

2011 North Carolina

S-Corporation Income Tax Forms and Instructions

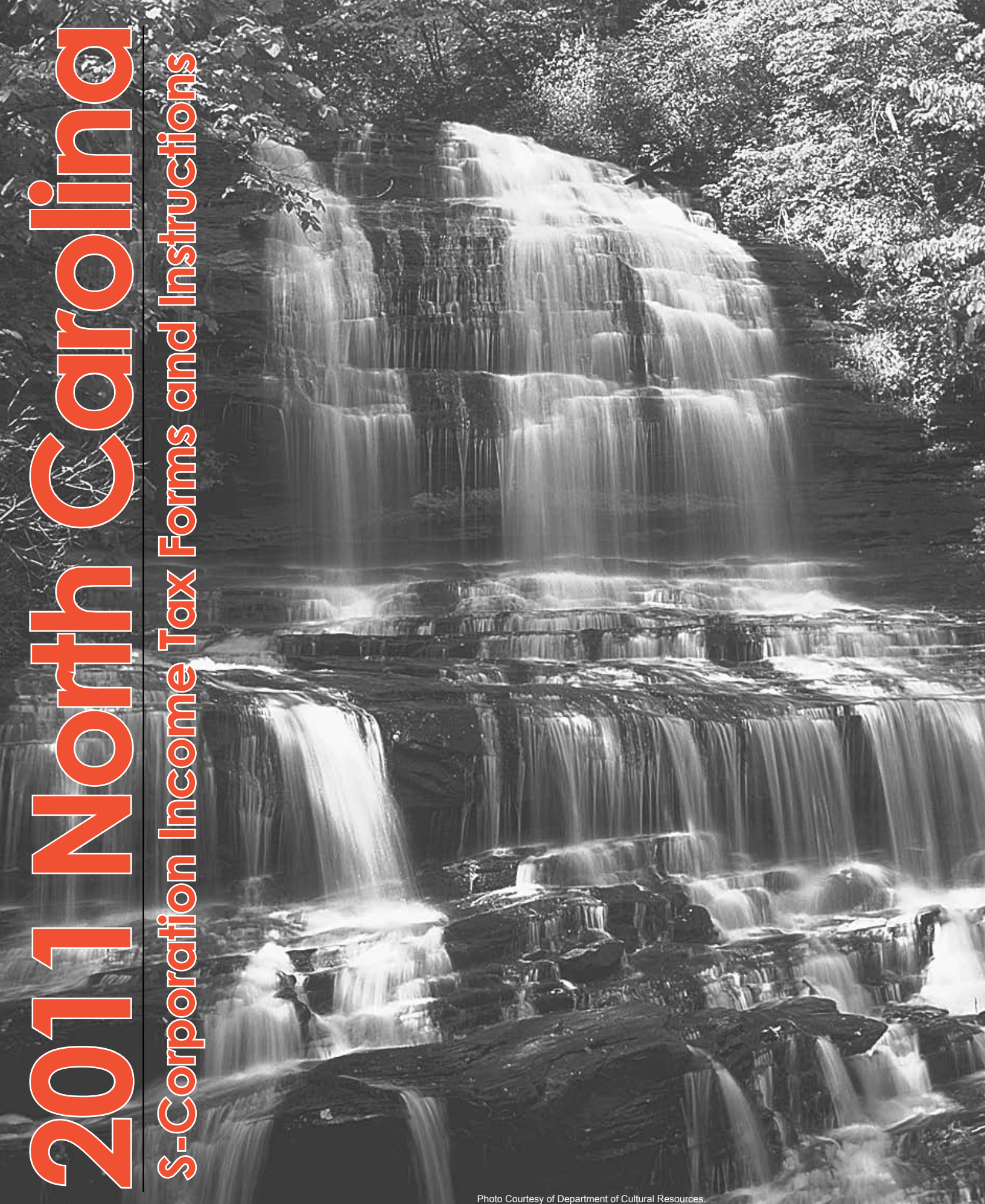


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2011 FORMS IN BOOKLET	
Form CD-401S - S Corporation Tax Return	
Form CD-425 - Corporate Tax Credit Summary	
Form NC K-1 - Shareholder's Share of N.C. Income and Adjustments	

Important Form Guidelines

The forms in this booklet are designed for electronic scanning that permits faster processing with fewer errors. To avoid unnecessary delays caused by manual processing, please follow the guidelines below:

- Enter your name and federal employer ID number on all pages.
- Use blue or black ink. **DO NOT** use pencil or red ink.
- Print in capital letters. Example:

A	B	C	D	E	F	G	H
---	---	---	---	---	---	---	---
- Fill in circles completely. Example:

