Amended Eff. May 1, 2018.

#### **17 NCAC 06B .3717 TRUST INSTRUMENTS AND WILLS**

*History Note:* Authority G.S. 105-161(e)(1); 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06B .3718 PAYMENT OF TAX**

*History Note:* Authority G.S. 105-160.2; 105-160.7; 105-262;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1991; June 1, 1990;

*Repealed Eff. May 1, 2016.*

**17 NCAC 06B .3719      FAILURE TO FILE PENALTIES**

*History Note:      Authority G.S. 105-236; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1993;  
Repealed Eff. January 1, 1999.*

**17 NCAC 06B .3720      LIABILITY OF THE FIDUCIARY**

*History Note:      Authority G.S. 105-207; 105-236(10); 105-262;  
Eff. February 1, 1976;  
Amended Eff. January 21, 1979;  
Repealed Eff. June 1, 1993.*

**17 NCAC 06B .3721      SPECIAL TRUSTS  
17 NCAC 06B .3722      GRANTORS TRUSTS**

*History Note:      Authority G.S. 105-142(c); 105-152(3); 105-154(b); 105-161(f)(1)a; 105-163; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; April 12, 1981;  
Repealed Eff. June 1, 1990.*

**17 NCAC 06B .3723      ALLOCATION OF ADJUSTMENTS**

(a) The additions and deductions to federal taxable income of an estate or trust shall be apportioned between the estate or trust and the beneficiaries based on the distributions of income made during the taxable year. If the trust instrument or will that created the estate or trust does not provide for the distribution of certain classes of income to different beneficiaries, the apportionment of additions and deductions to the beneficiaries shall be determined on the basis that each beneficiary's share of the estate's or trust's "total income," the sum of lines 1 through 8 on the beneficiary's Schedule K-1, Federal Form 1041, relates to "adjusted total income" from line 17 of Federal Form 1041. If the trust instrument or will specifically provides for the distribution of certain classes of income to different beneficiaries, any addition or deduction directly attributable to a particular class of income shall be apportioned to the beneficiaries to which that class of income is distributed. After apportioning the additions and deductions to the beneficiaries, the balance is apportioned to the fiduciary.

(b) In allocating the adjustments, for State purposes the amount of "total income" on Federal Schedule K-1 shall be adjusted for distributions to the beneficiary that are not reflected in "total income." The "adjusted total income" on Federal Form 1041 shall be adjusted:

- (1) to exclude classes of income that are not part of the distribution to the beneficiary;
- (2) to include classes of income that are a part of the distribution to the beneficiary, but shall not be included in adjusted total income; and
- (3) by any deduction treated differently for State and federal tax purposes that adjusts federal taxable income pursuant to G.S. 105-153.5 and G.S. 105-153.6.

*History Note:      Authority G.S. 105-153.4; 105-153.5; 105-153.6; 105-160.2; 105-160.5; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993;  
Readopted Eff. May 1, 2016.*

**17 NCAC 06B .3724      ALLOCATION OF INCOME ATTRIBUTABLE TO NONRESIDENTS**

(a) If an estate or trust has income from sources outside of North Carolina and if any of the beneficiaries are nonresidents of North Carolina, the portion of federal taxable income of the Fiduciary that is subject to North Carolina tax must be determined. If there are no nonresident beneficiaries or if there is no gross income from dividends, interest, other intangibles or from sources outside North Carolina for the benefit of a nonresident beneficiary, the total income of the estate or trust is taxable to the fiduciary.

(b) The determination of the amount of undistributed income from intangible property which is for the benefit of a resident is based on the beneficiary's state of residence on the last day of the taxable year of the trust. In the case of both resident and nonresident beneficiaries, the determination of the amount of undistributed income from intangible property which is for the benefit of a resident is made on the basis that the resident beneficiary's interest for the taxable year relates to the interest of both resident and nonresident income beneficiaries for the taxable year.

*History Note:* Authority G.S. 105-153.4; 105-160.2; 105-262;  
Eff. June 1, 1990;  
Amended Eff. February 1, 2005; June 1, 1993; October 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .3725 ADMINISTRATION EXPENSES**

*History Note:* Authority G.S. 105-160.2; 105-262;  
Eff. June 1, 1990;  
Repealed Eff. August 1, 1998.

### **SECTION .3800 - MISCELLANEOUS RULES**

#### **17 NCAC 06B .3801 INCOME**

#### **17 NCAC 06B .3802 DEDUCTIONS**

#### **17 NCAC 06B .3803 OTHER ITEMS**

*History Note:* Authority G.S. 8-45.3; 105-141(a); 105-141.1; 105-142(a); 105-144(a); 105-144(c);  
105-144.3; 105-147(1); 105-147(1)h; 105-147(2); 105-147(7); 105-147(9)a; 105-147(10);  
105-147(17); 105-147(19); 105-147(24); 105-147(28); 105-148(1); 105-148(2); 105-148(8);  
105-159.1; 105-163.16(c); 105-163.16(e); 105-251; 105-262; 147-77;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; February 1, 1988; April 1, 1987; February 1, 1987;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06B .3804 DEPOSIT OF PAYMENT**

When a payment is received by the Department of Revenue for less than the correct tax, penalty, and interest due and the payment includes the statement, "paid in full" or other similar statements, the payment will be deposited as required by G.S. 147-77.

*History Note:* Authority G.S. 39-13.6; 105-154; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993; October 1, 1991; February 1, 1991;  
Readopted Eff. May 1, 2016.

### **SECTION .3900 - NONRESIDENTS AND PART-YEAR RESIDENTS**

#### **17 NCAC 06B .3901 DEFINITION OF RESIDENT**

(a) Only One Domicile. -- Domicile means the place where an individual has a true, fixed permanent home and principal establishment, and to which place, whenever absent, the individual has the intention of returning. In many cases, a determination must be made as to when or whether a domicile has been abandoned. A long standing principle in tax administration, repeatedly upheld by the courts, is that an individual can have but one domicile; and, once established, it is not legally abandoned until a new one is established. A taxpayer may have several places of abode in a year, but at no time can an individual have more than one domicile. A mere intent or desire to make a change in domicile is not enough; voluntary and positive action must be taken.

(b) Factors. -- Some of the tests or factors to be considered in determining the legal residence of an individual for income tax purposes are as follows:

- (1) Place of birth of the taxpayer, the taxpayer's spouse, and the taxpayer's children.



