

Instructions for 2006 Form NC-478 Series

Purpose of Form NC-478 Series

Use the Form NC-478 series to calculate and report tax credits that are limited to 50% of tax less the sum of all other tax credits claimed. Forms for the NC-478 series are used to calculate the specific credits available without regard to the 50% limitation and are designed to report a taxpayer's activity at a single establishment. If a taxpayer engages in an activity that qualifies for a credit at more than one establishment, a separate form must be filed for each establishment. For additional information regarding the calculation of tax credits for multiple establishments, see the specific instructions for each credit. **Note.** Form NC-478I is designed to report a taxpayer's activity throughout the state.

Form NC-478 is used to summarize all available credits subject to the 50% of tax limitation, to calculate the 50% limitation, and to allocate the available credit amount among the specific credits to be taken in 2006.

General Instructions

Listed below are the tax credits that are subject to the 50% of tax limitation and the NC-478 series form on which the credit is claimed:

Article 3A Credits

- Creating New Jobs (*Form NC-478A*)
- Investing in Machinery and Equipment (*Form NC-478B*)
- Worker Training (*Form NC-478D*)
- Investing in Central Office or Aircraft Facility Property (*Form NC-478E*)
- Technology Commercialization (*Form NC-478, Line 9*)
- Substantial Investment in Other Real Property (*Form NC-478, Line 12*)
- Contributions to Development Zone Projects (*Form NC-478, Line 12*)

Other Credits

- Investing in Renewable Energy Property (*Form NC-478G*)
- Low-Income Housing (*Form NC-478H*)
- Article 3F Research and Development (*Form NC-478I*)
- Investing in Non-Hazardous Dry-Cleaning Equipment (*Form NC-478, Line 10*)
- Renewable Fuel Facility (*Form NC-478, Line 11*)
- Use of North Carolina Ports (*Form NC-478, Line 12*)
- Renewable Energy Equipment Facility (*Form NC-478, Line 12*)
- Manufacturing Cigarettes for Export (*Form NC-478, Line 12*)
- Manufacturing Cigarettes for Export While Increasing Employment (*Form NC-478, Line 12*)

All of the tax credits listed above are available to individuals, partnerships, estates, trusts, and corporations except the tax credit for manufacturing cigarettes for export and the tax credit for manufacturing cigarettes for export while increasing employment, which are available only to corporations. Insurance companies with a gross premiums tax liability can claim any of the Article 3A credits.

Eligibility Requirements for Article 3A Credits

In general, a taxpayer must satisfy all of the following general eligibility requirements to qualify for any of the Article 3A credits:

- Be an eligible business type as described below
- Meet the wage standard specified for each credit
- Provide health insurance for employees as specified for the credit

- Have a good environmental record
- Have a good Occupational Safety and Health Act (OSHA) record

Important. Taxpayers do not have to satisfy a wage standard test with respect to the worker training credit and the credit for substantial investment in other property. The wage standard test also does not apply to any credit in a tier one or tier two area or a development zone.

Eligible Business Types. A taxpayer must meet one of the following descriptions in order to be eligible for an Article 3A credit:

Central Office or Aircraft Facility. The taxpayer operates a central office or aircraft facility that creates at least 40 new jobs and the jobs, investment, and activity with respect to which the credit is claimed are used in that office or facility. Generally, 40 new jobs are created if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office within 12 months after the taxpayer first uses the property as a central office or aircraft facility. If a taxpayer uses temporary space, however, for the central office or aircraft facility functions during completion of the central office or aircraft facility property, the jobs must be created during the period starting 24 months before and ending 12 months after the completion of the property.

Air Courier Services or Data Processing. The primary business of the taxpayer is one of the following and the jobs, investment, and activity with respect to which a credit is claimed are used in that business:

1. Air courier services
2. Data processing

Manufacturing, Warehousing, or Wholesale Trade. The primary business of the taxpayer is one of the following and the jobs, investment, and activity with respect to which a credit is claimed are used in any of the listed businesses:

1. Manufacturing
2. Warehousing
3. Wholesale trade

Computer Services or Electronic Mail Order House. The primary business of the taxpayer or the primary activity of an establishment of the taxpayer is one of the following and the jobs, investment, and activity with respect to which a credit is claimed are used in that business:

1. Computer services
2. An electronic mail order house that creates at least 250 new jobs and is located in an enterprise tier one, tier two, or tier three area.

Customer Service Center. The taxpayer operates a customer service center and meets all of the following conditions:

1. The taxpayer's primary business is a telecommunications or financial services company as defined by NAICS.
2. The primary activity of an establishment of the taxpayer is a customer service center located in an enterprise tier one, tier two, or tier three area.
3. The jobs, investment, and activity with respect to which a credit is claimed are used in the operation of the customer service center.

Warehousing at Establishment. The primary activity of an establishment of the taxpayer is warehousing and the taxpayer meets both of the following conditions:

1. The warehousing establishment is located in an enterprise tier one, tier two, or tier three area and serves 25 or more establishments of the taxpayer in at least five different counties in one or more states.
2. The jobs, investment, and activity with respect to which a credit is claimed are used in the warehousing establishment.

How to Determine Primary Business. The determination of whether an activity is a company's primary business is based on the principal product or group of products the taxpayer produces or distributes or the principal services the taxpayer provides. The principal product or service is determined based on the NAICS guidelines for determining industry classification. The activities at all the taxpayer's establishments are considered in determining the taxpayer's primary business.

How to Determine Primary Business at an Establishment. The determination of whether an activity is a company's primary business activity at an establishment is based on the proper classification of the establishment under the NAICS Code. If more than one activity is conducted at the same establishment, the primary activity of the establishment is determined based on the same factors used in determining the taxpayer's primary business.

