

2006

North Carolina S Corporation Tax Return Instructions

Important Legislative Changes for 2006

1. **S Corporation Adjustments.** G.S. 105-131.2 was amended to subject a shareholder only to the adjustments under individual income tax law instead of being subject to adjustments under either the individual income tax law or the corporate income tax law depending on the shareholder's residency status or whether the income is attributable to this State.
2. **Limited Liability Companies (LLCs) Taxed as Corporations.** G.S. 105.114 was amended to expand the definition of "corporation" for franchise tax purposes to include LLCs that elect to be taxed as corporations for federal income tax purposes. As amended, these LLCs are now subject to the general business franchise tax imposed under G.S. 105-122. LLCs subject to franchise tax are allowed a tax credit under G.S. 105.122.1 equal to the difference between the annual report fee on LLCs and the annual report fee on corporations.
3. **Royalty Reporting Option.** G.S. 105-130.7A was enacted in 2001 to address a problem with the lack of compliance by intangible holding companies with the requirement to file returns and pay tax on royalty income derived from trademarks used in North Carolina. The statute provided a reporting option for taxpayers that received royalty payments from related members for the use of trademarks in North Carolina and that were required to file North Carolina franchise and income tax returns. The reporting option, as originally enacted was only for royalty payments for the use of trademarks. As amended, this section was expanded to apply to royalty payments from copyrights and patents in addition to trademarks.
4. **Due Dates for Returns Filed by Foreign Corporations.** G.S. 105-130.17(g) was enacted to conform the filing date for foreign corporations to the date those corporations are required to file federal income tax returns. Under Code section 6072(c) foreign corporations are required to file their income tax returns by the fifteenth day of the sixth month instead of by the fifteenth day of the third month.
5. **Reporting Federal Corrections.** G.S. 105-130.20 was amended to reduce the period for reporting federal corrections or determinations from two years to six months.
6. **Article 3A Tax Incentives for New and Expanding Businesses.** G.S. 105-129.3B was added to define an agrarian growth zone and to set out the procedure for designating an area of land as an agrarian growth zone. The purpose of these zones are to revitalize counties by making enhancements to Article 3A tax credits that are available to development zones also available to agrarian growth zones.
7. **New Tax Credits.** New tax credits were enacted for revitalizing historic mill facilities (G.S. 105-129.71) and for recycling oyster shells (G.S. 105-130.48). *(For more information concerning these credits, see the "2006 Tax Law Changes" available on the Department's website.)*

General Information

The information contained in this booklet is to be used as a guide in the preparation of the North Carolina S Corporation tax return and is not intended to cover all provisions of the law.

Corporations Required to File

Every S corporation doing business in North Carolina and every inactive S corporation chartered or domesticated here must file an annual franchise and income tax return using the name

reflected on the corporate charter if incorporated in this State, or on the certificate of authority if incorporated outside this State. A franchise tax is imposed on corporations for the privilege of doing business in this State even though the activities are exempt from income tax under P.L. 86-272. For a corporation that is subject to both income tax and franchise tax, its apportionment factor is the same for both taxes. For a corporation that is subject to franchise tax but not income tax, its apportionment factor for computing the amount of franchise tax due is the same factor that would be used if its activities that are protected by P.L. 86-272 were subject to income tax in this State.

New S Corporations

A new S corporation (newly incorporated, newly domesticated out-of-state corporation, or other corporation commencing business in the State) is required to file a tax return with this Department within seventy-five (75) days following the close of its first income year of twelve (12) months or less. The taxable year for a new corporation in this State is presumed to end the calendar month preceding the month of incorporation unless otherwise established by the filing of the required return indicating the taxable year adopted. In no case may the first taxable year exceed 12 months unless it is clearly shown that the corporation has adopted a method of accounting using the 52-53 week reporting period. A tax return is due annually so long as the corporation remains incorporated, domesticated, or continues to do business in this State.

Election to be S Corporation

There is no separate S election for North Carolina income tax purposes. There is no provision to elect a different filing method for State income tax purposes.

Termination of S Election

The S corporation election will terminate for North Carolina purposes at the same time and for the same taxable period the termination is effective for federal tax purposes.

Tax Rates

The franchise tax rate is \$1.50 per \$1,000.00 of capital stock, surplus and undivided profits or other alternative tax base. The minimum franchise tax is \$35.00 with no maximum except for qualified holding companies. The corporate income tax rate for composite filers is based on the current individual income tax rates for single filers.

Estimated Income Tax

Estimated income tax payments are not required on behalf of nonresident shareholders filing a composite tax return; however, if the S corporation makes any prepayments of income tax for nonresidents, the S corporation must claim these prepayments on Schedule B, Line 26b.

When and Where to File

The S corporation tax return is due on the 15th day of the third month following the close of the income year. **Mail returns to:**

North Carolina Department of Revenue
P.O. Box 25000
Raleigh, NC, 27640-0530

Extensions

An extension of time to file the franchise and income tax return may be granted for seven (7) months if the extension application is received

timely. Without a valid extension, a return filed after the statutory due date will be delinquent and subject to interest and all applicable penalties provided by law. **To receive an extension, taxpayers must file Form CD-419, Application for Extension, by the original due date of the return.**

You can now apply for an extension and pay your tax online. Go to the Department's website, click on "Electronic Services/ Businesses".



A properly filed federal extension does not constitute a North Carolina extension.

Computer Generated Substitute Forms

A corporation may file its North Carolina Franchise and Corporate Income tax return on computer generated tax forms approved by the Department. The Department's website includes a list of software developers who have received approval. Returns that can not be processed by the Department's imaging and scanning equipment **will be returned to the taxpayer** with instructions to file on an acceptable form.

