

P. Filing of Returns and Payment of Taxes

1. Time and Place for Filing

General business corporation franchise and income tax returns are due on the 15th day of the third month following the close of the income year and are filed on a combination return form. A short period return required as a result of a corporation becoming a member of a consolidated group for federal purposes may be filed on the due date of the federal short period return. However, interest is due beginning seventy-five (75) days following the last day of the short period.

An income year ending on any day other than the last day of the month shall be deemed to end on the last day of the calendar month ending nearest to the last day of a taxpayer's actual income year.

Returns of agricultural cooperatives are due on or before the 15th day of the ninth month following the close of the income year.

Tax-exempt organizations described in G.S. 105-130.11(a)(1) and (a)(3) through (a)(8) which are required to file a return under G.S. 105-130.11(b) shall file a calendar year return on or before May 15 of the following year and a fiscal year return on or before the 15th day of the fifth month following the close of the fiscal year.

Returns should be filed with the North Carolina Department of Revenue, P.O. Box 25000, Raleigh, North Carolina 27640-0500, or at one of the Department's local branch offices located in principal cities throughout the State.

2. Extension of Filing Date

Prior to the date set by statute for filing a corporation's franchise and income tax return, a corporation may apply for an extension of time for filing its return.

For additional detailed information concerning the requirements for obtaining an extension of time for filing a corporate franchise and income tax return, see Subject, "Extension of Time for Filing Return."

3. Payment of Taxes

Except as to the extent income tax is required to be paid through estimated tax payments, the full amount of franchise and income taxes is payable as of the filing date. Remittances should be made payable to the *N. C. Department of Revenue*.

4. Interest and Penalties (17 NCAC 05C.2003)

Interest accrues at the rate established pursuant to G.S. 105-241.1 (i) on any tax paid after the date set by statute for filing the return. The statutory due date for filing a corporation franchise and income tax return is on or before the fifteenth day of the third month following the close of the corporation's income year. A failure to pay penalty of five percent (5%) of the total taxes due is incurred each month a return is delinquent with the minimum penalty being five dollars (\$5) and the maximum penalty being twenty-five percent (25%). In addition the corporation is subject to the failure to pay by the due date penalty of ten per cent (10%).

5. Income Tax Refunds to Wildlife Fund

A corporation entitled to a refund of income taxes paid may elect to contribute all or any part of such refund to the Wildlife Fund for the support of wildlife management and protection programs administered by the Wildlife Resources Commission.

6. Overpayment Credited To Next Year's Tax

A corporation may elect to have an income tax refund applied to estimated income tax for the following year. A return reflecting an election to apply a refund to estimated income tax for the following year must be filed by the last allowable date for making estimated tax payments for that year for the election to be valid.

If a corporation makes a valid election, the corporation may not revoke the election after the return on which the election is made has been filed.

7. Protective Refund Claim

A taxpayer can file a protective refund claim to protect his/her right to a potential refund of corporate income or franchise tax based on a contingent event for a taxable period for which the statute of limitations is about to expire. A protective claim is usually based on contingencies such as pending litigation or an ongoing tax audit in another state.

The Department of Revenue will accept a protective claim for refund if

- it is filed before the expiration of the statutory refund claim period;
- it identifies and describes the contingencies affecting the claim;
- it is sufficiently clear and definite to alert the Department of Revenue as to the essential nature of the claim; and
- it identifies the tax schedule and the specific year for which the protective claim is filed.

There is no special form for filing a protective claim. The Department of Revenue will accept any written submission *if* it meets all the required elements. Upon conclusion of the contingency, a taxpayer may finalize the claim for refund by filing an amended return for the tax year at issue.

It is not necessary for a taxpayer to file a protective refund claim for a year under examination by the Internal Revenue Service since, under North Carolina law, a taxpayer has two years after being notified of the federal changes to file an amended return to report the changes.