<input checked="" type="radio"/> Yes	<input type="radio"/> No
--------------------------------------	--------------------------
- Double-check all computations. Sign and date return. Accuracy speeds processing.
- **DO NOT** use dollar signs (\$), commas, decimal points, or other punctuation marks or symbols.
- **DO NOT** use brackets to indicate overpayments or negative numbers. Overpayments and negative numbers are indicated by filling in the circle located next to the number.
- **DO NOT** enter zeros or draw lines in boxes where no data is required.
- **DO NOT** submit photocopies. **Submit original pink and black ink forms. Returns that cannot be processed will be returned to the taxpayer.**

To ensure that the corporation's tax return is correctly processed, attach all forms and schedules in the following order:

- | | | |
|-------------|------------------|-------------------------------|
| 1. CD-V | 4. NC-478 | 7. CD-425 |
| 2. NC-478VJ | 5. NC-478 Series | 8. Other supporting schedules |
| 3. CD-479 | 6. CD-401S | |

Important

If you owe tax or an Article 3J fee, do not staple, tape, paper clip or otherwise attach your check to the vouchers or the return. **Note. The Department will not accept a check, money order, or cashier's check unless it is drawn on a U.S. (domestic) bank and the funds are payable in U.S. dollars.**

2011

North Carolina

S Corporation Tax Return Instructions

General Information

The information contained in these instructions is to be used as a guide in the preparation of the North Carolina S Corporation tax return and is not intended to cover all provisions of the law.

For further information on North Carolina tax law, refer to administrative rules, bulletins, directives, and other publications issued by the Department of Revenue, "Department", as well as opinions issued by the Attorney General's office.

The Department has published the "2011 Tax Law Changes" resource document. This document gives a brief summary of the tax law changes made by the 2011 General Assembly regardless of when the changes take effect, as well as changes made by prior General Assemblies that take effect for tax year 2011. For detailed information concerning these changes, go to the Department's website, www.dornc.com, click on "Businesses" and select "2011 Law Changes".

Corporations Required to File

Every S corporation doing business in North Carolina and every inactive S corporation chartered or domesticated here must file an annual franchise and income tax return using the name reflected on the corporate charter if incorporated in this State, or on the certificate of authority if incorporated outside this State. A franchise tax is imposed on corporations for the privilege of doing business in this State even though the activities are exempt from income tax under P.L. 86-272. For a corporation that is subject to both income tax and franchise tax, its apportionment factor is the same for both taxes. For a corporation that is subject to franchise tax but not income tax, its apportionment factor for computing the amount of franchise tax due is the same factor that would be used if its activities that are protected by P.L. 86-272 were subject to income tax in this State.

New S Corporations

A new S corporation (newly incorporated, newly domesticated out-of-state corporation, or other corporation commencing business in the State) is required to file a tax return with this Department by the 15th day of the fourth month following the close of its first income year of twelve (12) months or less. The taxable year for a new corporation in this State is presumed to end the calendar month preceding the month of incorporation unless otherwise established by the filing of the required return indicating the taxable year adopted. In no case may the first taxable year exceed 12 months unless it is clearly shown that the corporation has adopted a method of accounting using the 52-53 week reporting period. A tax return is due annually so long as the corporation remains incorporated, domesticated, or continues to do business in this State.

Election to be S Corporation

There is no separate S election for North Carolina income tax purposes. There is no provision to elect a different filing method for State income tax purposes.

Termination of S Election

The S corporation election will terminate for North Carolina purposes at the same time and for the same taxable period the termination is effective for federal tax purposes.

Tax Rates

The franchise tax rate is \$1.50 per \$1,000.00 of capital stock, surplus and undivided profits or other alternative tax base. The minimum franchise tax is \$35.00 with no maximum except for qualified holding companies. The corporate income tax rate for composite filers is based on the current individual income tax rates for single filers.

Estimated Income Tax

Estimated income tax payments are not required on behalf of nonresident shareholders filing a composite tax return; however, if the S corporation makes any prepayments of income tax for nonresidents, the S corporation must claim these prepayments on Schedule B, Line 24b.

When and Where to File

The S corporation tax return is due on the 15th day of the fourth month following the close of the income year. An income year ending on any day other than the last day of the month is deemed to end on the last day of the calendar month ending nearest to the last day of the actual income year. **Mail returns to:**

North Carolina Department of Revenue
P.O. Box 25000
Raleigh, NC 27640-0530

Extensions

An extension of time to file the franchise and income tax return may be granted for six (6) months if the extension application is received timely. Without a valid extension, a return filed after the statutory due date will be delinquent and subject to interest and all applicable penalties provided by law. To receive an extension, taxpayers must file the application by the original due date of the return.

