

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Repealed Eff.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. 105-152; 105-155; 105-251; 105-252; 105-262;
Eff. February 1, 1976.

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Repealed Eff.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 must use the North Carolina income tax form for the year in which 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 must enter the date of the individual's death and the individual's name on the return.
- (c) On a return, a taxpayer must furnish his or her social security number and the name and social security number of his or her spouse and must indicate whether the return is filed jointly or separately.
- (d) The same filing status claimed on the Federal income tax return must be claimed on the North Carolina income tax return. However, if the taxpayer filed the Federal return as married filing jointly and either the taxpayer or their spouse is a nonresident and had no North Carolina taxable income, for tax years beginning on or after January 1, 2006, 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 must be completed and the entering of words or phrases, such as "unconstitutional" or "object - self incrimination" does not meet the requirement of completing each applicable line on the return.
- (f) The tax must be computed accurately and, in the case of a delinquent return, the penalty and interest prescribed by statute must 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, the section on Form D-400, Computation of North Carolina Taxable Income for Part-Year Residents and Nonresidents, must be completed. Credit for tax paid to another state is not 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 must 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 must be signed by the taxpayer or his or her authorized agent, and joint returns must be signed by both spouses.
- (j) Where tax has been withheld, the state copy of the Wage and Tax Statement must be attached to the return.

(k) Any additional information that will assist in the processing and auditing of a return must be indicated on the return or a worksheet or schedule attached to the return.

(l) Anyone who is paid to prepare a return must sign the return in the space provided.

History Note: Authority G.S. 28A-15-8; 105-151; 105-152; 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.

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 must attach a copy of pages 1 and 2 of the federal return to the taxpayer's North Carolina return.

History Note: Authority G.S. 105-152; 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.

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 must file Form D-410, Application for Extension for Filing Individual Income Tax Return, by the original due date of the return, and a partnership, estate, or trust must 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 applies to the remaining balance due if the tax paid by the due date of the return is less than 90 percent of the total amount of tax due. If the 90 percent rule is met, any remaining balance due must 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 (five dollars (\$5.00) minimum; 25 percent maximum) and the 10 percent late payment penalty (five dollars (\$5.00) minimum) on the remaining balance due.

(c) Individuals Outside U.S. -- An individual who is "Out of Country" on the date the return is due is 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 their main place of work is outside the United States and Puerto Rico or they are in the military service outside the United States and Puerto Rico. The time for payment of the tax is also extended; however, interest is 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, Form D-410 must 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 must 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.

17 NCAC 06B .0108 AMENDED RETURNS

North Carolina individual income tax returns may be amended by filing an amended tax return, Form D-400X. Instructions for filing the amended return are provided on the reverse side of the form.

*History Note: Authority G.S. 105-156; 105-159; 105-262;
Eff. June 1, 1982;
Amended Eff. May 1, 1984.*

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 adjust the standard deduction and personal exemption for inflation as required by the Internal Revenue Code.

*History Note: Authority G.S. 105-134.6(c); 105-262;
Eff. June 1, 1990.*

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 must complete a separate federal return and attach it to the North Carolina tax return to show how the spouse's federal taxable 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 federal taxable income. A spouse who submits a schedule must attach a copy of pages 1 and 2 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 federal taxable 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, other than medical expenses, paid from a joint account are allowable to each spouse in proportion to the spouses' adjusted gross incomes for that tax year. Deductions for medical expenses paid from a joint account are allowable to the spouse who received the medical care.

*History Note: Authority G.S. 105-152(e); 105-262;
Eff. June 1, 1990;
Amended Eff. August 1, 2002; August 1, 1998; February 1, 1991.*

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

(a) If a husband and wife who are domiciled in a community property state or country recognized as such for federal income tax purposes file separate North Carolina returns and each spouse reports one-half of the salary and wages received while domiciled in the community property state or country, each spouse is entitled to claim one-half of the credit for the income tax withheld with respect to such 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 and that they were domiciled in a community property state and as such, 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.