Where to Get Forms

In an effort to save the cost of printing and mailing tax booklets, the Department no longer mails franchise and corporate income tax forms to taxpayers. North Carolina tax forms are available from the Department or by going to the Department's website and clicking on "Tax Forms". The website offers forms that can be downloaded or filled in online and printed. **Forms can also be obtained by calling the Department's toll free forms request line at 1-877-252-3052.**

Specific Instructions for Filing Form CD-401S

Period Covered

File the 2006 return for calendar year 2006 and fiscal years that begin in 2006. You must use the same taxable period on your North Carolina return as on your federal return.

Note: The 2006 Form CD-401S may also be used if:

- The corporation has a tax year of less than 12 months that **begins** in 2006. **If the corporation's tax year is less than 12 months, fill in the appropriate circle at the top of the form.**
- The 2007 Form CD-401S is not available at the time the corporation is required to file its return.

Important. Returns submitted to the Department that do not meet the specified criteria **will be returned to the taxpayer** with instructions to refile the return on an acceptable form.

Demographic and Other Taxpayer Information

Name, Address, and Identification Numbers. Print or type the corporation's true legal name (as set forth in the corporate charter), address, federal identification number, and North Carolina Secretary of State number on the appropriate lines. Include in this section the corporation's primary NAICS code as determined by the North Carolina Employment Security Commission. *(For further information regarding the NAICS code, see the North American Industry Classification System as published by the Federal Office of Management and Budget.)*

If a change in address occurs after the return is filed, use Form NC-AC, Business Address Correction, to notify the Department of the new address.

Gross Receipts/Sales and Total Assets. Enter the corporation's gross receipts or sales from all business operations for the tax year. Also enter the corporation's total assets **(as determined by the accounting method regularly used in keeping the corporation's books and records)** at the end of the tax year.

Qualified Subchapter S Subsidiaries (QSSS). For corporate income tax purposes, North Carolina follows the federal classification of entities under the federal check-the-box regulations. If the corporation meets these qualifications, fill in the appropriate circle. **Qualified Subchapter S Subsidiaries must file separate franchise tax returns (See CTAM-97-13).**

Federal Schedule M-3. All corporations with total assets of \$10 million or more on the last day of the tax year must complete Federal Schedule M-3 instead of Federal Schedule M-1. Corporations filing Federal Schedule M-3 must attach a copy of the completed schedule to the North Carolina corporate income tax return. **If the corporation has attached Federal Schedule M-3 to Form CD-401S, fill in the appropriate circle.**

Important. For North Carolina income tax purposes, taxpayers that are members of a U.S. consolidated tax group must complete Federal Schedule M-3 separately in order to accurately reflect each member's activity.

Escheatable (Abandoned or Unclaimed) Property. Every corporation holding property of North Carolina residents that is unclaimed and abandoned under General Statutes Chapter 116B must certify the holding of the escheatable property on its income tax return by filling in the appropriate circle. For questions about escheatable property, call (919) 508-5979 or write to:

**Escheat Officer, Department of State Treasurer, Albemarle Building,
325 N. Salisbury Street
Raleigh, North Carolina 27603**

Initial Return. If this is the corporation's first return in North Carolina, fill in the appropriate circle.

Final Return. If the corporation ceases to exist or leaves North Carolina during the tax year, fill in the appropriate circle. Since franchise taxes are paid in advance or at the beginning of the income year, corporations are not subject to franchise tax after the end of the income year in which articles of dissolution or withdrawal are filed with the Secretary of State unless they engage in business activities not reasonably incidental to winding up their affairs. Although the final income tax return must be filed on a combination franchise and income tax return form, the schedules relating to franchise tax should be disregarded. **This applies, however, only to those corporations officially filing articles of dissolution or withdrawal with the Secretary of State of North Carolina.**

Amended Return. If filing an amended return, fill in the appropriate circle. A complete explanation as to the reason(s) for filing an amended return, including specific schedule and line number references, must be included on Schedule J of the return. If any change is made to corporate net income by the Internal Revenue Service, taxpayers are required to file an amended North Carolina return within six (6) months after being notified of the correction or final determination. A penalty is imposed for failure to comply with this filing requirement.

NC-478. Corporations claiming a credit limited by statute to 50% of tax must complete Form NC-478, Summary of Tax Credits Limited to 50% of Tax, and place it on the front of the completed Form CD-401S. **If the corporation has attached Form NC-478 to Form CD-401S, fill in the appropriate circle.**

CD-479 (Annual Report). All domestic corporations and foreign corporations authorized to transact business in North Carolina except for insurance companies, limited liability companies, nonprofit corporations, professional corporations, and professional associations must, on an annual basis, file an annual report and remit a twenty dollar (\$20.00) fee. **Taxpayers have the option of either filing the annual report in paper form with the Department of Revenue or in electronic form online with the Secretary of State.**

If the corporation elects to file the annual report in paper form with the Department of Revenue, Form CD-479 must be completed in its entirety and placed on **the front page** of the completed tax return. **The**

circle labeled “CD-479 is attached” located at the top of the tax return must also be filled in. The \$20.00 fee must be included in the computation of the corporation’s income tax due **only** if the corporation elects to file the report with the Department of Revenue. **Form CD-479 can be obtained from the Department’s website or by calling the Department’s form request line.**

If the corporation elects to file the annual report in an electronic format online with the Secretary of State, go to the Secretary of State’s website, www.sosnc.com for details. **The \$20.00 fee must be paid online using one of the payment options offered by the Secretary of State. The Department strongly encourages taxpayers to file the annual report electronically with the Secretary of State.**

Limited Liability Company (LLC) Taxed as Corporation. Effective for taxable years beginning on or after January 1, 2007 a limited liability company (LLC) that elects to be taxed as a corporation for federal income tax purposes must now compute and pay general business franchise tax. **If the limited liability company is classified as a corporation for federal income tax purposes, fill in the appropriate circle. (For more information see the “Important Legislative Changes for 2006.”)**

Rounding Off to Whole Dollars

Corporations must round the amounts on the return and accompanying schedules to the nearest whole dollar. Taxpayers should drop any amount less than 50 cents and increase any amount of 50 cents or more to the next whole dollar.