- (2) Permanent residence of the taxpayer's parents.
  - (3) Family connections and close friends.
  - (4) Address used for federal tax returns, military purposes, passports, driver's license, vehicle registrations, insurance policies, professional licenses or certificates, subscriptions for newspapers, magazines, and other publications, and monthly statements for credit cards, utilities, bank accounts, loans, insurance, or any other bill or item that requires a response.
  - (5) Civic ties, such as church membership, club membership, or lodge membership.
  - (6) Professional ties, such as licensure by a licensing agency or membership in a business association.
  - (7) Payment of state income taxes.
  - (8) Place of employment or, if self-employed, place where business is conducted.
  - (9) Location of healthcare providers, such as doctors, dentists, veterinarians, and pharmacists.
  - (10) Voter registration and ballots cast, whether in person or by absentee ballot.
  - (11) Occasional visits or spending one's leave "at home" if a member of the armed services.
  - (12) Ownership of a home, insuring a home as a primary residence, or deferring gain on the sale of a home as a primary residence.
  - (13) Location of pets.
  - (14) Attendance of the taxpayer or the taxpayer's children at State supported colleges or universities on a basis of residence—taking advantage of lower tuition fees.
  - (15) Location of activities for everyday "hometown" living, such as grocery shopping, haircuts, video rentals, dry cleaning, fueling vehicles, and automated banking transactions.
  - (16) Utility usage, including electricity, gas, telecommunications, and cable television.
- (c) When Change Occurs. -- The following events indicate a change in residency:
- (1) Selling a house and buying a new one.
  - (2) Directing the U.S. Postal Service to forward mail to a new address.
  - (3) Notifying senders of statements, bills, subscriptions, and similar items of a new address.
  - (4) Transferring family medical records to a new healthcare provider.
  - (5) Registering a vehicle in a new jurisdiction.
  - (6) Transferring memberships for church, a health club, a lodge, or a similar activity.
  - (7) Applying for professional certifications in a new jurisdiction.
- (d) Military Service. -- A legal resident of North Carolina serving in the United States Armed Forces is liable for North Carolina income tax and North Carolina income tax shall be withheld from that individual's military pay whether the individual is stationed in this State or in some other state or country. An individual who enters military service while a resident of North Carolina is presumed to be a resident of this State for income tax purposes. Residency in this State is not abandoned until residency is established elsewhere. To change residency, an individual in military service must not only be present in the new location with the intention of making it a new domicile, but must also factually establish that the individual has done so.

*History Note: Authority G.S. 105-153.3(15); 105-153.4; 105-262; Eff. June 1, 1990; Amended Eff. August 1, 2002; July 1, 1999; June 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*

#### **17 NCAC 06B .3902 NONRESIDENTS**

- (a) The term "nonresident" includes an individual:
- (1) Who resides in North Carolina for a temporary or transitory purpose and is, in fact, a domiciliary resident of another state or country; or
  - (2) Who does not reside in North Carolina but has income from sources within North Carolina and is, in fact, a domiciliary resident of another state or country.
- (b) Under the Servicemembers Civil Relief Act, a member of the Armed Services who is a legal resident of another state stationed in North Carolina by virtue of military orders, is not subject to North Carolina income tax on his service pay but other income from employment, a business, or tangible property in North Carolina is subject to North Carolina income tax.
- (c) There is no presumption as to the residence of a spouse of a member of the armed forces because of marriage. Legal residence shall be determined based on the facts in each case.

*History Note: Authority G.S. 105-153.4; 105-262;*

*Eff. June 1, 1990;*  
*Amended Eff. May 1, 2006; June 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*

**17 NCAC 06B .3903 PART-YEAR RESIDENT**

An individual who moves his domicile into or out of North Carolina during the tax year, is a part-year resident.

*History Note: Authority G.S. 105-153.4; 105-262;*  
*Eff. June 1, 1990;*  
*Amended Eff. June 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*

**17 NCAC 06B .3904 TAXABLE INCOME OF NONRESIDENTS AND PART-YEAR RESIDENTS**

(a) Nonresidents and part-year residents shall prorate their adjusted gross income, adjusted as required under G.S. 105-153.5 and G.S. 105-153.6, to determine the portion that is subject to North Carolina tax.

(b) An individual who files a joint federal income tax return with his or her spouse and is not required to file a joint North Carolina income tax return because the spouse is a nonresident and had no North Carolina taxable income, may file the State return as either married filing jointly or married filing separately. However, once the individual files a joint North Carolina income tax return, the individual shall not amend the return to file as married filing separately for that tax year after the due date of the return. An individual who files a joint federal income tax return and chooses to file a separate State return shall calculate the individual's adjusted gross income on a federal income tax form as a married person filing a separate federal income tax return and attach it to the individual's North Carolina return to show how the separate adjusted gross income was determined. The individual filing the separate federal income tax return shall report only the individual's income and deductions. In lieu of making the calculation on a federal form, an individual may submit a schedule showing the computation of the individual's separate adjusted gross income. An individual who submits a schedule shall attach a copy of pages one and two of the individual's joint federal return if the federal return reflects an address outside North Carolina.

(c) An individual who has income from sources within another state or country while a resident of North Carolina and is subject to tax on the income by the other state or country may be eligible to claim a tax credit for tax paid to another state or country under G.S. 105-153.9.

(d) A nonresident is not entitled to the tax credit for tax paid to another state or country.

*History Note: Authority G.S. 105-153.4; 105-153.8; 105-153.9; 105-262;*  
*Eff. June 1, 1990;*  
*Amended Eff. September 1, 2008; July 1, 1999; August 1, 1998; June 1, 1993;*  
*Readopted Eff. May 1, 2016.*

**17 NCAC 06B .3905 NONRESIDENT MEMBERS OF PROFESSIONAL ATHLETIC TEAMS**

(a) Determination of North Carolina source income.

- (1) To determine the portion of his or her total compensation for services rendered as a member of a professional athletic team during the taxable year that shall be considered North Carolina source income and shall be included in the numerator of the fraction determined under G.S. 105-153.4(b), the nonresident member of a professional athletic team shall multiply his or her total compensation for services rendered as a member of a professional athletic team during the taxable year by a fraction, the numerator of which is the number of duty days spent in North Carolina rendering services for the team in any manner during the taxable year. The denominator shall be the total number of duty days spent both within and outside North Carolina during the taxable year.
- (2) Travel days that do not involve any of the activities set forth in Subparagraph (b)(3) of this Rule, or other similar team activity, are not considered duty days spent in North Carolina and compensation for those days shall not be included in the numerator of the fraction determined under G.S. 105-153.4(b). However, the travel days shall be considered duty days spent within and outside North Carolina and compensation for those days is included in the denominator of the fraction determined under G.S. 105-153.4(b).
- (3) Where the method of apportioning and allocating the compensation provided in this Rule produces substantially incorrect results, the Secretary of Revenue may require the member of a professional athletic team to apportion and allocate the compensation under another method prescribed by the Secretary as long as the prescribed method better reflects the compensation received for services rendered in North Carolina.

A nonresident member of a professional athletic team may request an alternative method to apportion and allocate the compensation, demonstrating that the method provided under this Rule produces substantially incorrect results. If the Secretary approves the alternative method, a copy of the Secretary's written approval shall be included with the North Carolina income tax return filed by the nonresident member.