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

The starting point in determining North Carolina taxable income is taxable income for federal income tax purposes, subject to the additions and deductions required in G.S. 105-134.6 and the transitional adjustments required in G.S. 105-134.7 because of differences in the way State and federal law treated certain tax transactions prior to January 1, 1989. These adjustments do not apply to all individuals; however, each individual shall determine if any of the adjustments apply to his return.

History Note: Authority G.S. 105-134.1; 105-134.5; 105-134.6; 105-134.7;
Eff. June 1, 1990;
Amended Eff. June 1, 1993; October 1, 1991.

17 NCAC 06B .0115 ADDITIONS TO FEDERAL TAXABLE INCOME

The additions under G.S. 105-134.6(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. 105-134.6(c); 105-262;
Eff. June 1, 1990;
Amended Eff. May 1, 1994; June 1, 1993; October 1, 1992; October 1, 1991.

17 NCAC 06B .0116 DEDUCTIONS FROM FEDERAL TAXABLE INCOME

(a) Interest. -- The deduction for interest on obligations of the United States or its possessions provided in G.S. 105-134.6(b)(1) applies to direct obligations such as United States Savings Bonds and United States Treasury Bills. Interest earned on obligations that are merely backed or guaranteed by the United States Government do not qualify for deduction from an individual's federal taxable income. The deduction from federal taxable income does not apply to any portion of a distribution from an individual retirement account.

(b) State, Local, and Federal Retirement Plans. -- The deduction from federal taxable income provided in G.S. 105-134.6(b)(6)a applies to all of the following:

- (1) Long-term disability benefits paid under the Disability Income Plan of North Carolina. No deduction from federal taxable income is allowed for short-term disability benefits paid under the Disability Income Plan of North Carolina;
- (2) Benefits paid to federal civil service employees who become disabled prior to becoming age 60; and
- (3) Benefits received by the survivors of a member of the armed forces paid under the Retired Serviceman's Family Protection Plan or the Survivor's Benefits Plan.

For purposes of the deduction allowed in G.S. 105-134.6(b)(6)b. and c., federal means the federal government of the United States. For purposes of the deduction allowed in G.S. 105-134.6(b)(6)b. and c., state and local includes the governments of territories and possessions of the United States. The deduction from federal taxable income provided in

G.S. 105-134.6(b)(6)c includes amounts received from an individual retirement account or from an individual retirement annuity, both of which are described in Section 408 of the Internal Revenue Code. An individual is not required to have ceased employment to qualify for the deduction for distributions from an individual retirement account or an individual retirement annuity. A change in the structure of a corporate employer that causes a distribution to be paid to the employee from the employer's retirement plan does not entitle the employee to claim the deduction for retirement benefits provided in G.S. 105-134.6(b)(6)c.

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

(d) The deduction from federal taxable income provided in G.S. 105-134.6(b)(11) for severance wages does not include payments that represent compensation for past or future services. Compensation for past or future services includes payment for any of the following:

- (1) Accumulated sick leave, vacation time, or other unused benefits;
- (2) Bonuses based on job performance; and
- (3) Payments in consideration of any agreement not to compete with the employer or in consideration of a contractual or legal claim.

(e) Other Adjustments. -- The deduction from federal taxable income provided in G.S. 105-134.6(d)(2) includes repayments of items of income included in gross income in a prior year under the claim-of-right doctrine for which the taxpayer reduces his or her tax under Section 1341 of the Internal Revenue Code in the year of repayment.

*History Note: Authority G.S. 105-134.6; 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.*

17 NCAC 06B .0117 TRANSITIONAL ADJUSTMENTS

(a) The additions required by G.S. 105-134.7(a)(1) include the increase in basis by the amount of federal gift tax paid on property received as a gift and any expenditures for interest and taxes capitalized for federal income tax purposes.

(b) The deductions allowed by G.S. 105-134.7(a)(2) include the increase in basis by the amount of State gift tax paid on property received as a gift and any business expenditures that an individual elected to expense under Section 179 of the Internal Revenue Code but which were required to be capitalized for State income tax purposes.