Computation Of Franchise Tax - Schedule A

Lines 1 through 5 - Tax Bases

Franchise tax is computed by applying the tax rate of \$1.50 per \$1,000.00, **minimum \$35.00**, to the largest of the following three bases:

- (1) Capital stock, surplus, and undivided profits (Schedule C)
- (2) Investment in North Carolina tangible property (Schedule D)
- (3) Appraised value of North Carolina tangible property (Schedule E)

Inactive Corporations. A corporation that is inactive and without assets is subject annually to a minimum franchise tax of \$35. A return containing a statement of the status of the corporation is required to be filed. **Failure to file this return and pay the minimum tax will result in suspension of the articles of incorporation or certificate of authority.** Any corporation that intends to dissolve or withdraw through suspension for nonpayment of franchise tax should indicate its intention in writing to the Department.

Capital Stock, Surplus, and Undivided Profits. Enter the amount of capital stock, surplus, and undivided profits from the book balance sheet as of the end of the tax year. Before making this entry, corporations must complete Schedule C of Form CD-401S (See *instructions on page 7.*)

Qualified Holding Companies. Franchise tax payable by a qualified holding company on its capital stock and surplus tax base is limited to an amount not to exceed \$75,000. There is no limitation on the amount of franchise tax payable where the alternative tax bases of investment in tangible property or appraised value of property apply. **Important. If the corporation qualifies as a holding company for franchise tax purposes, enter the amount of capital stock on Line 1 and fill in the “Holding Company Exception” circle.**

Investment in North Carolina Tangible Property. Enter the amount of actual investment in North Carolina tangible property from the book balance sheet as of the end of the tax year. Before making this entry, corporations must complete Schedule D of Form CD-401S (See *instructions on page 8.*)

Appraised Value of North Carolina Tangible Property. Multiply the appraised ad valorem tax value of all tangible property located in N.C. by 55%. Before making this entry, corporations must complete Schedule E of Form CD-401S (See *instructions on page 8.*)

Line 6 - Application for Franchise Tax Extension

If the corporation filed an application for franchise tax extension, Form CD-419, enter the amount of **franchise tax paid** with the extension on Line 6. (See *Form CD-419, Line 9.*)

Line 7 - Tax Credits

To claim a franchise tax credit on Line 7, corporations must complete Form CD-425, Corporate Tax Credit Summary, and file it with the tax return. Taxpayers claiming a credit limited by statute to 50% of tax must also complete Form NC-478, Summary of Tax Credits Limited to 50% of Tax, and place it on the front of the completed tax return. **Forms for many of these credits, as well as the CD-425 and NC-478, are available from the Department’s website.**

The following are some of the more utilized franchise tax credits for corporations:

- Short Period Franchise Tax Credit
- Annual Report Fee Tax Credit (**New: see “2006 Legislative Changes”**)
- Machinery & Equipment Investment Tax Credit
- Job Creation Tax Credit
- Research and Development Tax Credit
- Worker Training Tax Credit
- Central Office or Aircraft Facility Property Tax Credit
- Investing in Renewable Energy Property Tax Credit
- Low-Income Housing Tax Credit
- Credit for Major Computer Facilities

(For specific information regarding each of these credits, refer to the *Franchise Tax and Corporate Income Tax Rules and Bulletins.*)

Failure to substantiate a tax credit may result in the disallowance of that credit.

Mergers. Since franchise tax is prepaid, a special computation is sometimes required to prevent a duplication of tax when two or more corporations with different income years merge or otherwise transfer the entire assets from one corporation to the other. (For specific information and the procedure for making this computation, refer to the *Franchise Tax and Corporate Income Tax Rules and Bulletins.*)

Lines 8 and 9 - Franchise Tax Due / Overpaid

Subtract Lines 6 and 7 from Line 5. If the total of Line 6 plus 7 is less than Line 5, **additional franchise tax is due.** Enter the amount of additional tax due on Line 8 and on Page 2, Line 30. If the total of 6 plus 7 is more than Line 5, **franchise tax is overpaid.** Enter the amount of overpayment on Line 9 and on Page 2, Line 30. **Fill in the circle located next to Line 30 to indicate the amount is overpaid.**

(Overpaid franchise tax can offset underpaid income tax in the same tax year and vice versa. See “Tax Due or Overpayment” section, on page 7 for line-by-line instructions.)