(b) Definitions. For purposes of this Rule:

- (1) The term "professional athletic team" includes any professional baseball, basketball, football, soccer, hockey, or other team.
- (2) The term "member of a professional athletic team" shall include those employees who are active players, players on the disabled list, and any other persons required to travel and who do travel with and perform services on behalf of a professional athletic team on a regular basis. This includes coaches, managers and trainers.
- (3) The term "duty days" shall mean all days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days shall also include days on which a member of a professional athletic team renders a service for a team on a date that does not fall within the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. The services include participation in instructional leagues, the "Pro Bowl," or promotional caravans. This includes days during the member's off-season where the member conducts training activities at the facilities of the team. Duty days include game days, practice days, days spent at team meetings, promotional caravans and pre-season training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete. Duty days for any person who joins a team during the season shall begin on the day the person joins the team, and for any person who leaves a team shall end on the day the person leaves the team. Where a person switches teams during the taxable year, a separate duty day calculation shall be made for the period the person was with each team. Days for which a member of a professional athletic team is not compensated and is not rendering services for the team in any manner, including days when the member of a professional athletic team has been suspended without pay and prohibited from performing any services for the team, shall not be treated as duty days. Days for which a player is on the disabled list shall be considered duty days and shall be included in the denominator of the fraction described in Subparagraph (a)(1) of the Rule, but shall not be considered duty days spent in North Carolina and shall not be included in the numerator of the fraction.
- (4) The term "total compensation for services rendered as a member of a professional athletic team" means the total compensation received during the taxable year for services rendered:
  - (A) from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year; and
  - (B) for an event during the taxable year that occurs on a date that does not fall within the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete, such as participation in instructional leagues, the "Pro Bowl," or promotional caravans.The compensation shall include salaries, wages, bonuses, and any other type of compensation identified in Internal Revenue Code Section 61 and its regulations and paid during the taxable year to a member of a professional athletic team for services performed in that year. The compensation shall not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered to the team.
- (5) For purposes of Subparagraph (b)(4) of this Rule, "bonuses" included in "total compensation for services rendered as a member of a professional athletic team" subject to the allocation described in Paragraph (a) of this Rule are:
  - (A) bonuses earned as a result of play, such as performance bonuses, during the season, including bonuses paid for championship, play-off, or "bowl" games played by a team, or for selection to all-star league or other honorary positions; and
  - (B) bonuses paid for signing a contract, unless all of the following conditions are met:
    - (I) the payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team, or even making the team;

- (II) the signing bonus is payable separately from the salary and any other compensation; and
  - (III) the signing bonus is nonrefundable.
- (c) Withholding requirements.
- (1) A professional athletic team shall withhold income tax from the North Carolina source income of a nonresident member of the team at the rate for individuals with no withholding allowances as provided in G.S. 105-163.5. Taxes shall be withheld from the income of a resident member of the team as provided in G.S. 105-163.2.
  - (2) A professional athletic team that is not domiciled in this State shall be classified as a quarterly employer and shall file a return reporting the amount of taxes withheld and pay the amounts withheld as provided in G.S. 105-163.6. A professional athletic team that is domiciled in this State shall determine its filing and paying requirements based on its average monthly withholding as provided in G.S. 105-163.6.
- (d) Income tax return filing requirements.
- (1) A nonresident member of a professional athletic team is not required to file a North Carolina individual income tax return when the only income from North Carolina sources is the compensation received for services rendered as a member of the team and the team has withheld taxes from the North Carolina source income as set forth in Paragraph (c) of this Rule. The individual may file an individual income tax return and claim credit for the tax withheld.
  - (2) The professional athletic team, as well as the individual, shall be personally and individually liable for any additional tax due if the professional athletic team does not properly determine the North Carolina source income of a member of the professional athletic team or properly withhold tax from the income.

*History Note:* Authority G.S. 105-153.4; 105-163.2; 105-163.3; 105-163.5; 105-163.6; 105-163.7; 105-163.8; 105-262; Eff. November 1, 1995;  
Amended Eff. August 1, 2002;  
Readopted Eff. May 1, 2016.

**17 NCAC 06B .3906 PURCHASE OF REAL PROPERTY LOCATED IN NORTH CAROLINA FROM A NONRESIDENT**

- (a) Every individual, fiduciary, partnership, corporation, or unit of government buying real property located in North Carolina from a nonresident individual, partnership, estate, or trust shall complete Form NC-1099NRS, Report of Sale of Real Property by Nonresidents, to report the following:
- (1) the seller's name, address, and social security number, or federal employer identification number;
  - (2) the location of the property;
  - (3) the date of closing; and
  - (4) the gross sales price of the real property and its associated tangible personal property.
- (b) Within 15 days of the closing date of the sale, the buyer shall file one copy of the report with the Department and also furnish a copy of the report to the seller.

*History Note:* Authority G.S. 105-154(b); 105-262;  
Eff. May 1, 2016.

**SECTION .4000 - S CORPORATION**

**17 NCAC 06B .4001 REPORTING INCOME - IN GENERAL**  
**17 NCAC 06B .4002 RESIDENT SHAREHOLDERS**

*History Note:* Authority G.S. 105-131; 105-131.1; 105-131.2; 105-134.6(a); 105-262;  
Eff. June 1, 1990;  
Repealed Eff. June 1, 1993.

**17 NCAC 06B .4003 NONRESIDENT SHAREHOLDERS**

- (a) A nonresident shareholder of an S corporation shall take into account only his or her share of the S corporation's income attributable to North Carolina in the numerator of the fraction in determining that portion of adjusted gross income that is

taxable to North Carolina. If an S corporation does business in North Carolina and one or more other states, the income attributable to North Carolina shall be determined under G.S. 105-130.4.

(b) A nonresident shareholder in an S corporation may claim credit on the shareholder's North Carolina individual income tax return for the tax paid on his or her behalf by the S corporation to North Carolina on his or her share of the S corporation income.

(c) A nonresident shareholder in an S corporation shall not be required to file a North Carolina individual income tax return when the only income from North Carolina sources is his or her share of S corporation income and the S corporation pays the tax on his or her behalf.

*History Note:* Authority G.S. 105-130.4; 105-131.1; 105-131.5; 105-131.7; 105-153.4(d); 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993; October 1, 1991;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .4004 TAX CREDITS**

If part of the S corporation's income is earned within and taxed by another state, either to the individual or to the corporation, a resident shareholder is entitled to a tax credit on the individual or the estates and trusts income tax return for the share of the tax paid to the other state. A shareholder claiming the tax credit must attach a schedule to the income tax return reflecting the total amount of tax paid to the State by the S corporation, and explaining how the shareholder's pro rata share of the tax was determined. Nonresident shareholders are not allowed credit for tax paid to another state.