You can apply for an extension and pay your tax online. Go to the Department's website, click on "Electronic Services", and select "Businesses".

North Carolina does not accept the federal extension in lieu of Form CD-419; therefore, a properly filed federal extension does not constitute a North Carolina extension.



Computer Generated Substitute Forms

A corporation may file its North Carolina Franchise and Corporate Income tax return on computer generated tax forms approved by the Department. The Department's website includes a list of software developers who have received approval. Returns that can not be processed by the Department's imaging and scanning equipment **will be returned to the taxpayer** with instructions to file on an acceptable form.

Where to Get Forms

In an effort to save the cost of printing and mailing tax booklets, the Department no longer mails franchise and corporate income tax forms to taxpayers. North Carolina tax forms are available from the Department or by going to the Department's website and clicking on "**Tax Forms**". The website offers forms that can be downloaded or filled in online and printed. **Forms can also be obtained by calling the Department's toll free forms request line at 1-877-252-3052.**

Specific Instructions for Filing Form CD-401S

Period Covered

File the 2011 return for calendar year 2011 and fiscal years that begin in 2011. You must use the same taxable period on your North Carolina return as on your federal return.

Note: The 2011 Form CD-401S may also be used if:

- The corporation has a tax year of less than 12 months that **begins** in 2011. **If the corporation's tax year is less than 12 months, fill in the appropriate circle at the top of the form.**
- The 2012 Form CD-401S is not available at the time the corporation is required to file its return.

Important. Returns submitted to the Department that do not meet the specified criteria **will be returned to the taxpayer** with instructions to refile the return on an acceptable form.

Demographic and Other Taxpayer Information

Name, Address, and Identification Numbers. Print or type the corporation's true legal name (as set forth in the corporate charter), address, federal identification number, and North Carolina Secretary of State number on the appropriate lines. Include in this section the corporation's primary NAICS code as determined by the Division of Employment Security within the Department of Commerce. *(For further information regarding the NAICS code, see the North American Industry Classification System as published by the Federal Office of Management and Budget.)*

If a change in address occurs after the return is filed, use Form NC-AC, Business Address Correction, to notify the Department of the new address.

Gross Receipts/Sales and Total Assets. Enter the corporation's gross receipts or sales from all business operations for the tax year. Also, enter the corporation's total assets **(as determined by the accounting method regularly used in keeping the corporation's books and records)** at the end of the tax year.

Federal Schedule M-3. All corporations with total assets of \$10 million or more on the last day of the tax year must complete Federal Schedule M-3 instead of Federal Schedule M-1. Corporations filing Federal Schedule M-3 must attach a copy of the completed schedule to the North Carolina corporate income tax return. **If the corporation has attached Federal Schedule M-3 to Form CD-401S, fill in the appropriate circle.**

Important. For North Carolina income tax purposes, taxpayers that are members of a U.S. consolidated tax group must complete Federal Schedule M-3 separately in order to accurately reflect each member's activity.

Qualified Subchapter S Subsidiary (QSSS). For corporate income tax purposes, North Carolina follows the federal classification of entities under the federal check-the-box regulations. If the corporation meets these qualifications and is a QSSS, fill in the appropriate circle. In addition, enter the name and FEIN of the parent of the QSSS. **Qualified Subchapter S Subsidiaries must file separate franchise tax returns.**

Initial Return. If this is the corporation's first return in North Carolina, fill in the appropriate circle.

Final Return. If the corporation ceases to exist or leaves North Carolina during the tax year, fill in the appropriate circle. Since franchise taxes are paid in advance or at the beginning of the income year, corporations are not subject to franchise tax after the end of the income year in which articles of dissolution or withdrawal are filed with the Secretary of State unless they engage in business activities not reasonably incidental to winding up their affairs. Although the final income tax return must be filed on a combination franchise and income tax return form, the schedules relating to franchise tax should be disregarded. **This applies, however, only to those corporations officially filing articles of dissolution or withdrawal with the Secretary of State of North Carolina.**

NC-478. Corporations claiming a credit limited by statute to 50% of tax must complete Form NC-478, Summary of Tax Credits Limited to 50% of Tax, and place it on the front of the completed Form CD-401S. **If the corporation has attached Form NC-478 to Form CD-401S, fill in the appropriate circle.**