Computation of Income Tax - Schedule B

Line 10 - Shareholders’ Shares of Corporation Income (Loss)

Enter the total amount of income or loss for the S corporation on Line 10. Before making this entry, corporations must complete Schedules G and H of Form CD-401S. (See instructions on page 8.) **If the amount on Line 10 is negative, enter the amount and fill in the circle located next to Line 10 to indicate the amount is negative. Do not use brackets or other symbols to indicate a negative number.**

Line 11 - Adjustments to Federal Taxable Income

Taxpayers must make certain adjustments to federal taxable income in arriving at North Carolina taxable income. Before making this entry, corporations must complete Schedule I of Form CD-401S. (See *instructions on page 8.*) **If the amount on Line 11 is negative, enter the amount and fill in the circle located next to Line 11 to indicate the amount is negative.**

Line 13 - Nonapportionable Income

When a corporation has income from sources within North Carolina as well as sources outside North Carolina a determination of apportionable and nonapportionable income must be made. If the corporation's business is conducted entirely within North Carolina, enter zero on Line 13. If the business is both within and outside of North Carolina, enter the total amount of nonapportionable income on Line 13. Before making this entry, corporations must complete Schedule N of Form CD-401S. (See *instructions on page 9*.) **If the amount on Line 13 is negative, enter the amount and fill in the circle located next to Line 13 to indicate the amount is negative.**

Line 14 - Apportionable Income

All income apportionable under the U.S. Constitution is apportioned to North Carolina and to other states based on the apportionment factor. **If the amount on Line 14 is negative, enter the amount and fill in the circle located next to Line 14 to indicate the amount is negative.**

Line 15 - Apportionment Factor

Enter the apportionment factor percentage as calculated from Schedule O of Form CD-401S. **The apportionment factor must be calculated four places to the right of the decimal.** (See *instructions on page 9*.)

Line 17 - Nonapportionable Income Allocated to N.C.

Enter on Line 17 the amount of nonapportionable income allocated directly to this State. Before making this entry, corporations must complete Schedule N of Form CD-401S. (See *instructions on page 9*.) **If the amount on Line 17 is negative, enter the amount and fill in the circle located next to Line 17 to indicate the amount is negative.**

Lines 19 through 23 - Composite Tax Returns

Lines 19 through 23 are to be completed only by an S corporation filing a composite income tax return on behalf of its nonresident shareholders. A composite return is an income tax return that combines and reports the income and tax due of participating nonresident shareholders. A nonresident individual shareholder is not required to file a North Carolina individual income tax return, Form D-400, if the shareholder's only income in North Carolina is reported by the S corporation. If the nonresident shareholder is a trust or another S corporation, the entity must file a separate North Carolina tax return.

To determine tax due for nonresidents filing composite, use the "Tax Rate Schedule" found on Form CD-401S, page 8. North Carolina income tax must be separately computed for each nonresident shareholder filing composite. The S corporation must total the separate income tax for each participating nonresident shareholder and enter the total on Line 21.

Line 20 - Separately Stated Items of Income Attributable to Nonresidents Filing Composite

Special rules apply for gain from the sale, exchange, or disposition of Internal Revenue Section 1231 property on which a Code Section 179 expense deduction was previously claimed. For federal purposes, the gain is no longer included at the entity level but instead is passed through separately to the individual shareholders. As a result, the gain is included in federal taxable income on the shareholder's income tax return but is not included as part of the shareholder's share of the corporation's income. (See *North Carolina Schedule K, Line 5*.)

S corporations must identify each nonresident shareholder's share of separately stated income items and enter the amount on the North

Carolina Schedule K, Line 12, and on Form NC K-1, Line 7. **Important. Losses attributed to the sale of Section 1231 property are not deductible in the calculation of North Carolina income tax for nonresident shareholders filing composite. Taxpayers wishing to deduct their pro rata share of these losses must do so by filing a North Carolina income tax return.**

Line 22 - Income Tax Credits Attributable to Nonresidents Filing Composite

In order for nonresidents filing composite to claim income tax credits, the S corporation must complete Form CD-425, Corporate Tax Credit Summary, and file it with the completed tax return. **The S corporation must include only the amount of income tax credits allocated to nonresident shareholders on whose behalf a composite return is filed.** In order for composite filers to claim an income tax credit limited by statute to 50% of tax, the S corporation must also complete Form NC-478, Summary of Tax Credits Limited to 50% of Tax, and place it on the front of the completed tax return. **Forms for many of these credits, as well as the CD-425 and the NC-478, are available from the Department's website.**

The following are some of the more utilized income tax credits for corporations:

- Machinery & Equipment Investment Tax Credit
- Job Creation Tax Credit
- Research and Development Tax Credit
- Worker Training Tax Credit
- Central Office or Aircraft Facility Property Tax Credit
- Investing in Renewable Energy Property Tax Credit
- Credit for Supervisory Fees (savings and loan associations only)
- Credit for the Rehabilitation of Historic Structures
- Credit for Use of North Carolina Ports
- Credit for Recycling Oyster Shells (**New: see "2006 Legislative Changes"**)

Note. The tax credit for qualifying expenses of a film or television production company cannot be claimed on Form CD-401S, Line 22. Instead, this credit must be claimed on Form NC-415, available from the Department's website. (For detailed information concerning the film incentives tax credit, see the "2005 Tax Law Changes" and "2006 Tax Law Changes" available from the Department's website.)

Failure to substantiate a tax credit may result in the disallowance of the credit.

Line 24 - Annual Report Fee

If the corporation elects to pay the annual report fee in paper format with the income tax return, enter \$20.00 on Line 24; **otherwise, enter zero.**

Note: LLCs taxed as corporations are subject to a \$200.00 annual report fee. Go to the Secretary of State's website, www.sosnc.com, for information and payment options.

Line 26 - Tax Payments

- a. **Application for Extension.** Taxpayers filing a Form CD-419 enter the amount of income tax paid on Line 10 of the CD-419 on Line 26a.
- b. **2006 Estimated Tax.** Enter any estimated income tax payments for 2006 (including any portion of the 2005 overpayment that was applied to the 2006 estimated income tax and any payment remitted on behalf of nonresident shareholders) on Line 26b.
- c. **Partnerships** - If the corporation is a nonresident partner enter the amount of tax paid to North Carolina on behalf of the corporate partner on Line 26c. **Important.** If a partnership payment is claimed on Line 26c, a copy of the NC K-1 **MUST** be attached.
- d. **Nonresident Withholding** - Enter the amount of tax withheld from a nonresident corporation for nonwage compensation during the taxable year on Line 26d.