*History Note:* Authority G.S. 105-131.8; 105-262;  
Eff. June 1, 1990;  
Amended Eff. July 1, 1999; June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .4005 BASIS IN STOCK**

(a) Due to different tax treatment of an S corporation's income for State and federal purposes for taxable years beginning before January 1, 1989, a shareholder's basis in the stock of an S corporation for State tax purposes may be different than for federal tax purposes; thereby causing adjustments in determining North Carolina taxable income upon receipt by the shareholder of distributions from the S corporation and upon disposition of the S corporation stock.

(b) The initial basis of the stock in an S corporation to a nonresident of North Carolina is zero, and the nonresident shareholder shall not be taxed on distributions from the corporation and recognizes no income or loss upon disposition of the stock. A nonresident shareholder's basis in the S corporation stock shall be adjusted for his or her pro rata share of the income or loss of the corporation.

(c) A resident shareholder's initial basis in the stock of an S corporation shall be determined as of the later of the date the stock is acquired, the effective date of the S corporation election, or the date the shareholder became a resident of North Carolina. A resident shareholder's basis in the stock shall be increased by his or her pro rata share of the corporation's income, subject to the adjustments required under G.S. 105-153.5 and G.S. 105-153.6, except for income exempt from federal or State income taxes and deductions for depletion in excess of the basis of the property being depleted. The basis shall be decreased by:

- (1) distributions to the extent deemed a return of basis;
- (2) a pro rata share of the losses of the corporations as adjusted under G.S. 105-153.5 and G.S. 105-153.6;
- (3) nondeductible expenses of the corporation; and
- (4) the amount of the shareholder's deduction for depletion of oil and gas wells to the extent the deduction does not exceed the proportionate share of the adjusted basis of that property allocated to the shareholder.

The adjustments to the basis do not apply to tax periods beginning prior to January 1, 1989.

*History Note:* Authority G.S. 105-131.3; 105-262;  
Eff. June 1, 1990;  
Readopted Eff. May 1, 2016.

#### **17 NCAC 06B .4006 DISTRIBUTIONS**

(a) A resident shareholder must take into account distributions from an S corporation in computing North Carolina taxable income to the extent the distributions are characterized as dividends or as gains pursuant to Section 1368 of the Internal

Revenue Code. Section 1368 of the Code provides that if the S corporation has no accumulated earnings and profits, the amount distributed to a shareholder reduces the adjusted basis in his stock. If the S corporation has earnings and profits, the distribution is applied in the following order:

- (1) To the Accumulated Adjustments Account (AAA), which basically includes the income during the period the corporation has been an S corporation reduced by its losses and distributions during that period. The AAA for State income tax purposes does not include the federal AAA for tax years beginning prior to January 1, 1989. The shareholder does not take into account distributions from the AAA in determining taxable income but such distributions reduce the adjusted basis of his stock.
  - (2) To Earnings and Profits (E and P): An S corporation is not considered to have earnings and profits for State tax purposes for years in which it operates as an S corporation after January 1, 1989. The E and P account basically includes the earnings and profits on hand from the period the corporation was a C corporation; and for State tax purposes, the E and P account also includes the undistributed earnings and profits of the S corporation from tax years beginning before January 1, 1989, (the federal AAA that existed on the day North Carolina began to measure the S corporation shareholder's income by reference to the income of the S corporation). The amount distributed to the shareholder from the E and P account is taxed to the shareholder as a dividend. Since the State E and P account includes the federal AAA that existed prior to the change in State law taxing the S corporation income to the shareholders, State taxable income must be increased for any distributions from the federal AAA that existed prior to the law change.
  - (3) To the basis of the shareholder's stock: Any excess over the shareholder's basis is taxed as a capital gain.
- (b) A shareholder who makes an election for federal tax purposes to treat distributions from the S corporation as being paid first from earnings and profits may not make a different election for State purposes.

*History Note:* Authority G.S. 105-131.6; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1994; June 1, 1993; February 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06B .4007 FISCAL YEAR S CORPORATION**

*History Note:* Authority G.S. 105-131.1(b); 105-262;  
Eff. June 1, 1990;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06B .4008 LOSSES**

*History Note:* Authority G.S. 105-131.3; 105-131.4; 105-262;  
Eff. February 1, 1991;  
Repealed Eff. June 1, 1993.

### **SECTION .4100 - TAXABLE STATUS OF DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES**

#### **17 NCAC 06B .4101 GENERAL**

- (a) Exempt interest dividends paid by a regulated investment company ("mutual fund") to a shareholder and not included in the shareholder's federal adjusted gross income shall be added to adjusted gross income to the extent it represents interest on obligations of states, other than North Carolina, and their political subdivisions.
- (b) The total distribution designated as exempt interest dividends by a regulated investment company ("mutual fund") shall be added to adjusted gross income in computing the shareholder's North Carolina taxable income, unless the regulated investment company provides a statement to the shareholder that designates the portion of the exempt interest dividends that represents interest from obligations of the State of North Carolina or its political subdivisions or the United States or its possessions.

*History Note:* Authority G.S. 105-153.4; 105-153.5(c)(1); 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993;

*Readopted Eff. May 1, 2016.*

**17 NCAC 06B .4102 EXEMPT INTEREST DIVIDENDS**

*History Note: Authority G.S. 105-153.5 (c); 105-262;  
Eff. June 1, 1990;  
Amended Eff. October 1, 1991;  
Repealed Eff. May 1, 2016.*

**17 NCAC 06B .4103 ORDINARY DIVIDENDS**

(a) Interest received in the form of dividends from regulated investment companies shall be deductible from an individual's adjusted gross income to the extent the distributions represent interest on direct obligations of the United States Government.

Interest earned on obligations that are merely backed or guaranteed by the United States Government shall not qualify for the deduction. Further, this deduction shall not apply to distributions that represent gain from the sale or other disposition of the securities nor to interest paid in connection with repurchase agreements issued by banks and savings and loan associations.

(b) The taxpayer may not deduct mutual fund dividends on the basis of a percentage of investments held by the fund (i.e., a fund has 75 percent of its investments in United States Treasury Notes). The regulated investment company shall furnish the shareholder a statement verifying the amount of interest paid to the shareholder that accrued from direct obligations of the United States Government. The statement to support the deduction shall specify the amount dividended to the shareholder that represents interest on direct obligations of the United States Government.