(c) If, for a tax year beginning on or after January 1, 1989, a taxpayer has both a net economic loss carried forward from a tax year beginning before January 1, 1989, and a federal net operating loss carried back from a future year, the net operating loss is considered a business-connected deduction in determining the amount of net economic loss deducted in that year pursuant to G.S. 105-134.7(a)(4).

(d) The additions required by G.S. 105-134.7(a)(6) include capital losses, charitable contributions, passive losses, and net operating losses incurred in taxable years beginning prior to January 1, 1989, and carried over for federal income tax purposes to taxable years beginning on or after January 1, 1989.

In determining the amount of a capital loss to add back, short-term capital losses from taxable years beginning prior to January 1, 1989, must be applied before applying short-term capital losses incurred in taxable years beginning on or after January 1, 1989, and before applying long-term capital losses from any year. Long-term capital losses from taxable years beginning prior to January 1, 1989, must be applied before applying long-term capital losses incurred in taxable years beginning on or after January 1, 1989.

(e) Other adjustments required by G.S. 105-134.7(b) include the difference in the amount of contributions to an annuity recovered, a child's unearned income reported by the child's parent, reforestation expenses, and a lump sum distribution received as a result of the class action in *Simpson v. N.C. Local Government Employees' Retirement System* as follows:

- (1) An individual who recovered all or any portion of the individual's contributions to an annuity for State income tax purposes for taxable years beginning prior to January 1, 1989, but did not recover the amount for federal income tax purposes must include a ratable portion of the difference in the cost previously recovered for North Carolina purposes and the amount previously recovered for federal purposes on the North Carolina return for each year beginning on or after January 1, 1989. The ratable portion to be added to federal taxable income is determined as follows:

$$\begin{array}{r} \text{Amount recovered} \\ \text{on State return} \end{array} - \begin{array}{r} \text{Amount recovered} \\ \text{on Federal return} \end{array} = \text{Addition to Taxable Income}$$

Remaining Years Life Expectancy

If the cost recovered for federal income tax purposes for taxable years beginning prior to January 1, 1989, is greater than the cost recovered for State income tax purposes for years prior to 1989, the ratable portion to be deducted from federal taxable income is determined as follows:

$$\frac{\text{Amount recovered on Federal return} - \text{Amount recovered on State return}}{\text{Remaining Years Life Expectancy}} = \text{Deduction from Taxable Income}$$

The amount of difference in the numerator of the fractions in this Subparagraph must reflect the cost recovered during the taxpayer's period of residence in North Carolina and exclude any cost recovered during residence in another state. In the denominator, the remaining years life expectancy to be entered is the life expectancy determined for federal income tax purposes for the year the annuity started less the number of tax years the annuity was reportable for federal tax purposes prior to January 1, 1989. The amount of the transitional adjustment computed for the tax year 1989 must remain the same for each year of the individual's remaining life expectancy.

This transitional adjustment does not apply to retirement annuities that were exempt under prior State law, including retirement annuities from the North Carolina Teachers' and State Employees' Retirement System and the North Carolina Local Governmental Employees' Retirement System. Also, this transitional adjustment does not apply to retirement annuities that were received by former teachers and state employees of other states and were fully exempt from North Carolina income tax prior to January 1, 1989, because the other state had no income tax law or practiced reciprocity with North Carolina with respect to taxing these benefits.

This transitional adjustment applies to retirement annuities that were received by former teachers and state employees of other states and were not fully exempt because those states practiced no reciprocity or only partial reciprocity with North Carolina with respect to these benefits for taxable years beginning prior to January 1, 1989. The amount of cost recovered on the North Carolina return prior to January 1, 1989, to be used in the formula for computing the addition to federal taxable income must be computed without considering any benefits that were excluded as the result of partial reciprocity. (This adjustment applies to a retirement annuity from any federal retirement program. The adjustment is determined as of January 1, 1989, but applies only to tax years beginning on or after January 1, 1992.)