Lines 28 and 29 - Income Tax Due / Overpaid

Subtract Line 27 from Line 25. If Line 27 is less than Line 25 **additional income tax is due**. Enter the amount of additional tax on Line 28 and on Line 31. If Line 27 is more than Line 25, **income tax is overpaid**. Enter the amount of overpayment on Line 29 and on Line 31. **Fill in the circle located next to Line 31 to indicate the amount is overpaid.**

(Overpaid franchise tax can offset underpaid income tax in the same tax year and vice versa. See "Tax Due or Overpayment" below for line-by-line instructions.)

Lines 30 through 32 - Tax Due or Overpayment

A corporation that overpays its franchise or income tax may elect to have its refund applied to an underpaid franchise or income tax liability in the same tax year. The netting of an overpaid tax to an underpaid liability is calculated by adding or subtracting Lines 30 and 31.

Line 33 - Interest and Penalties

Interest. Interest at the rate established by G. S. 105-241.1 is charged on taxes paid late even if an extension of time to file is granted. The interest rate on underpayments is the same as the interest rate on overpayments. The rate is established semiannually by the Secretary of Revenue and is listed on the Department's website.

Failure to file penalty. Returns filed after the due date are subject to a penalty of 5% of the tax for each month, or part of a month, the return is late (minimum \$5.00; maximum 25% of the additional tax).

Failure to pay penalty. Returns filed after the statutory due date without a valid extension are subject to a late payment penalty of 10% of the unpaid tax. If the corporation has an extension of time for filing its return, the 10% penalty will apply on the remaining balance due. The minimum penalty is \$5.00.

Collection Assistance Fee. Any tax, penalty, and interest not paid within 90 days after a final notice of assessment has been mailed is subject to a 20% collection assistance fee. The fee will not apply to taxpayers that make payments under an installment agreement that became effective within 90 days after the final notice was mailed.

Line 34 - Total Due

Add Lines 32 and 33 and enter the total on Line 34, but not less than zero. **This is the total tax, penalties, and interest due.** Make your check or money order payable to the **North Carolina Department of Revenue**. The Department will not accept a check or money order unless it is drawn on a U.S. (domestic) bank and the funds are payable in U.S. dollars. Mail the return, any balance due, and a personalized payment voucher, Form CD-V, to:

North Carolina Department of Revenue
P.O. Box 25000,
Raleigh, NC 27640-0530

Form CD-V (Corporate Payment Voucher). Form CD-V is a personalized voucher that a corporation should send with any balance due. To generate a personalized voucher, go to the Department's website and click on "**Tax Forms**".

Form CD-V Amended (Amended Corporate Payment Voucher). If filing an amended CD-401S, corporations owing additional tax should use Form CD-V Amended.

IMPORTANT. You can now pay your franchise and corporate income tax online. Go to the Department's website. Click on "**Electronic Services**", and select "**Businesses**".



Line 35 - Overpayment

If the sum of Lines 31 and 32 is less than zero, the corporation has overpaid its tax. Enter the amount of overpayment on Line 35.

Line 36 - Estimated Income Tax

A corporation may elect to apply part or all of the overpayment shown on Line 35 to its estimated income tax for the following year by entering the amount to be applied on Line 36. This election cannot be changed after the return is filed. **Important. To apply an overpayment from 2006 to 2007 estimated tax, the return must be filed by the last allowable date for making 2007 estimated payments.**

Line 37 - Amount to be Refunded

Enter the amount of overpayment to be refunded on Line 37. The amount to be refunded cannot exceed Line 35 minus Line 36.

Signature and Verification

An authorized officer must sign and date the completed tax form and enter his or her corporate title. **A phone number for the corporation, including area code, is also requested.** If a paid preparer is used, the preparer must also sign and date the return and enter the firm's federal employer ID number, social security number, or PTIN as assigned by the IRS.

Capital Stock, Surplus, and Undivided Profits - Schedule C

In addition to the items listed on the schedule, include stock subscribed, deferred taxes, and all other surplus, reserves, deferred credits, and inventory valuation reserves, including amounts deferred as result of a LIFO valuation method (LIFO reserves), and liabilities except: (a) reserve for depreciation permitted for income tax purposes; (b) accrued taxes; (c) dividends declared; (d) definite and accrued legal liabilities (accounts, notes, mortgages payable, etc.). Deferred tax liabilities may be reduced, but not below zero, by deferred tax assets. No other deferred liabilities may be reduced by deferred tax assets. Deferred income resulting from customer advances for goods or services may be excluded from this base provided: (1) there exists a definite legal liability to render the service or deliver the goods; (2) no part of the advances has been reported or is reportable for income tax purposes; and (3) all related costs and expenses are reflected in the balance sheet as assets. Deferred income net of related deferred income taxes arising from the usual installment sale is not deductible because the corresponding liability would have been discharged at the time of delivery.

Indebtedness owed to a parent, subsidiary, or affiliated corporation is considered a part of the debtor corporation's capital and must be added to the debtor corporation's capital stock, surplus, and undivided profits. If the creditor corporation has borrowed a part of its capital from outside sources (i.e., sources other than a parent, subsidiary, or affiliated corporation), the debtor corporation may exclude a proportionate part of the debt determined on the basis of the ratio of the creditor corporation's capital borrowed from outside sources to the creditor corporation's total assets.