*History Note: Authority G.S. 105-153.5(b)(1); 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993; December 1, 1990;  
Readopted Eff. May 1, 2016.*

**17 NCAC 06B .4104 CAPITAL GAIN DISTRIBUTIONS  
17 NCAC 06B .4105 DIVIDEND TAX CREDIT**

*History Note: Authority G.S. 105-134.6(b)(1); 105-134.6(b)(2); 105-151.19; 105-262;  
Eff. June 1, 1990;  
Amended Eff. December 1, 1990;  
Repealed Eff. June 1, 1993.*

**SUBCHAPTER 6C - WITHHOLDING**

**SECTION .0100 - WITHHOLDING INCOME TAXES**

**17 NCAC 06C .0101 GENERAL**

*History Note: Authority G.S. 105-163.1 through 105-163.10; 105-163.17 to 105-163.24; 105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1982.*

**17 NCAC 06C .0102 WITHHOLDING FROM WAGES**

*History Note: Authority G.S. 105-163.1; 105-163.1(3); 105-163.1(4); 105-163.1(13); 105-163.2; 105-163.3; 105-163.6;  
105-163.18; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1990; December 1, 1988; April 1, 1987;  
Repealed Eff. June 1, 1993.*

**17 NCAC 06C .0103 INCOME NOT SUBJECT TO WITHHOLDING**

*History Note:* Authority G.S. 105-154; 105-163.1(6); 105-163.11; 105-163.14; 105-163.18; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1990;  
Repealed Eff. October 1, 1991.

#### **17 NCAC 06C .0104 EXEMPTION CERTIFICATES**

*History Note:* Filed as a Temporary Amendment [(d) and (f)] Eff. November 16, 1981, for a period of 46 days to expire on January 1, 1982;  
Authority G.S. 105-163.3; 105-163.5; 105-163.18; 105-262;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; June 1, 1982; January 1, 1982; April 12, 1981;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06C .0105 WAGES**

#### **17 NCAC 06C .0106 EMPLOYERS**

*History Note:* Authority G.S. 105-163.1(4); 105-163.1(13); 105-163.2; 105-163.2(h); 105-163.18; 105-262;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1991; June 1, 1990;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06C .0107 EMPLOYEES**

To prevent double withholding and to anticipate any tax credits allowable to a North Carolina resident, withholding of North Carolina tax is not required from wages paid to a resident for services performed in another state if that state requires withholding. This relief from double withholding does not relieve the resident of his obligation to file a North Carolina individual income tax return and pay any balance due after tax credit.

All wages received by a nonresident for services performed in this State are subject to withholding of North Carolina income tax. Any relief from double withholding must be granted by his state of residence.

*History Note:* Authority G.S. 105-153.8(a); 105-163.1(4); 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06C .0108 EMPLOYEE-EMPLOYER RELATIONSHIP**

Everyone who performs services subject to the will and control of an employer, both as to what shall be done and how it shall be done, is an employee. An employer-employee relationship exists when the person for whom the services are performed has the right to control and direct the individual performing the services. Managers and other supervisory personnel, officers of corporations, and elected public officials are employees. Whether the employer actually controls and directs the manner in which the services are performed does not matter if he has the right to do so, and it does not matter that the employee is called by some other name such as partner, agent, or independent contractor; nor whether the individual works full or part time; nor how the payments are measured, paid, or what they are called.

Lawyers, physicians, contractors, and others who follow an independent trade, business, or profession in which they offer their services to the public, generally are not employees. If an individual is subject to the control and direction of another only as to the results of his work and not as to the methods of accomplishing the results, he is an independent contractor and not an employee.

*History Note:* Authority G.S. 105-163.1(4); 105-163.1(5); 105-262;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06C .0109 MINISTERS**



*History Note:* Authority G.S. 105-163.1A; 105-163.2; 105-163.18; 105-262;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1991; August 1, 1986; February 21, 1979;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06C .0110 COMMON CARRIERS**

*History Note:* Authority G.S. 105-163.2; 105-262; 49 U.S.C. Sec. 26; Sec. 301A; Sec. 923; Sec. 1512;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1999; November 1, 1994; December 1, 1990; November 1, 1988;  
Repealed Eff. May 1, 2016.

#### **17 NCAC 06C .0111 FEDERAL EMPLOYEES**

*History Note:* Authority G.S. 105-163.2; 105-163.18; 105-163.23; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 21, 1979;  
Repealed Eff. June 1, 1993.

#### **17 NCAC 06C .0112 SEAMEN**

(a) The Vessel Worker Tax Fairness Act, 46 U.S.C. 11108 prohibits withholding of state income tax from the wages of a seaman on a vessel engaged in foreign, coastwide, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel. Vessels engaged in other activity do not come under the restriction; however, any seaman who is employed in coastwide trade between ports in this State may have tax withheld if such withholding is pursuant to a voluntary agreement between such seaman and his employer.

(b) With respect to income obtained while:

- (1) engaged as a pilot (licensed under section 7101 of Title 46 of the Code or under the laws of a state) on a vessel performing duties in more than one state; or
- (2) performing regularly assigned duties as a master, officer or crewman on a vessel operating on the navigable waters of more than one state; an individual is subject to income tax only in the state and political subdivision in which the individual resides.

(c) Seamen and fishing boat crewmen exempt from withholding as specified above, shall determine whether they meet the requirements for paying estimated income tax.

*History Note:* Authority G.S. 105-262; 46 U.S.C. Sec. 11108;  
Eff. February 1, 1976;  
Amended Eff. February 1, 2005; June 1, 1993; May 1, 1984; February 21, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06C .0113 BONUS PAYMENTS**

#### **17 NCAC 06C .0114 TRAVEL ALLOWANCES**

#### **17 NCAC 06C .0115 MOVING EXPENSE REIMBURSEMENT**

#### **17 NCAC 06C .0116 WITHHOLDING FROM TIPS**

*History Note:* Authority G.S. 105-163.1(6); 105-163.2; 105-163.4; 105-163.18; 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1984; February 21, 1979;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06C .0117 SUPPLEMENTAL WAGE PAYMENTS**

(a) If an employer pays supplemental wages separately (or combines them with regular wages in a single payment and specifies the amount of each), the income tax withholding method depends on whether the employer withholds income tax from the employee's regular wages and whether the wages and supplemental wages are paid in a single payment.

(b) If tax has been withheld on the regular wages and the supplemental amount is not paid in a single payment together with regular wages, the employer may treat the supplemental wages as wholly separate from the regular wages and apply the

income tax rate for that tax year pursuant to G.S. 105-153.7(a) plus one-tenth of one percent to the supplemental wage payment without consideration for allowances claimed on the employee's withholding allowance certificate. Otherwise, the supplemental wages shall be added to the regular wages for the most recent payroll period. The income tax shall be figured as if the regular wages and supplemental wages constitute a single payment. The tax already withheld from the regular wages is subtracted from this amount.

(c) The remaining tax determined under Paragraph (b) shall be withheld from the supplemental wages. If the employer did not withhold income tax from the employee's regular wages, the employer shall add the supplemental wages to the employee's regular wages paid for the current or last preceding payroll period and withhold tax as though the supplemental wages and regular wages were one payment.

