



## Important Notice: Changes to Filing Requirements for Form NC-3 for Tax Year 2019

The following important information is addressed in this notice:

- Automatic waiver of the penalty for failure to file the 2019 Form NC-3, along with required W-2 and 1099 statements, electronically.
- Administrative change to the requirement to file 2019 federal Form 1099-MISC statements with the Department if the statements do not report North Carolina income tax withholding payments.

### **Secretary Announces Automatic Waiver of the Penalty for Failure to File Form NC-3 and Required W-2 and 1099 Statements in the Format Prescribed by the Secretary**

[N.C. Gen. Stat. § 105-163.7\(b\)](#) requires every employer to annually file an information return (“Form NC-3”) with the Secretary of Revenue (“Secretary”) that reconciles the total North Carolina income tax withheld as listed on W-2 and 1099 statements with the amount of tax reported to the Department as withheld for the year.<sup>1</sup> By statute, Form NC-3 must be filed in an electronic format and must include any additional information required by the Secretary.

[N.C. Gen. Stat. § 105-236\(a\)\(10\)d](#) requires the Secretary to assess a \$200 penalty against taxpayers that fail to file an informational return in the format prescribed by the Secretary. For purposes of Form NC-3, the format prescribed by the Secretary requires a payer to file one Form NC-3, along with the State’s copy of each required W-2 and 1099 statement, in an electronic format on or before the due date via the Department’s eNC3 and Information Reporting Application.

[N.C. Gen. Stat. § 105-237\(a\)](#) allows the Secretary administrative discretion to reduce or waive certain penalties, including penalties regarding informational returns. Because the Secretary is aware that some software vendors continue to fail to provide support for the electronic filing of Form NC-3 or the required W-2 and 1099 statements, the Secretary has elected to continue the automatic waiver of the \$200 penalty for failure to file the 2019 Form NC-3 in the format prescribed by the Secretary. This is an automatic waiver – no action is required. Importantly, this waiver does not alleviate the business of its responsibility to timely file Form NC-3 and the required W-2 and 1099 statements.

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<sup>1</sup> N.C. Gen. Stat. §§ [105-163.2A\(b\)](#), [105-163.2B](#), and [105-163.3\(d\)](#) requires pension payers, the North Carolina Lottery Commission, and certain other payers to annually file Form NC-3.

For most payers, the due date of the 2019 Form NC-3 is January 31, 2020.<sup>2</sup> If a payer does not timely file Form NC-3 either electronically or by paper on or before January 31, 2020, the Secretary will impose a failure to timely file penalty against the taxpayer as prescribed under [G.S. 105-236\(a\)\(10\)c](#). The failure to file penalty is \$50 per day, up to a maximum of \$1,000. While some taxpayers may have difficulty filing Form NC-3 electronically, the Department strongly encourages the electronic submission of Form NC-3 and the required statements. For information on submitting the forms electronically, go to [www.ncdor.gov/eNC3](http://www.ncdor.gov/eNC3).

### **Administrative Change to the Requirement to File 2019 Federal Form 1099-MISC with the Department if the Statement Does Not Reflect NC Income Tax Withheld**

[N.C. Gen. Stat. § 105-163.7\(b\)](#) permits the Secretary to require additional information to be included on an informational return. [Administrative Rule 17 NCAC 06C .0203\(b\)](#) provides a specific list of the required forms that must be submitted to the Department when the taxpayer annually files Form NC-3 with the Secretary.

The Secretary is aware that certain software vendors do not provide adequate support for the electronic filing of federal Form 1099-MISC statements with the Secretary. The Department understands that printing and filing paper copies of federal Form 1099-MISC statements is often burdensome and time consuming for businesses and accounting firms. Therefore, notwithstanding the provisions of Administrative Rule 17 NCAC 06C .0203, for tax year 2019, the Secretary will not require taxpayers to submit a paper or electronic copy of any federal Form 1099-MISC statement that does not report North Carolina income tax withheld. **Important:** A federal Form 1099-MISC statement that reports North Carolina income tax withheld must be filed with the Department as a part of a payer's annual report filing requirement.

### **Assistance**

If you have any questions about this notice, you may call the Taxpayer Assistance Division at 877-252-3052 (8:00 am until 5:00 pm EST, Monday through Friday), or write the Department at PO Box 1168, Raleigh, NC 27602.

*To the extent there is any change to a statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance regarding the subject of this notice and issued prior to this notice conflict with this important notice, the provisions contained in this important notice supersede the previous guidance.*

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<sup>2</sup> Unless you terminate your business or permanently cease paying wages, the 2019 Form NC-3 and the State's copy of each required statement must be filed with the Department on or before January 31, 2020.