- (2) A parent electing to report a child's unearned income for federal tax purposes must add back to the parent's federal taxable income the amount of the child's unearned income in excess of five hundred dollars (\$500.00), with the limitation that the amount added back is not to exceed the amount of the child's unearned income that is not taxed at the parent's marginal rate for federal tax purposes.
- (3) A taxpayer who elects to claim reforestation expenses currently on the taxpayer's North Carolina tax return for tax years beginning prior to January 1, 1989, must add to federal taxable income the amount deducted as amortization expenses each year for federal tax purposes. A taxpayer who amortized these expenses on the taxpayer's North Carolina return for tax years beginning prior to January 1, 1989, may continue to amortize by deducting the allowable amortization expenses each year on the North Carolina return; however, federal taxable income must be increased by the amortization expenses claimed each year for federal tax purposes.
- (4) As a result of the class action in *Simpson v. N.C. Local Government Employees' Retirement System*, certain members of the retirement system received a lump sum distribution in 1991 representing disability compensation benefits that should have been paid in prior years. The portion of the distribution that is attributable to tax years prior to 1989 shall be deducted from federal taxable income on the 1991 return. The portion of the proceeds attributable to 1989 and 1990 is taxable in 1991 to the extent it exceeds the four thousand dollar (\$4,000) retirement exclusion provided under G.S. 105-134.6(b)(6)a.

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.

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

The Department of Revenue participates in the Federal/State Electronic Filing Program and accepts individual income tax returns filed under that program.

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.

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 .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

- (a) A tax credit is allowable for the employment-related expenses for child and dependent care. The credit is calculated on the net qualified federal employment-related expenses after reduction for any employer-paid dependent care assistance that is excluded from federal gross income. In calculating the credit, expenses incurred in the previous tax year but not paid until the current tax year shall be included.
- (b) For purposes of determining the credit allowed under G.S. 105-151.11, individuals who are not able to dress, clean, or feed themselves because of a physical or mental condition are not able to care for themselves. Individuals with mental conditions who require constant attention to prevent them from injuring themselves or others are considered to be unable to care for themselves.
- (c) For a dependent who becomes age seven during the taxable year and who is not physically or mentally incapable of caring for himself or herself, the tax credit for employment-related expenses incurred prior to the dependent's seventh birthday shall be calculated using the percentages in the column labeled Percentage B under G.S. 105-151.11(a1). The tax credit for employment-related expenses incurred after the dependent becomes age seven shall be calculated using the percentages in the column labeled Percentage A under G.S. 105-151.11(a1).
- (d) A nonresident or part-year resident is allowed this tax credit in proportion to the amount of federal taxable income, as adjusted, that is taxable by North Carolina.

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.

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. 105-151; 105-262;*
Eff. June 1, 1990;
Amended Eff. June 1, 1993.

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

A taxpayer may claim the tax credit for a permanently and totally disabled spouse although that spouse may also have claimed the tax credit for being permanently and totally disabled.

History Note: Authority G.S. 105-151.18; 105-262;
Eff. February 1, 1991;
Amended Eff. June 1, 1993.

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

(a) To claim the tax credit for use of North Carolina ports, a taxpayer must obtain certification from the State Ports Authority on Form CD-414C as to the amount of qualifying charges during the three year period; must complete the worksheet for Computation of Income Tax Credit For Use Of N.C. Ports on Form CD-414C; and must include the completed Form CD-414C with his income tax return.

(b) The amount of credit carried over from prior years is added to the allowable credit for the current year before the fifty percent (50%) of income tax limitation. In any year in which the credit is limited because of the fifty percent (50%) of income tax limitation, the credits carried over from prior years are used before the allowable credit for the current year.