(d) Tips shall be treated as supplemental wages. The employer shall withhold the income tax on tips from wages or collect the tax from funds the employee provides. If an employee receives regular wages and reports tips, the employer shall figure income tax as if the tips were supplemental wages. If the employer has not withheld income tax from the regular wages, the employer shall add the tips to the regular wages and withhold income tax on the total. If the employer withheld income tax from the regular wages, the employer shall withhold on the tips as explained in Paragraphs (b) and (c).

*History Note:* Authority G.S. 105-153.7; 105-163.1(13); 105-163.2; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1990;  
Readopted Eff. May 1, 2016;  
Amended Eff. August 1, 2016.

#### **17 NCAC 06C .0118 SICK PAY**

*History Note:* Authority G.S. 105-163.1(4); 105-163.1(5); 105-163.1(6); 105-163.2; 105-163.18;  
105-262;  
Eff. February 1, 1976;  
Repealed Eff. June 1, 1990.

#### **17 NCAC 06C .0119 WAGE AND TAX STATEMENTS**

To meet the requirements of G.S. 105-163.7, an employer shall use the six-part Federal Form W-2 or any other alternate forms which have been designed for his payroll equipment if they provide the same information and the same number of copies as the official form. When completed, the state copies must show the employer's North Carolina withholding identification number; must designate the state tax as North Carolina tax; and the North Carolina gross wages must be separately stated if they are different from federal gross wages. Statements which do not meet the above requirements shall not be accepted and employees shall not be given credit for the tax withheld.

*History Note:* Authority G.S. 105-163.7; 105-254; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 2005; May 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06C .0120 RECIPROCITY OF TAX CREDITS**

North Carolina does not allow tax credit to nonresidents for income tax paid to another state or country; therefore, any relief from double taxation must be granted by the state of residence. North Carolina provides such relief to its residents as explained in 17 NCAC 06C .0107.

*History Note:* Authority G.S. 105-153.9(a); 105-163.22; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06C .0121 CREDIT FOR INCOME TAX WITHHELD**

*History Note:* Authority G.S. 105-163.10; 105-163.18; 105-262;  
Eff. February 1, 1976;

*Repealed Eff. June 1, 1982.*

**17 NCAC 06C .0122 FRINGE BENEFITS**

*History Note: Authority G.S. 105-163.1(6); 105-163.2; 105-163.18; 105-262;  
Eff. July 1, 1986;  
Repealed Eff. June 1, 1990.*

**17 NCAC 06C .0123 EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE**

(a) Requirement. -- Each new employee, before beginning employment, shall furnish his or her employer with a signed North Carolina Employee's Withholding Allowance Certificate, Form NC-4, Form NC-4 EZ, or Form NC-4 NRA. A federal exemption certificate shall not be acceptable. A certificate filed by a new employee shall be effective upon the first payment of wages after it is filed and remains in effect until the employee furnishes a new one. G.S. 105-153.3 defines the terms married individual, head of household, and surviving spouse (qualifying widow(er)) by reference to the Internal Revenue Code; however, the number of allowances to which an individual is entitled may differ under federal and state law. If an employee fails to furnish an allowance certificate, Form NC-4, Form NC-4 EZ, or Form NC-4 NRA, the employer shall withhold tax as if the employee is single with no allowances.

(b) Notice. -- The employer is not required to ascertain whether or not the total amount of allowances claimed is greater than the total number to which the employee is entitled. If, however, the employer has reason to believe that the number of allowances claimed by an employee is greater than the number to which the employee is entitled, the employer shall notify the Department of Revenue at the time for filing the quarterly report for the quarter during which the certificate is received, if the employer files quarterly withholding reports. If the employer files monthly withholding reports, the employer shall notify the Department of Revenue of certificates received during the quarter at the time for filing the monthly report for the third month of the quarter.

(c) Military spouse. -- A military spouse exempt from withholding under the Military Spouse Residency Relief Act shall furnish an employer a Form NC-4 EZ certifying the spouse meets the requirements of the Military Spouse Residency Relief Act and the state in which the spouse is domiciled, a copy of the spouse's spousal military identification card, and a copy of the servicemember's most recent leave and earnings statement. A new Form NC-4 EZ shall be submitted each calendar year, along with the supplemental information set forth in this Paragraph.

*History Note: Authority G.S. 105-163.2; 105-163.5; 105-262; 50 U.S.C. 571;  
Eff. June 1, 1990;  
Amended Eff. August 1, 2002; June 1, 1993; October 1, 1991;  
Readopted Eff. May 1, 2016.*

**17 NCAC 06C .0124 ADDITIONAL WITHHOLDING ALLOWANCES**

(a) Deductions. -- Additional withholding allowances may be claimed by taxpayers expecting to have allowable itemized deductions exceeding the standard deduction or allowable adjustments to income. For most taxpayers, one additional allowance may be claimed for each two thousand five hundred dollars (\$2,500) that the itemized deductions allowed under G.S. 105-153.5(a)(2) are expected to exceed the standard deduction allowed under G.S. 105-153.5(a)(1) and for each two thousand five hundred dollars (\$2,500) of net adjustments reducing income.

(b) Tax Credits. -- A taxpayer expecting to have allowable tax credits may claim additional withholding allowances. The number of additional allowances shall be determined by dividing the amount of the tax credit by the product determined by multiplying the withholding tax rate by two thousand five hundred dollars (\$2,500) and then rounding that number down to the nearest whole number. The withholding tax rate is the individual income tax rate plus one tenth of one percent (0.1%).

*History Note: Authority G.S. 105-163.2(b); 105-163.2A; 105-163.5; 105-262;  
Eff. June 1, 1990;  
Amended Eff. April 1, 2001; July 1, 1999;  
Readopted Eff. May 1, 2016;  
Amended Eff. May 1, 2018.*

