

E. General Business Corporations (G.S. 105-122)

1. Basis For the Tax

The basis of the tax is total or allocated capital stock, surplus and undivided profits. The basis is the same for both domestic and foreign corporations. Corporations doing business both within and without North Carolina are required to allocate a part of their capital stock, surplus and undivided profits to their business in North Carolina in accordance with a specified statutory allocation formula. Regardless of the actual amount of capital stock, surplus and undivided profits, the amount determined for purpose of this tax cannot be less than fifty-five percent (55%) of appraised ad valorem tax value of all tangible property plus value of intangible property in North Carolina nor less than the actual investment in tangible property in North Carolina.

2. Franchise Tax Bases

The taxable franchise tax base is the largest of these tax bases:

- Capital stock, surplus and undivided profits
- Fifty-five percent (55%) of appraised ad valorem tax value of all tangible property plus value of intangible property in North Carolina.
- Actual investment in tangible property in North Carolina

3. Corporations Required to File

Unless specifically exempt under G.S. 105-125, all active and inactive domestic corporations, and all foreign corporations with a Certificate of Authority to do business, or which are in fact doing business in this State, are subject to the annual franchise tax levied under G.S. 105-122.

4. No Double Taxation (G.S. 105-114(a4))

A corporation, other than a holding company taxed under G.S. 105-120.2, that is subject to one of the franchise taxes other than the general business franchise tax is subject to the general business franchise tax to the extent it exceeds the other franchise tax. Effective for taxable years beginning on or after January 1, 2006, this provision preventing double taxation also applies to a corporation if a limited liability company whose assets must be included in the corporation's tax base under G.S. 105-114.1 is subject to one of the other franchise taxes.

5. Forms to be Used for Filing

The general business franchise tax is filed on Form CD-405 for both domestic and multistate corporations and Form CD-401S for S corporations. These forms, along with other required corporate forms, and instructions are available from the Department of Revenue in Raleigh or from any of the branch offices located throughout the State. The forms and other related schedules are also available from the Department's web site at www.dorn.com.

6. Substitute Returns

Any facsimile or substitute form must be approved by the Department of Revenue prior to its use. The guidelines for producing substitute forms are available in the publication, "Requirements for the Approval of Substitute Tax Forms." The publication is available on the Department's web site, or it can be obtained by contacting the Department's forms coordinator. If you use computer-generated returns, the software company is

responsible for requesting and receiving an assigned barcode. The Department publishes a list of software developers who have received approval on our web site. Photocopies of the return are not acceptable. Returns that cannot be processed by our imaging and scanning equipment may be returned to the taxpayer with instructions to refile on an acceptable form.

7. Report and Payment Due

General business corporations must file returns annually on or before the fifteenth day of the third month following the end of the income year. The return is filed as a part of a combined franchise and income tax return. Payment of the entire amount of franchise tax is required by the statutory due date of the return. The tax paid represents an advance payment for the ensuing income year.

Example: A corporation files a franchise and income tax return on December 15, 2005 for the fiscal year ended September 30, 2005. The franchise tax due on the return would apply to the year October 1, 2005 through September 30, 2006.

8. Tax Rate

The franchise tax rate is \$1.50 per \$1,000 and is applied to the greatest base determined as set forth in the law. The minimum franchise tax is thirty-five dollars (\$35).

9. Franchise Tax Payable in Advance (G.S. 105-114)

Franchise tax is payable in advance for the privilege of doing business in North Carolina or for the privilege of existing as a corporation in North Carolina.

Example: A corporation incorporates, domesticates or commences business in North Carolina on October 15, 2004. The corporation has selected the calendar year as its income year end. The first tax return due on March 15, 2005 will be a short period return covering the income tax period from October 15, 2004 to December 31, 2004. Franchise tax due on this return covers the ensuing calendar year through December 31, 2005 for the privilege of doing business in North Carolina or for the privilege of existing as a corporation in North Carolina.