(c) For an S corporation, the credit to be passed through to its shareholders cannot exceed fifty percent (50%) of the total tax due computed by multiplying each shareholder's pro rata share of the corporation's income attributable to the State by the tax rate for single individuals. For a partnership, the credit to be passed through to its partners cannot exceed fifty percent (50%) of the total tax due computed by multiplying each partner's distributive share of the partnership's income

attributable to the State by the tax rate for single individuals. The pro rata share of the credit claimed by an individual shareholder or partner cannot exceed the amount of tax on the individual income tax return. Any unused pass-through credit may be carried over for the succeeding five years.

(d) In making the averaging computation required, a taxable year of less than twelve (12) months shall be included as if the period is for a full year. No annualization or other projection type adjustment is permitted.

History Note: Authority G.S. 105-131.8; 105-151.22; 105-262;
Eff. January 4, 1993.

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

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

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

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

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.

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

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

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

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

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

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

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 and failure to pay penalties, if due, can be applied for the same month. If a return is filed late without payment of the tax shown due, both the failure to file and failure to pay penalties will 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. The failure to pay penalty is assessed when the tax paid by the original due date of the return is less than 90 percent of the total amount of tax due. If the 90 percent rule is met, any remaining balance due must 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 from the original due date to the date paid.
- (c) Amended Return. -- The failure to pay penalty does 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. -- Effective January 1, 2008, the failure to pay penalty applies to a proposed assessment of additional tax due that is not paid within 45 days of the assessment.

History Note: Authority G.S. 105-152(e); 105-155; 105-157; 105-160.6; 105-160.7; 105-236; 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.

17 NCAC 06B .3204 NEGLIGENCE PENALTIES

(a) When the federal accuracy penalty has been assessed for federal income tax purposes under Section 6662 of the Internal Revenue Code, the 10 percent negligence penalty will be assessed for state income tax purposes unless the 25 percent negligence penalty applies.

(b) There is no minimum dollar amount of negligence penalty.

History Note: Authority G.S. 105-236(5); 105-236(6); 105-262;
Eff. April 1, 1978;
Amended Eff. April 1, 1999; June 1, 1993.

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.

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.

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.

17 NCAC 06B .3503 PARTNERSHIP RETURNS

(a) When Required -- A North Carolina partnership return, Form D-403, must be filed by every partnership doing business in North Carolina if a federal partnership return was required to be filed. The partnership return must be filed on or before April 15 if on a calendar year basis and on or before the 15th day of the fourth month following the end of the fiscal year if on a fiscal year basis. For individual income tax purposes, the term "business carried on in this State" means the operation of any activity within North Carolina regularly, continuously, and systematically for the purpose of income or profit. A sporadic activity, a hobby, or an amusement diversion does not come within the definition of a business carried on in this State. Income from an intangible source, including gain realized from the sale of intangible property received in the course of a business carried on in this State so as to have a taxable situs here (including income in the distributive share of partnership income, whether distributed or not) is included in the numerator of the fraction used in determining the portion of federal taxable income that is taxable to North Carolina by a nonresident. The return must include the names and addresses of the individuals entitled to share in the net income of the partnership and must be signed by one of the partners and the individual preparing the return.

(b) NC K-1 -- A partnership must provide a completed Schedule NC K-1, or similar schedule, to each person who was a partner in the partnership at any time during the year reflecting that partner's share of the partnership's income, adjustments, tax credits, and tax paid by the manager of the partnership. The schedule must 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 must be provided each taxpayer.

(c) Investment Partnerships -- A partnership whose only activity is as an investment partnership is not considered to be doing business in North Carolina. An investment partnership is 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 or 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 but are not limited to providing services or products to customers and holding real property for appreciation and income. An investment partnership is not 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); 105-262;
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.

- 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, such treatment is only for purposes of determining its gross income and deductible business expenses. For other tax purposes, such guaranteed payments are treated as a partner's distributive share of ordinary income.
- (b) Deductions from federal taxable 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. These types of payments are 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 partners and paid the tax due. A nonresident partner may file an individual income tax return and claim credit for the tax paid by the manager of the partnership if the payment is properly identified on the individual income tax return.
- (d) A partnership's business activities are not segregated if it does not employ a method of accounting that clearly reflects the income or loss of its separate activities. A partnership must allocate to North Carolina the income derived from its business activities in North Carolina that are segregated from its other business activities. Income derived from a partnership's business activities outside of North Carolina that are segregated from its other business activities are not includable in determining the tax due for nonresident partners. This allocation of income does not affect the reporting of partnership income by the resident partner because he is taxed on his share of the net income of the partnership whether or not any portion of it is attributable to another state or country.