**17 NCAC 06C .0125 PENALTY**

*History Note: Authority G.S. 105-163.5; 105-262;*

*Eff. June 1, 1990;*  
*Repealed Eff. June 1, 1993.*

**17 NCAC 06C .0126 SUBMISSION OF CERTAIN WITHHOLDING ALLOWANCE CERTIFICATES**

- (a) An employer is required to submit a copy of any withholding allowance certificate on which the employee claims more than 10 withholding allowances or claims exemption from withholding and the employee's wages would normally exceed two hundred dollars (\$200.00) per week.
- (b) An employer filing quarterly withholding reports shall submit copies of the certificates received during the quarter when filing the quarterly report. An employer filing monthly withholding reports shall submit copies of the certificates received during the quarter when filing the monthly report for the third month of the calendar quarter. Copies may be submitted earlier and for shorter reporting periods.
- (c) Copies of the certificates, along with a letter showing the employer's name, address, withholding identification number, and the number of certificates submitted, shall be mailed to: North Carolina Department of Revenue, Tax Compliance - Withholding Tax, P.O. Box 25000, Raleigh, North Carolina 27640.
- (d) The employer shall withhold on the basis of the certificate until written notice is received from the Department that the certificate is defective. As part of that written notice, the Department shall advise the employer to ignore the allowance certificate filed and to withhold using the number of allowances specified.
- (e) The employer shall furnish the employee a copy of the written notice upon receipt.
- (f) If the employee files a new certificate, the employer shall honor that certificate only if the employee does not claim exempt and claims a number smaller than the number allowed in the Department's written notice. If the new certificate claims a number larger than the employee has been allowed and the employee specifies, in writing, any circumstances as justification to support the claims, the employer shall, upon receipt, forward a copy of the certificate and the employee's written statement to the Department for review. The employer shall continue to withhold as specified in the Department's written notice until written notice is received from the Department advising the employer to withhold on the basis of the new certificate.
- (g) To increase withholding, an employee or a recipient of a pension payment may claim less than his or her allowable allowances or may enter into an agreement with his or her withholding agent and request that an additional amount be withheld by entering the desired amount on Form NC-4, NC-4 EZ, NC-4 NRA, or NC-4P.
- (h) An employee working for two or more employers or a recipient receiving pension payments from two or more pension payers shall claim his or her allowable allowances with only one withholding agent and claim zero allowances with the other withholding agents.
- (i) If an employee claims total exemption from withholding, the employee's wages shall be exempt from withholding of North Carolina income tax for the remainder of the calendar year, and through February 15 of the succeeding year unless the employee withdraws the statement during the year. An employee claiming exemption from withholding shall complete a new certificate by February 15. If the employee does not complete a new certificate, the employer shall withhold on the basis of a single individual with no allowances.

*History Note: Authority G.S. 105.163.2; 105-163.2A; 105-163.5; 105-262;*  
*Eff. June 1, 1990;*  
*Amended Eff. April 1, 2001; June 1, 1993;*  
*Readopted Eff. May 1, 2016.*

**SECTION .0200 - REPORTING AND PAYING TAX WITHHELD**

**17 NCAC 06C .0201 NEW WITHHOLDING AGENTS**

North Carolina does not use a deposit system for income tax withheld. Each new withholding agent who is required to withhold North Carolina income tax must complete and file with the Department an application for a withholding identification number, Form NC-BR, Business Registration Application for Income Tax Withholding, Sales and Use Tax, and Machinery, Equipment, and Manufacturing Fuel Tax, which can be obtained from any office of the Department or on the Department's website at [www.dornc.com](http://www.dornc.com). A withholding identification number will be assigned. The number must be used on all reports and correspondence concerning withholding.

*History Note: Authority G.S. 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. September 1, 2008; April 1, 2001; August 1, 1998; June 1, 1993; June 1, 1990;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*

**17 NCAC 06C .0202      REPORTS AND PAYMENTS**

*History Note:*     Authority G.S. 105-163.6; 105-163.18; 105-262;  
                          Eff. February 1, 1976;  
                          Amended Eff. February 3, 1992; February 1, 1991; February 1, 1988; February 21, 1979;  
                          Repealed Eff. June 1, 1993.

**17 NCAC 06C .0203      ANNUAL REPORTS**

- (a) At the end of each calendar year, employers shall furnish wage and tax statements, Form W-2, to employees and Form NC-1099PS or NC-1099 ITIN to contractors from whom tax was withheld. Federal Form 1099-MISC may be filed in lieu of Form NC-1099 PS or NC-1099 ITIN if it reflects the amount or North Carolina income tax withheld. Two copies shall be furnished to the employee or contractor and one copy shall be furnished to the Department. Pension payers shall report pension income and State tax withheld on federal Form 1099-R.
- (b) Form NC-1099 PS, NC-1099 ITIN, NC-1099 NRS, and any federal report of Form 1099-MISC or 1099-R shall be filed with North Carolina; however, other reports of 1099 information (interest, rents, premiums, dividends) shall not be filed with North Carolina unless the payments have not been reported to the Internal Revenue Service.
- (c) Notwithstanding Paragraph (b) of this Rule, any person required to file Form NC-1099 NRS under the provisions of 17 NCAC 06B .3906 shall do so regardless of any requirement to report the sale to the Internal Revenue Service.

*History Note:*     Authority G.S. 105-154; 105-163.2; 105-163.2A; 105-163.3; 105-163.7; 105-262;  
                          Eff. February 1, 1976;  
                          Amended Eff. September 1, 2008; February 1, 2005; April 1, 2001; August 1, 1998; June 1, 1993;  
                          February 3, 1992; October 1, 1991; February 1, 1991;  
                          Readopted Eff. May 1, 2016.

**17 NCAC 06C .0204      AMOUNTS WITHHELD ARE HELD IN TRUST FOR SECRETARY OF REVENUE**

- (a) A withholding agent who fails to withhold or pay the amount required to be withheld is personally and individually liable for the tax, including any penalties and interest due. If a withholding agent has failed to withhold or to pay over income tax withheld or required to have been withheld, the unpaid principal amount of tax may be asserted against the responsible persons of the withholding agent when the taxes that have become collectible under G.S. 105-241.22 are not paid by the withholding agent. More than one person may be liable as a responsible person; however, the amount of the income tax withheld or required to have been withheld shall be collected only once, whether from the withholding agent or one or more responsible persons. The term "responsible person" is defined in G.S. 105-242.2(a)(2). Any responsible person who fails to pay the tax withheld or required to be withheld by the Secretary of Revenue shall be personally and individually liable for this failure, regardless of the person's reasons or knowledge of the failure. A finding of willfulness shall not be required.
- (b) When the Department of Revenue determines that collection of the tax from an employer is in jeopardy, the employer may be required to report and pay the tax at any time after payment of the wages, compensation, or pension payments.

*History Note:*     Authority G.S. 105-163.8; 105-241.23; 105-242.2; 105-262;  
                          Eff. June 1, 1990;  
                          Amended Eff. September 1, 2008; April 1, 2001; June 1, 1993; February 1, 1991;  
                          Readopted Eff. May 1, 2016.

**SECTION .0300 - PAYMENT OF INCOME TAX WITHHELD**

- 17 NCAC 06C .0301      GENERAL**
- 17 NCAC 06C .0302      PENALTY**
- 17 NCAC 06C .0303      PERSONAL LIABILITY**
- 17 NCAC 06C .0304      JEOPARDY REPORTING AND PAYMENT**

*History Note:*     Authority G.S. 105-163.6(a); 105-163.6(b); 105-163.6(f); 105-163.17; 105-241.1(g);  
                          105-262;  
                          Eff. July 1, 1986;

*Repealed Eff. October 1, 1991.*

## **SUBCHAPTER 6D - ESTIMATED TAX**

### **SECTION .0100 - FILING ESTIMATED INCOME TAX PAYMENTS**

#### **17 NCAC 06D .0101 FORMS**

*History Note: Authority G.S. 105-163.15; 105-163.18; 105-254; 105-262;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1988; August 1, 1986;  
Repealed Eff. June 1, 1993.*

#### **17 NCAC 06D .0102 REQUIREMENTS FOR FILING**

(a) A married couple may make joint payments of estimated income tax even if the couple is not living together; however, the married couple may not make joint estimated tax payments if the couple is separated under a decree of divorce or of separate maintenance. The married couple may not make joint estimated tax payments if either spouse is a nonresident alien or if either spouse has a different tax year. Whether a married couple makes joint estimated tax payments or separate payments shall not affect the couple's choice of filing a joint income tax return or separate return. If the married couple makes joint payments and then the couple files separate returns, the spouses may determine how to divide the estimated tax payments between them.