The creditor corporation, if subject to the tax, can deduct from its capital stock, surplus, and undivided profits the amount of indebtedness owed to it by a parent, subsidiary, or affiliated corporation to the extent that the indebtedness has been added by the debtor corporation on a return filed with this State. **The exclusion permitted the debtor corporation and the deduction permitted the creditor corporation are applicable only to indebtedness owed to or due from a parent, subsidiary, or affiliated corporation.**

Cash Basis Corporations. Corporations using the cash basis method of accounting for income tax purposes cannot compute the capital stock, surplus, and undivided profits base by this method. Assets and liabilities must be accrued and reported for franchise tax purposes.

Investment in North Carolina Tangible Property - Schedule D

Include all tangible assets located in North Carolina at book value (original purchase price less reserve for depreciation permitted for income tax purposes.) **LIFO valuation is not permitted for inventories.**

A deduction from the tangible property base is allowed for indebtedness incurred and existing by virtue of the purchase or permanent improvement of real estate located in North Carolina. The deductible amount cannot exceed the book value (cost less depreciation) of the real estate acquired or improvements made. Debts incurred in the purchase of personal property are not deductible even though the funds borrowed are secured by a lien against real estate. Indebtedness owed to a parent, subsidiary, or affiliated corporation constitutes a part of the debtor corporation's capital and, therefore, cannot be deducted from the tangible property tax base (except to the extent explained below) even though the indebtedness was incurred in the purchase or permanent improvement of real estate. The extent to which the indebtedness can be deducted is the amount of the total debt excluded by the debtor corporation from its capital stock, surplus, and undivided profits base by application of the creditor corporation's borrowed capital ratio.

Air or Water Pollution Abatement and Recycling Resource Recovering Facilities. A corporation may deduct from Schedule C and Schedule D the cost of any air cleaning device, sewage or waste treatment plant, and pollution abatement equipment purchased or constructed in this State. The cost of constructing a facility for recycling solid waste or for reducing hazardous waste may also be deducted from these bases. **A deduction is allowed only upon certification from the Department of Environment and Natural Resources.**

Appraised Value of North Carolina Tangible Property - Schedule E

Enter 55% of the appraised value, not book value, of all property listed for county ad valorem tax in North Carolina. This value includes the appraised value of all vehicles for which the county tax assessor has issued a billing during the income tax year. **Values are to be determined as of the dates specified on Schedule E of the return.**

Corporate Member of a Limited Liability Company (LLC)

This section does not apply to Limited Liability Companies that are subject to franchise tax. (For more information, see the "2006 Tax Law Changes" available from the Department's website.)

A limited liability company's income, assets, liabilities, or equity is generally not attributed to a corporation that is a member of the LLC. However, if the corporation or an affiliated group of corporations owns more than fifty percent of the capital interests in a LLC, the corporation must include a percentage of the LLC's net assets in the calculation of the corporation's three franchise tax bases. **For example:** A partnership owns 100% of the capital interests of an LLC. Corporation A is a 51% owner of the partnership. Corporation A constructively owns 51% of the capital interest in the LLC.

If all members of the affiliated group are doing business in NC, then each member includes the percentage of the LLC's assets equal to the member's percentage ownership in the LLC. If some of the members of the group are not doing business in NC, then the percentage of the LLC's assets owned by the group are allocated among the members that are doing business in NC. The percentage attributed to each member doing business in NC is determined by multiplying the percentage of the LLC owned by the entire group by a fraction. The numerator of the fraction is the member's percentage ownership of the LLC and the denominator is the total percentage of the LLC owned by all members doing business in NC.

For example: An affiliated group of corporations owns 100% of the capital interests in an LLC. The group consists of three corporations. Corporation A is doing business in NC and owns 51% of the LLC. Corporation B is doing business in NC and owns 10% of the LLC. Corporation C is not doing business in NC and owns 39% of the LLC. The

percentage of the LLC's assets required to be included in Corporation A's and Corporation B's franchise tax bases is determined as follows:

- Corporation A $100\% \times 51\% \div (51\% + 10\%) = 83.61\%$
- Corporation B $100\% \times 10\% \div (51\% + 10\%) = 16.39\%$

Important. If a corporation is required to include a percentage of the LLC's assets in the calculation of its franchise tax bases, the corporation may exclude its investment in the LLC from the computation of the capital stock base. **Also,** if the total book value of the LLC's assets never exceed \$150,000 during the taxable year, no attribution is required.

Other Information - Schedule F

MUST BE COMPLETED BY ALL TAXPAYERS

Ordinary Income (Loss) From Trade or Business - Schedule G

The computation of net income from trade or business activities follows the determination of ordinary income as defined by the Internal Revenue Code, effective January 1, 2006. S corporations must transfer the information from federal Form 1120S, U.S. Income Tax Return for an S Corporation (Lines 1 through 21), to Schedule G, or attach a copy of the federal form along with all supporting schedules.

Computation of Income (Loss) - Schedule H

Line 1 Enter the ordinary business income(loss) as taken from federal Form 1120S, Line 21 or from Schedule G, Line 21.

Lines 2-10 Add income or deduct losses on Lines 2 through 10 that are directly passed to the shareholders as shown on federal Schedule K, Lines 2 through 9.

Line 11 Total of Lines 1 through 10; enter on Schedule B, Line 10.

Adjustments to Income (Loss) - Schedule I

Taxpayers must make certain adjustments to federal taxable income in arriving at North Carolina taxable income. Effective for taxable years beginning on or after January 1, 2006, taxpayers are no longer required to adjust a shareholder's pro rata share of income from an S Corporation for adjustments under corporate law (G.S. 105-130.5). Instead a shareholder's income (loss) is subject only to the adjustments under individual law regardless of the shareholder's residency status or whether the income is attributable to North Carolina. (For more information on the adjustments to federal taxable income, see Form D-401, Individual Income Tax Instructions available from the Department's website).