How to Determine What Jobs, Investment, and Activity Qualify for Credits. All the eligible business types require jobs, investments, and activities to be used in a specified aspect of the taxpayer's business. To satisfy this requirement, that aspect must be the primary activity of the taxpayer at the establishment where the credits are claimed.

For more information about general eligibility requirements and specific requirements about each Article 3A credit, go to the Department's website, www.dornc.com, and click on "business/corporate income and franchise tax/ corporate income tax/ Guidelines for Article 3A Tax Credits."

Special Eligibility Rule for Research and Development. For purposes of determining eligibility for the credit for research and development in Article 3A, the following special rules apply:

1. If the primary activity of an establishment of the taxpayer in this State is computer services, the taxpayer's qualified research expenditures in this State are considered to be computer services.
2. For all other taxpayers, the taxpayer's qualified research expenditures in this State are considered to be used in the primary business of the taxpayer.

Eligibility Requirements for Other Credits. For more information about the eligibility requirements for credits other than the Article 3A credits, go to the Department's website, www.dornc.com, and click on "business/corporate income and franchise/ corporate income/General Tax Credits."

When to File

The NC-478 forms consist of Form NC-478 and the applicable NC-478 letter series form for the credit. If no letter series form applies to the credit, file a schedule setting out the required information. Both Form NC-478 and any applicable Form NC-478 series form must be filed for any taxable year in which the taxpayer is eligible to claim a credit or an installment of a credit against the taxpayer's tax liability for that year. This requirement applies even if the taxpayer's tax liability for that year is not large enough for the taxpayer to benefit from the credit. If a taxpayer engages in activities that qualify for the credit for creating jobs, the credit for investing in machinery and equipment, or the credit for investing in central office or aircraft facility property, the taxpayer must complete Part 1 of

Form NC-478A, Form NC-478B, or Form NC-478E and file the form with the taxpayer's return for the taxable year in which the taxpayer engages in the activity, even though the first installment of the credit will not be claimed until the following year. (See the applicable Form NC-478A through NC-478I for more detailed instructions.)

Place the NC-478 forms or alternative schedules at the front of the tax return, behind the CD-V payment voucher, NC-478V payment voucher, and the CD-479 Annual Report Form. **Important. Failure to include a form or required document with your tax return may result in the disallowance of these tax credits.**

Fee and Application. A taxpayer that engages in an activity that qualifies for an Article 3A credit, other than the credit for contributions to a development zone project or an agrarian growth zone, must pay a \$500 fee for each Article 3A credit it intends to claim if the activity that qualifies for the credit occurred at an establishment in a Tier 3, 4, or 5 area. The maximum fee is \$1,500 per year. The fee does not apply to an activity occurring at an establishment that is in a Tier 1 or 2 area, in a development zone, or in an agrarian growth zone. If the activity is conducted by a pass-through entity, the pass-through entity, not its owners to which the credit is allocated, is subject to the fee.

The taxpayer must pay the fee to the Department of Revenue when filing the tax return for the taxable year in which the taxpayer engages in the activity that qualifies for the credit. The fee is due at the same time the tax return is due and the credit will not be allowed until the fee is paid. Use Form NC-478V, available from the Department's website, to report the fee that is due. **Include a separate check for the total fee due, payable in U.S. currency, with the completed voucher.**

A taxpayer making contributions to a development zone project or an agrarian growth zone project is not required to pay the fee to be eligible to claim the credit. However, the taxpayer must apply to the Secretary of Revenue for the credit. The application must be filed on or before April 15 of the year following the calendar year in which the contribution was made. The credit is claimed for the tax year in which the application is due. The total amount of credits for contributions by all taxpayers in a calendar year is limited to \$4,000,000. This limit is allocated among those taxpayers that file a timely application. The Department of Revenue will notify each taxpayer by the end of the year in which the applications are filed of the amount of credit the taxpayer may claim. A copy of the notification from the Department must be attached to the return in the year the credit is claimed.

Deadline for filing. To claim an Article 3A credit or an installment of an Article 3A credit against your tax liability for 2006, you must file both NC-478 and the applicable NC-478 series form **within 6 months after the due date for filing the tax return**, including any extensions of that date. The following example illustrates this requirement:

A calendar year taxpayer creates 10 new qualifying jobs in 2006. The taxpayer files a timely extension on March 15, 2007, which extends the due date of the tax return to October 15, 2007. Applying the six month statute of limitations, the taxpayer has until April 15, 2008 to file the NC-478A and report the 2006 credit for claiming jobs. If the taxpayer had not filed a timely extension by March 15, 2007, the NC-478A would have had to be filed by September 15, 2007.

Overdue Tax Debts. A taxpayer is ineligible for an Article 3A tax credit if the taxpayer has an overdue tax debt at the time the taxpayer claims an installment or carryforward of a credit. An "overdue tax debt" is defined as "any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer." The term does not include a tax debt for which the taxpayer has entered into a valid installment agreement with the Department.

Pass-through entities. A pass-through entity must provide sufficient information about the tax credits to its owners or beneficiaries to allow them to complete the Form NC-478 series. The information must be provided on, or as an attachment to, the NC K-1 provided to the owner or beneficiary. An owner or beneficiary should add the credits passed through by a pass-through entity to any credits the owner or beneficiary qualifies for directly when completing the Form NC-478 series. (See *“Allocation of Credits by Pass-Through Entities”* for an example of the computation of these tax credits for pass-through entities.)

Short-period returns. If a taxpayer is required to file more than one tax return during a year, each return constitutes a year for purposes of taking an installment of a credit or any unused portion of a credit.