(b) A taxpayer filing a short period return because of changing his or her income year shall make estimated income tax payments on the installment dates that fall within the short period and 15 days after the close of the short period that would have been due had the taxpayer not changed his or her income year. Interest on an underpayment of estimated income tax for a short period shall be computed for the period of underpayment based on the tax shown due on the short period return and computed in the same manner as it would have been computed had the taxpayer not changed his income year.

(c) An individual may elect to have his or her income tax refund applied only to estimated income tax for the following year. A return reflecting an election to apply a refund to estimated tax for the following year shall be filed by the last allowable date for making estimated tax payments for that year for the election to be valid.

(d) If an individual makes a valid election, that individual may not revoke the election after the return has been filed in order to have the amount refunded or applied in any other manner, such as an offset against any subsequently determined tax liability.

*History Note: Authority G.S. 105-163.15; 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 2006; June 1, 1993; October 1, 1991; June 1, 1990; February 1, 1988;  
Readopted Eff. May 1, 2016.*

### **SECTION .0200 – INTEREST ON UNDERPAYMENT OF ESTIMATED INCOME TAX**

#### **17 NCAC 06D .0201 GENERAL**

Interest may be due for underpayment of estimated income tax. The interest is computed separately for each payment period, therefore an individual may owe interest for an early period even if that individual later paid enough to make up the underpayment. If an individual did not pay enough tax by the due date of each of the payment periods, the individual may owe interest even if the individual is due a refund when the return is filed.

*History Note: Authority G.S. 105-163.15; 105-236(a)(9); 105-241.21; 105-262;  
Eff. February 1, 1976;  
Amended Eff. May 1, 2006; June 1, 1990; August 1, 1986; February 21, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*

#### **17 NCAC 06D .0202 THE AMOUNT OF UNDERPAYMENT (TAXABLE YEARS BEFORE 1986)**

#### **17 NCAC 06D .0203 THE PERIOD OF UNDERPAYMENT (TAXABLE YEARS BEFORE 1986)**

**17 NCAC 06D .0204      AVOIDING PENALTY (TAXABLE YEARS BEFORE 1986)**

*History Note:*      Authority G.S. 105-163.15(b); 105-163.15(c); 105-163.15(d); 105-163.18; 105-262;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982; April 12, 1981; February 21, 1979;  
Repealed Eff. June 1, 1990.

**17 NCAC 06D .0205      ESTIMATED TAX PAYMENTS (TAXABLE YEARS AFTER 1986)**

*History Note:*      Authority G.S. 105-163.15; 105-163.18; 105-262;  
Eff. August 1, 1986;  
Repealed Eff. June 1, 1990.

**17 NCAC 06D .0206      AVOIDING PENALTY**

*History Note:*      Authority G.S. 105-163.15; 105-163.18; 105-262;  
Eff. June 1, 1990;  
Amended Eff. October 1, 1991;  
Repealed Eff. June 1, 1993.

**17 NCAC 06D .0207      UNDERPAYMENTS**

(a) An underpayment is the excess of the required installment (or, if lower, the annualized income installment) for a payment period over the portion of the amount paid by the due date that is not applied to an underpayment for an earlier payment period.

(b) Payments include income tax withheld and are considered payments of estimated tax in equal installments on the required installment dates (usual four), unless the individual can prove otherwise. A payment of estimated tax is credited against unpaid installments in the order in which the installments are required to be paid.

*History Note:*      Authority G.S. 105-163.15; 105-262;  
Eff. June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

**17 NCAC 06D .0208      OVERPAYMENTS**

An overpayment for any period occurs when the withholding and estimated tax payments are more than the total of any underpayments for an earlier period plus the lesser of the required installment or the annualized income installment for the period. If there is an overpayment for a period, it shall be carried to the next period and added to the withholding and estimated tax paid for that later period to determine any underpayment or overpayment for that later period.

*History Note:*      Authority G.S. 105-163.15; 105-262;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

**17 NCAC 06D .0209      DETERMINING AN UNDERPAYMENT**

(a) No interest attributable to the underpayment of estimated tax will be due if the estimated tax payments were made on time and the payment for each period was at least as much as either the required installment or the annualized income installment for the period. Form D-422, Underpayment of Estimated Income Tax, shall be used to determine any underpayment.

(b) The required installment for any payment period is the lesser of 22.5 percent of the tax shown on the current-year return or 25 percent of the tax shown on the prior-year return (if the prior-year return covered all 12 months of the year). However, if the annualized income installment for any period is less than the required installment for the same period and the annualized income installment is used in determining the underpayment, the difference between the annualized income installment and the required installment shall be added to the required installment for the next period. If the annualized income installment for the next payment period is used, the difference between the annualized income installment for that period and the required installment (as increased) for that period shall be added to the required income installment for the following payment period.

(c) There will be no underpayment for any payment period in which the estimated tax payments, reduced by any amounts applied to underpayments in earlier periods, were paid by the due date for the period and were at least as much as the annualized income installment for the period.

*History Note:* Authority G.S. 105-163.15; 105-262;  
Eff. June 1, 1990;  
Amended Eff. September 1, 2008; June 1, 1993; October 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06D .0210 PERIOD OF UNDERPAYMENT**

(a) If a payment of estimated tax is applied to an underpayment for an earlier period, but the payment is less than the underpayment, there shall be more than one period of underpayment for the earlier period.

(b) The first period of underpayment for any payment period shall be from the day after the due date for the payment period to the date of the first applied payment. Later periods of underpayment for that payment period shall be from the day after the due date for the payment period to the date of the next applied payment or April 15 of the following year, whichever is earlier.

(c) To determine the interest for a payment period with more than one period of underpayment, interest shall be computed separately for each of the periods of underpayment using the number of days in each period of underpayment, the correct underpayment balance, and the appropriate interest rates.

*History Note:* Authority G.S. 105-163.15; 105-262;  
Eff. June 1, 1990;  
Amended Eff. May 1, 2006; June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

#### **17 NCAC 06D .0211 FARMERS AND FISHERMEN**

*History Note:* Authority G.S. 105-163.15; 105-163.18; 105-262;  
Eff. June 1, 1990;  
Repealed Eff. June 1, 1993.