History Note: *Authority G.S. 105-134.5(d); 105-154; 105-262;*
Eff. February 1, 1976;
Amended Eff. May 1, 1994; June 1, 1993; February 3, 1992; October 1, 1991.

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.

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. 105-134.5; 105-152; 105-154; 105-262;
Eff. July 1, 1991;
Amended Eff. August 1, 2003; June 1, 1993.

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. 105-134.5; 105-154; 105-262;
Eff. October 1, 1991.

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

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 such income are deductible by the partnership and net interest income after expenses is reflected in the partner's pro rata share of the income of the partnership. For interest income subject to federal income tax, the partner's federal gross income reflects the net interest income after expenses incurred in earning the income. Interest income not subject to federal income tax is not reflected in the partner's federal taxable income. In these cases, a partner must adjust his federal taxable income as required by G.S. 105-134.6(b) or G.S. 105-134.6(c), for the net amount of interest attributable to the partnership.

History Note: Authority G.S. 105-134.6(b); 105-134.6(c); 105-154; 105-262;
Eff. February 3, 1992.

SECTION .3600 - LIFE ESTATE AND REMAINDER INTEREST

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

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; 105-151; 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.

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 fiduciary shall be the starting point for preparing a North Carolina Income Tax Return for Estates and Trusts, Form D-407.

(b) The fiduciary shall file an income tax return for the estate or trust for which he acts if he 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 which 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, that fact shall be noted on the first page of the return and the name used in the prior year indicated.

History Note: Authority G.S. 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.

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

(a) The tax rate for estates and trusts is the same as the rates for single individuals.

(b) There is no provision in the income tax statutes to allow installment payment of income tax due on returns filed for estates or trusts. The tax due on a fiduciary return is payable in full by the due date of the return.

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.

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 must be apportioned between the estate or trust and the beneficiaries based on the distributions of income made during the taxable year. Unless the trust instrument or will that created the estate or trust specifically provides for the distribution of certain classes of income to different beneficiaries, the apportionment of additions and deductions to the beneficiaries is determined on the basis that each beneficiary's share of the "income for regular tax purposes" from Schedule K-1, Federal Form 1041 relates to "adjusted total income" from 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 must be apportioned to the beneficiary 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 "income for regular tax purposes" on Federal Schedule K-1 must be adjusted for distributions to the beneficiary which are not reflected in "income for regular tax purposes." The "adjusted total income" on Federal Form 1041 must 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 are not included in adjusted total income; and
- (3) by any deduction treated differently for State and federal tax purposes that adjust federal taxable income pursuant to G.S. 105-134.6 and G.S. 105-134.7.

History Note: Authority G.S. 105-134.5; 105-134.6; 105-134.7; 105-160.2; 105-160.5; 105-262;
Eff. June 1, 1990;

Amended Eff. June 1, 1993.

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. 105-134.5; 105-160.2; 105-262;
Eff. June 1, 1990;
Amended Eff. February 1, 2005; June 1, 1993; October 1, 1991.*

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 MISCELLANEOUS RULES

(a) When a payment is received by the Department of Revenue for less than the correct tax, penalty, and interest due under the law and the facts, 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.

(b) Tenancy by the Entirety: When filing separate returns a determination must be made as to that portion of the income or loss from real property that must be reported by each spouse. When real property conveyed jointly in the name of husband and wife 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 losses in a different manner.