Adjustment for Additional First-Year Depreciation. North Carolina did not adopt the additional first-year depreciation provisions in the federal Jobs Creation and Worker Assistance Act of 2002 or the federal Jobs and Growth Tax Relief Reconciliation Act of 2003. Instead, taxpayers were required to add to federal taxable income a percentage of the additional first-year depreciation deducted on the federal return when computing State taxable income for tax years 2002, 2003, and 2004.

For taxable years beginning on or after January 1, 2005, the amount of additional first-year depreciation added to federal taxable income on the 2002, 2003, or 2004 State return may be deducted in five equal installments. To calculate the deduction, total the amount of first-year depreciation added back to the State return during 2002, 2003, and 2004, and multiply the total by 20% (.20). Enter the result on Schedule I, Line 3b.

Note. If during the tax year, the S Corporation has a change in ownership with respect to its shareholders and a new shareholder is brought in to replace an existing shareholder, the new shareholder would not be entitled to claim a share of the first-year depreciation deduction because the new shareholder would not have added back any depreciation on its returns for tax years 2002, 2003, or 2004.

Example: A taxpayer added the following amounts of additional first-year depreciation to federal taxable income during tax years 2002, 2003, and 2004:

| | | |
|--------------|---|-----------------|
| 2002 | - | \$4,000 |
| 2003 | - | \$2,000 |
| <u>2004</u> | - | <u>\$6,000</u> |
| Total | | \$12,000 |

The taxpayer may deduct \$2,400 (\$12,000 x .20) on the 2005 return and \$2,400 on each return for the succeeding four tax years.

Shareholders' Share of Income, Adjustments, and Credits - Schedule K

This schedule is provided primarily as a worksheet to the S corporation to summarize all the shareholders' shares of income, North Carolina adjustments, and North Carolina tax credits, and to show the amount of these items that are apportioned or allocated to nonresident shareholders. The name, address, and percentage of ownership of each shareholder must be listed on Schedule K. A North Carolina resident is required to report its full share of corporate income or loss. A nonresident shareholder, however, is only required to report to North Carolina its share of apportioned and allocated income or loss.

The S corporation must give each shareholder a copy of Form NC K-1. The NC K-1 is the form used to report each shareholder's share of these items. The cumulative total of a given line on all of the shareholders' NC K-1s must equal the amount that the corporation reports in the Shareholders' Total column of Schedule K. A nonresident shareholder filing a composite income tax return must be provided with its share of net tax paid on its behalf by the S corporation. **(For additional instructions on Form NC K-1, see page 10.)**

Balance Sheet - Schedule L and Schedule M-1

Complete these schedules only if you do not attach a copy of federal Schedule L and Schedule M-1, along with all supporting schedules.

Analysis of N.C. Accumulated Adjustments Account, N.C. AAA - Schedule M-2

All corporations must maintain an "accumulated adjustments account" (AAA) for federal and state purposes. The N.C. accumulated adjustments account, N.C. AAA, may be different than the federal AAA for S corporations that were in existence prior to 1989 and for S corporations making adjustments under G.S. 105-130.5. The computation of the N.C. AAA and N.C. other adjustments account is made using the same procedures as the federal computation applying the North Carolina amounts. **(See instructions for federal Form 1120S and IRC §1368.)**

N.C. Other Adjustments Account. The N.C. other adjustments account, N.C. OAA, is increased by North Carolina income not taxed and reduced by nondeductible expenses related to North Carolina income not taxed.

Net Income (Loss) Reconciliation for Corporations With Total Assets of \$10 Million or More - Schedule M-3

Attach a copy of federal Schedule M-3 to the back of this form if the corporation's total assets as reported on federal Schedule L equal or exceed \$10 million.

Nonapportionable Income - Schedule N

Nonapportionable income is income that cannot be apportioned because of the U.S. Constitution. Nonapportionable income is not subject to apportionment, but is allocated.

In general, all transactions and activities of a taxpayer that are dependent upon, or contribute to the operations of the taxpayer's economic enterprise as a whole, constitute the taxpayer's trade or business.

Income from these type of transactions and activities are operational income and therefore apportionable.

Nonapportionable income includes rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent they are not dependent upon, or contribute to, the operations of the taxpayer's economic enterprise as a whole. Nonapportionable income must be reduced by the related expenses incurred to generate the nonapportionable income. *(The instructions for filing a C corporation tax return, available from the Department's website, include a worksheet for the computation of expenses attributable to income not taxed.)*

Computation of Apportionment Factor - Schedule O

All corporations, domestic or foreign, doing business in North Carolina must complete Schedule O to compute the capital stock, surplus, and undivided profits franchise tax base and North Carolina taxable income.

Domestic Corporations - Part 1

Corporations not apportioning franchise or income outside of N.C. must enter 100% in the area provided. Foreign corporations doing business in N.C. but not taxable in another state must also enter 100% for its apportionment factor.

Multistate Corporations - Part 2

A corporation having income from business activities that is taxable both within and without North Carolina is required to apportion its State net income or net loss. For purposes of allocation and apportionment, a corporation is taxable in another state if (i) the corporation's business activity in that state subjects it to a net income tax or a tax measured by net income, or (ii) that state has jurisdiction based on the corporation's business activity in that state to subject the corporation to a tax measured by net income regardless of whether that state exercises its jurisdiction. For purposes of this section, 'business activity' includes any activity by a corporation that would establish a taxable nexus pursuant to 15 United States Code § 381.

All income of corporations other than public utilities and excluded corporations must be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. If the sales factor does not exist, the denominator is the number of existing factors. If a property or a payroll factor does not exist, the denominator is the number of existing factors plus one. **Calculate the apportionment factor to four places to the right of the decimal.**

Lines 1 through 8 - Property Factor

The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this State during the income year and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the income year. The numerator includes not only inventories actually located in North Carolina but also inventories in transit with a North Carolina destination.

Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net rent paid during the current income year. Net annual rent is the annual rent paid by the corporation less any annual rent received by the corporation from subrentals except that subrentals are not deductible when they constitute apportionable income. Any property under construction or any property not actually used or operated in the corporation's business during the income year and any property the income from which constitutes nonapportionable income are excluded in the computation of the property factor.

The average value of property is determined by averaging the values at the beginning and end of the income year, but in all cases the Secretary may require the averaging of monthly or other periodic values during the income year if required to reflect properly the average value of the

corporation's property. A corporation that ceases its operation in this State before the end of its income year for any reason whatsoever must use property values as of the first day of the income year and the last day of its operations in this State in determining the average value of property; however, the Secretary may require the averaging of monthly or other periodic values during the income year.

Lines 9 through 11 - Payroll Factor

The payroll factor is a fraction, the numerator of which is the total compensation paid in this State during the income year by the corporation and the denominator of which is the total compensation paid everywhere during the income year. All compensation paid to general executive officers and all compensation paid in connection with nonapportionable income shall be excluded in computing the payroll factor. General executive officers include the chairman of the board, president, vice-presidents, secretary, treasurer, comptroller, and any other officer serving in similar capacities.

Compensation is paid in this State if any of the following applies:

- (1) The individual's service is performed entirely within the State; or
- (2) The individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State.
- (3) Some of the service is performed in this State and the base of operations, or, if there is no base of operations, the place from which the service is directed or controlled, is in this State.
- (4) Some of the service is performed in this State and the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

Lines 12 and 13 - Sales Factor

The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Receipts from any casual sale of property, receipts exempt from taxation, and the portion of receipts realized from the sale or maturity of securities or other obligations that represent a return of principal are excluded from both the numerator and the denominator of the sales factor. If a corporation is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales are treated as having been made in this State.

Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed is considered the place at which the goods are received by the purchaser.

Direct delivery into this State by the taxpayer to a person or firm designated by a purchaser from within or without the State constitutes delivery to the purchaser in this State.

Other sales are in this State if any of the following applies:

- (1) The receipts are from real or tangible personal property located in this State.
- (2) The receipts are from intangible property and are received from sources within this State.
- (3) The receipts are from services and the income-producing activities are in this State.

Special Apportionment Provisions - Parts 3 and 4

Special apportionment provisions apply to certain types of corporations and excluded corporations. The respective tax statutes should be consulted for specific allocation requirements.

Excluded Corporations. Any corporation engaged in business as a building or construction contractor, a securities dealer, a loan company, or a corporation that receives more than fifty percent (50%) of its ordinary gross income from intangible property apportions its income by using the sales factor alone.

Contractors. A multistate building or construction contractor must use a one factor sales (gross receipts) formula to apportion its income to this State. A building or construction contractor is a business so classified under the North American Industry Classification System.

Air and Water Transportation. All income of an air or water transportation company is apportioned by the ratio of revenue-ton miles in North Carolina to total revenue-ton miles. A revenue-ton mile is one ton of passenger, freight, mail, or other cargo carried one mile; each passenger is deemed to weigh 200 pounds.

Railroads. All income of a railroad company must be apportioned by multiplying the income by a fraction, the numerator of which is the "railway operating revenue" from business done in this State and the denominator of which is the total railway operating revenue of the company everywhere. *(See G.S. 105-130.4(m) for a detailed definition of railway operating revenue.)*

Motor Carriers. All income of a motor carrier of property or passengers must be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" mean miles traveled by vehicles owned or operated by the company hauling property for a charge, carrying passengers for a fare, or traveling on a scheduled route.

Telephone Companies. All income of a telephone company must be apportioned by multiplying the income by a fraction, the numerator of which is gross operating revenues earned in this State plus other revenue items attributed to this State specifically listed in G.S. 105-130.4(n) and the denominator of which is the total gross operating revenue from all business done by the company everywhere less uncollectible revenue. *(The instructions for filing a C Corporation tax return include a worksheet for the computation of apportionment factor for telephone companies.)*

Forms and Instructions for the NC-478 Series

Forms and Instructions for the NC-478 series are available from the Department's website, www.dorn.com, or by calling toll free 1-877-252-3052.

Shareholder's Share of North Carolina Income, Adjustments, and Credits - Form NC K-1

Form NC K-1 is the form used by the S corporation to report to each shareholder its share of the S corporation's income, adjustments, tax credits, etc. Prepare and give a Form NC K-1 to each entity that was a shareholder in the S corporation at any time during the tax year. Form NC K-1 must be provided to each shareholder on or before the due date of the return. *(A Form NC K-1 is available in this booklet. Additional forms are available from the Department's website.)*

Shareholders that are **residents of North Carolina** must be provided with the total amount of their proportionate share of the following items:

1. North Carolina adjustments to federal taxable income, NC K-1, Lines 2 and 3.
2. Shareholder's distributive share of tax credits, NC K-1, Line 4. When reporting the distributive share of tax credits, a list of the amount and type of each tax credit must be provided to the shareholder.
3. Any tax withheld from nonwage compensation for personal services in North Carolina by the S corporation, NC K-1, Line 5.

Shareholders that are **nonresidents of North Carolina** must be provided with their share of the same items listed above for North Carolina residents, along with the following items:

1. North Carolina income apportioned and allocated for business activities occurring outside of North Carolina, NC K-1, Line 6.
2. Shareholder's share of separately stated items of income, NC K-1, Line 7.
3. Any North Carolina income tax paid by the S corporation on behalf of the nonresident shareholder, NC K-1, Line 8.

