

U. Reporting Federal Changes (G.S. 105-130.20, G.S. 105-241.1)

1. Requirement for Reporting Changes

If the amount of taxable income of any corporation subject to tax in this State, as reported or reportable to the United States Treasury Department, is changed by the U.S. Government, such corporation must file a return under oath reflecting such change within two years after receipt of the Federal report.

2. Assessments or Refunds

When a corporation files an amended return reflecting a federal determination, an assessment of tax must be proposed within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later.

When the amended return reflecting a federal determination results in an overpayment of tax, the period in which a refund must be demanded or discovered is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later.

If there is a federal determination and the taxpayer does not file the required return to report the federal changes, an assessment of tax must be proposed within three years from the date of the receipt by the Department of Revenue of the final report of federal determination from the U.S. government.

If the corporation fails to file an amended return reflecting a federal determination, or no final report is received from the Internal Revenue Service, no statute of limitations shall apply. In such case, the corporation shall be subject to all penalties provided in G.S. 105-236 and shall forfeit its right to any refund due because of the federal changes.

3. Extent of Changes That May Be Made

When the Department of Revenue receives an amended return or report reflecting changes made in the net income of a corporation, the Secretary may assess tax or additional tax based on Federal changes and may also make any other adjustments based on any facts or evidence brought to his attention or shall otherwise acquire, whether or not such facts or evidence were considered by the Federal Government. This is the case regardless of whether or not an adjustment has been made previously for the taxable year affected by the federal changes. Franchise tax returns as filed or as amended for reasons other than a settled federal Revenue Agent's Report are not affected by changes made by the IRS to federal taxable income.

4. Fraud Provisions on Federal Changes

When there is a Federal adjustment made in a corporation's income tax return and a fraud penalty is assessed by the Federal Government, the State may open the year for adjustments on the basis of either fraud or the Federal assessment. The penalty for fraud is fifty percent (50%) of the total deficiency. In such case and if the corporation has not filed a State return, the fraud penalty and delinquency penalty of five percent (5%) per month (25% maximum – \$5.00 minimum) may be assessed. The fact that no return has been filed, either Federal or State, does not prevent the State from opening the taxable year on the basis of Federal changes.