(c) Effective for sales on or after January 1, 1992, every individual, fiduciary, partnership, corporation, or unit of government buying real property located in North Carolina from a nonresident individual, partnership, estate or trust is required to complete Form NC-1099NRS, Sale of Real Property by Nonresidents, reporting the seller's name, address, and social security number, or federal employer identification number; the location of the property; the date of closing; and the gross sales price of the real property and its associated tangible personal property.

Within 15 days of the closing date of the sale, the buyer must 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; 105-262;
Eff. June 1, 1990;
Amended Eff. June 1, 1993; October 1, 1991; February 1, 1991.*

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. 105-134.1(12); 105-134.5; 105-262;
 Eff. June 1, 1990;
 Amended Eff. August 1, 2002; July 1, 1999; June 1, 1993.

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. 105-134.5; 105-262;
 Eff. June 1, 1990;
 Amended Eff. May 1, 2006; June 1, 1993.

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. 105-134.5; 105-262;
 Eff. June 1, 1990;
 Amended Eff. June 1, 1993.

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

(a) Nonresidents and part-year residents are required to prorate their federal taxable income to determine the portion that is subject to North Carolina tax.

(b) For tax years beginning on or after January 1, 2006, 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 return, they cannot choose 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 must calculate the individual's federal taxable 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 federal taxable income was determined. The individual filing the separate federal return must report only the individual's income, exemptions, 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 federal taxable income. An individual who

submits a schedule must 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 under G.S. 105-151.

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

*History Note: Authority G.S. 105-134.5; 105-151; 105-152; 105-262;
Eff. June 1, 1990;
Amended Eff. September 1, 2008; July 1, 1999; August 1, 1998; June 1, 1993.*

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

(a) Determination of North Carolina source income.

- (1) The North Carolina source income of a nonresident individual who is a member of a professional athletic team shall be determined by multiplying such individual's 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 is the total number of duty days spent both within and without North Carolina during the taxable year.
- (2) Travel days that do not involve either a game, practice, team meeting, promotional caravan or other similar team event are not considered duty days spent in North Carolina. However, such travel days shall be considered duty days spent within and without North Carolina.
- (3) Definitions. For purposes of this Rule:
 - (A) The term "professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer or hockey team.
 - (B) 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, but is not limited to, coaches, managers and trainers.
 - (C) 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 which does not fall within the aforementioned period. Such 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 such person joins the team, and for any person who leaves a team shall end on the day such person leaves the team. Where a person switches teams during the taxable year, a separate duty day calculation shall be made for the period such 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 such 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 presumed not to be duty days spent in North Carolina. However, such days are considered to be included in total duty days spent within and without North Carolina.
 - (D) 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:
 - (i) 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
 - (ii) for an event during the taxable year which occurs on a date which does not fall within the aforementioned period such as participation in instructional leagues, the "Pro Bowl" or promotional caravans.

Such compensation shall include, but is not limited to, salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. Such 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.

(E) For purposes of Subparagraph (a)(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:

- (i) 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
- (ii) 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.

(4) Where the method provided in this rule does not fairly and equitably apportion and allocate the compensation of a nonresident member of a professional athletic team for services rendered in North Carolina, the Secretary of Revenue may require such member of a professional athletic team to apportion and allocate such compensation under another method prescribed by the Secretary as long as the prescribed method results in a fair and equitable apportionment and allocation. A nonresident member of a professional athletic team may submit a proposal for an alternative method to apportion and allocate such compensation, demonstrating that the method provided under this section does not fairly and equitably apportion and allocate such compensation. If approved, the proposed method must be fully explained in the North Carolina income tax return filed by the nonresident member.

(b) 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 highest rate for individuals with no allowance for any withholding exemptions 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.
- (3) A professional athletic team must include with the annual report required by G.S. 105-163.7 a list of all employees who received North Carolina source income during the year. The list must include the following information:
 - (A) The name, social security number, and mailing address of each employee;
 - (B) Whether the employee is a resident of this State;
 - (C) The total amount of income;
 - (D) The amount of North Carolina source income;
 - (E) The total amount deducted and withheld.

