



Important Notice: Franchise Tax Law Change Regarding Treatment of Accumulated Amortization

N.C. Gen. Stat. § 105-122 imposes an annual franchise tax or privilege tax on a corporation doing business in this State measured in part by the corporation's capital stock, surplus, and undivided profits. The law requires a corporation to determine its capital stock base from its books and records, as reflected by the balance sheet used for financial accounting purposes, as of the close of the tax year. In determining the capital stock base, no reservation or allocation from surplus or undivided profits is allowed except for the items specifically enumerated in N.C. Gen. Stat. § 105-122(b).

Law Change

On June 15, 2011, the General Assembly enacted House Bill 200 (Session Law 2011-145) amending N.C. Gen. Stat. § 105-122(b)(2) to specifically allow a corporation to exclude "taxes accrued, dividends declared, and reserves for depreciation of tangible assets and for amortization of intangible assets as permitted for income tax purposes from the calculation of the capital stock, surplus, and undivided profits tax base. Before this change, the Department issued franchise tax assessments against taxpayers who failed to include accumulated amortization as reflected on the balance sheet in arriving at the capital stock, surplus, and undivided profits base. With this change, taxpayers are still required to include the book reserve for accumulated amortization in the calculation of the capital stock base; however, the law now allows taxpayers to deduct accumulated amortization as permitted for income tax purposes from the tax base.

The new law is effective for taxable years beginning on or after January 1, 2007. Because franchise tax is payable in advance, this law change applies to franchise tax payable with the income tax return filed for taxable years that began on or after January 1, 2006. Thus, the 2006 calendar year franchise and corporate income tax return is the first franchise tax return for which the deduction applies.

North Carolina Department of Revenue

Applying for a Refund

A taxpayer who overpaid franchise tax on the accumulated amortization of intangible assets for tax years 2007 and later may request a refund by filing either (1) an amended tax return (CD-405 or CD-401S) or (2) Form NC-19, Claim for Refund of Taxes, available at <http://www.dor.state.nc.us/downloads/nc19.pdf>. Enter "Franchise Tax Paid on Amortization of Intangible Assets" in the explanation section of the request for refund. Mail the form to:

North Carolina Department of Revenue
Attention: Lynnette Cope, Manager
Central Examination
P. O. Box 871
Raleigh, NC 27602-0871

All requests for refund are subject to the statute of limitations for refunds provision set forth in N.C. Gen. Stat. § 105-241.6.