(c) 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 prescribed in Paragraph (b) of this Rule. The individual may file an individual income tax return and claim credit for the tax withheld.
- (2) The individual is liable for any additional tax, penalty, or interest due if the professional athletic team does not properly determine the individual's North Carolina source income or properly withhold tax from that income.

History Note: Authority G.S. 105-134.5; 105-163.2; 105-163.3; 105-163.6; 105-163.7; 105-262;
Eff. November 1, 1995;
Amended Eff. August 1, 2002.

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 takes into account only his share of the S corporation's income attributable to North Carolina in the numerator of the fraction in determining that portion of federal taxable 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 is determined under G.S. 105-130.4.
- (b) A nonresident shareholder in an S corporation may claim the proportionate share of the tax paid on his behalf by the S corporation to North Carolina on his share of the S corporation income.
- (c) A nonresident shareholder in an S corporation is not required to file a North Carolina individual income tax return when the only income from North Carolina sources is his share of S corporation income and the S corporation pays the tax on his behalf.

History Note: Authority G.S. 105-130.4; 105-131.1; 105-131.5; 105-131.7; 105-134.5(d); 105-262;
Eff. June 1, 1990;
Amended Eff. June 1, 1993; October 1, 1991.

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.

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 transitional 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 is not 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 is adjusted for his 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 is 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 is increased by his pro rata share of the corporation's income adjusted pursuant to G.S. 105-131.2 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 is decreased by distributions to the extent deemed a return of basis; a pro rata share of the losses of the corporations as adjusted; nondeductible expenses of the corporation; and 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.

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.

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 distribution received from a regulated investment company by a shareholder who was a North Carolina resident which was not included in his federal gross income because it was determined to be an "exempt interest dividend" for federal income tax purposes, must be added to federal taxable income to the extent it represents interest on obligations of states other than North Carolina and their political subdivisions.

History Note: *Authority G.S. 105-134.5; 105-262;*
Eff. June 1, 1990;
Amended Eff. June 1, 1993.

17 NCAC 06B .4102 EXEMPT INTEREST DIVIDENDS

(a) A mutual fund is qualified to pay exempt interest dividends only if at the close of each quarter of its taxable year at least 50 percent of the value of the total assets of the company consist of state and local bonds, the interest from which is exempt from Federal income tax and certain other obligations on which the interest is exempt from Federal income tax under provisions of Federal law other than the Internal Revenue Code, as those provisions of the law were in effect on January 6, 1983. A mutual fund paying exempt interest dividends to its shareholders must send its shareholders a statement within 60 days after the close of the taxable year showing the amount of exempt interest dividends. The exempt interest dividends are not required to be included in Federal taxable income.

(b) Since interest from states other than North Carolina and their political subdivisions is required to be added to Federal taxable income in calculating North Carolina taxable income, the exempt interest dividends received from mutual funds must be added to Federal taxable income to the extent such dividends do not represent interest from bonds issued by North Carolina and political subdivisions of North Carolina, Guam, Puerto Rico, and the United States Virgin Islands, including the governments thereof and their agencies, instrumentalities and authorities, provided the mutual fund furnishes a supporting statement to the taxpayer. In the absence of such statement, the total amount designated as exempt interest must be added to Federal taxable income in computing the taxpayer's North Carolina taxable income.

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

17 NCAC 06B .4103 ORDINARY DIVIDENDS

(a) Interest received in the form of dividends from regulated investment companies is deductible from an individual's federal taxable income to the extent the distributions represent interest on direct obligations of the United States Government. The fund must furnish the taxpayer a statement verifying the amount of interest paid to him which accrued from direct obligations of the United States Government. Interest earned on obligations that are merely backed or guaranteed by the United States Government will not qualify for the deduction. Further, this deduction does not apply to distributions which 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 statement to support the deduction must specify the amount received by the taxpayer which represents interests on direct obligations of the United States Government.

(c) The procedure in this Rule will also apply with respect to interest on obligations of the State of North Carolina and any of its political subdivisions to the extent included in federal taxable income.

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

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.