CD-479 (Annual Report). All domestic corporations and foreign corporations authorized to transact business in North Carolina except for insurance companies, limited liability companies, nonprofit corporations, professional corporations, and professional associations must, on an annual basis, file an annual report and remit a twenty-five dollar (\$25.00) fee. **Taxpayers have the option of either filing the annual report in paper form with the Department of Revenue or online in an electronic format with the Secretary of State for a reduced fee of \$18.00.**

If the corporation elects to file the annual report in paper form with the Department of Revenue, Form CD-479 must be completed in its entirety and placed on **the front page** of the completed tax return. **The circle labeled "CD-479 is attached" located at the top of the tax return must also be filled in.** The \$25.00 fee must be included in the computation of the corporation's income tax due **ONLY** if the corporation elects to file the report with the Department of Revenue. **Form CD-479 can be obtained from the Department's website or by calling the Department's form request line.**

If the corporation elects to file the annual report in an electronic format online with the Secretary of State, go to the Secretary of State's website, **www.sosnc.com** for details. **The fee of \$18.00 must be paid online using one of the payment options offered by the Secretary of State.** The Department strongly encourages taxpayers to file the annual report electronically with the Secretary of State.

Limited Liability Company (LLC). A limited liability company that elects to be taxed as an S corporation for federal tax purposes is recognized as the same type of entity for State franchise and income tax purposes. **If a limited liability company is classified as an S corporation for federal tax purposes, fill in the appropriate circle.**

Amended Return. If filing an amended return, fill in the appropriate circle. A complete explanation as to the reason(s) for filing an amended return, including specific schedule and line number references, must be included on Schedule J of the return. If any change is made to corporate net income by the Internal Revenue Service, taxpayers are required to file an amended North Carolina return **within six (6) months** after being notified of the correction or final determination. A penalty is imposed for failure to comply with this filing requirement.

Rounding Off to Whole Dollars

Corporations must round the amounts on the return and accompanying schedules to the nearest whole dollar. Taxpayers should drop any amount less than 50 cents and increase any amount of 50 cents or more to the next whole dollar.

Computation Of Franchise Tax - Schedule A

Lines 1 through 5 - Tax Bases

Franchise tax is computed by applying the tax rate of \$1.50 per \$1,000.00, **minimum \$35.00**, to the largest of the following three bases:

- (1) Capital stock, surplus, and undivided profits (Schedule C)
- (2) Investment in North Carolina tangible property (Schedule D)
- (3) Appraised value of North Carolina tangible property (Schedule E)

Inactive Corporations. A corporation that is inactive and without assets is subject annually to a minimum franchise tax of \$35. A return containing a statement of the status of the corporation is required to be filed. **Failure to file this return and pay the minimum tax will result in suspension of the articles of incorporation or certificate of authority.** Any corporation that intends to dissolve or withdraw through suspension for nonpayment of franchise tax should indicate its intention in writing to the Department.

Capital Stock, Surplus, and Undivided Profits. Enter the amount of capital stock, surplus, and undivided profits from the book balance sheet as of the end of the tax year. Before making this entry, corporations must complete Schedule C of Form CD-401S. *(See instructions on page 7.)*

Qualified Holding Companies. Franchise tax payable by a qualified holding company on its capital stock and surplus tax base is limited to an amount not to exceed \$75,000. There is no limitation on the amount of franchise tax payable where the alternative tax bases of investment in tangible property or appraised value of property apply. **Important. If the corporation qualifies as a holding company for franchise tax purposes, enter the amount of capital stock on Line 1 and fill in the "Holding Company Exception" circle.**

Investment in North Carolina Tangible Property. Enter the amount of actual investment in North Carolina tangible property as of the end of the tax year. Before making this entry, corporations must complete Schedule D of Form CD-401S. *(See instructions on page 7.)* For more information regarding when to include leased property, see Administrative Code Section 17NCAC05B.1309.

Appraised Value of North Carolina Tangible Property. Multiply the appraised ad valorem tax value of all tangible property located in N.C. by 55%. Before making this entry, corporations must complete Schedule E of Form CD-401S. *(See instructions on page 8.)*

Line 6 - Application for Franchise Tax Extension

If the corporation filed an application for franchise tax extension, Form CD-419, enter the amount of **franchise tax paid** with the extension on Line 6. *(See Form CD-419, Line 9.)*

Line 7 - Tax Credits

To claim a franchise tax credit on Line 7, corporations must complete Form CD-425, Corporate Tax Credit Summary, and file it with the tax return. Taxpayers claiming a credit limited by statute to 50% of tax must also complete Form NC-478, Summary of Tax Credits Limited to 50% of Tax, and place it on the front of the completed tax return. **Forms for many of these credits, as well as the CD-425 and NC-478, are available from the Department's website.**

The following is a partial list of franchise tax credits available to corporations:

- Short Period Franchise Tax Credit
- Annual Report Fee Tax Credit
- Job Creation Tax Credit
- Technology Development Tax Credit
- Central Office or Aircraft Facility Property Tax Credit
- Credit for the Rehabilitation of Historic Structures
- Small Business Health Insurance Tax Credit
- New Work Opportunity Tax Credit
- Investing in Real Property

- Investing in Business Property
- **Credit for a Renewable Energy Property Facility (New)**
- **Interactive Digital Media Tax Credit (New)**

Failure to substantiate a tax credit may result in the disallowance of that credit. *(For specific information regarding tax credits, refer to the Franchise Tax and Corporate Income Tax Rules and Bulletins.)*

Lines 8 and 9 - Franchise Tax Due / Overpaid

Subtract Lines 6 and 7 from Line 5. If the total of Line 6 plus 7 is less than Line 5, **additional franchise tax is due.** Enter the amount of additional tax due on Line 8 and on Page 2, Line 28. If the total of 6 plus 7 is more than Line 5, **franchise tax is overpaid.** Enter the amount of overpayment on Line 9 and on Page 2, Line 28. **Fill in the circle located next to Line 28 to indicate the amount is overpaid.**

Since franchise tax is prepaid, a special computation is sometimes required to prevent a duplication of tax when two or more corporations with different income years **merge** or otherwise transfer the entire assets from one corporation to the other. *(For specific information and the procedure for making this computation, refer to the Franchise Tax and Corporate Income Tax Rules and Bulletins.)*

(Overpaid franchise tax can offset underpaid income tax in the same tax year and vice versa. See "Tax Due or Overpayment" section, on page 7 for line-by-line instructions.)

Computation of Income Tax - Schedule B

Line 10 - Shareholders' Shares of Corporation Income (Loss)

Enter the total amount of income or loss for the S corporation on Line 10. Before making this entry, corporations must complete Schedules G and H of Form CD-401S. *(See instructions on page 8.)* **If the amount on Line 10 is negative, enter the amount and fill in the circle located next to Line 10 to indicate the amount is negative. Do not use brackets or other symbols to indicate a negative number.**

Line 11 - Adjustments to Federal Taxable Income

Taxpayers must make certain adjustments to federal taxable income in arriving at North Carolina taxable income. Before making this entry, corporations must complete Schedule I of Form CD-401S. *(See instructions on page 8.)* **If the amount on Line 11 is negative, enter the amount and fill in the circle located next to Line 11 to indicate the amount is negative.**

Line 13 - Nonapportionable Income

When a corporation has income from sources within North Carolina as well as sources outside North Carolina a determination of apportionable and nonapportionable income must be made. If the corporation's business is conducted entirely within North Carolina, enter zero on Line 13. If the business is both within and outside of North Carolina, enter the total amount of nonapportionable income on Line 13. Before making this entry, corporations must complete Schedule N of Form CD-401S. *(See instructions on page 9.)* **If the amount on Line 13 is negative, enter the amount and fill in the circle located next to Line 13 to indicate the amount is negative.**

Line 14 - Apportionable Income

All income apportionable under the U.S. Constitution is apportioned to North Carolina and to other states based on the apportionment factor. **If the amount on Line 14 is negative, enter the amount and fill in the circle located next to Line 14 to indicate the amount is negative.**

Line 15 - Apportionment Factor

Enter the apportionment factor percentage as calculated from Schedule O of Form CD-401S. **The apportionment factor must be calculated four places to the right of the decimal.** *(See instructions on page 9.)*

Line 17 - Nonapportionable Income Allocated to N.C.

Enter on Line 17 the amount of nonapportionable income allocated directly to this State. Before making this entry, corporations must complete Schedule N of Form CD-401S. (See instructions on page 9.) **If the amount on Line 17 is negative, enter the amount and fill in the circle located next to Line 17 to indicate the amount is negative.**

Lines 19 through 23 - Composite Tax Returns

Lines 19 through 23 are to be completed only by an S corporation filing a composite income tax return on behalf of its nonresident shareholders. A composite return is an income tax return that combines and reports the income and tax due of participating nonresident shareholders. A nonresident individual shareholder is not required to file a North Carolina individual income tax return, Form D-400, if the shareholder's only income in North Carolina is reported by the S corporation. If the nonresident shareholder is a trust or another S corporation, the entity must file a separate North Carolina tax return.

Line 20 - Separately Stated Items of Income Attributable to Nonresidents Filing Composite

Special rules apply for gain from the sale, exchange, or disposition of Internal Revenue Section 1231 property on which a Code Section 179 expense deduction was previously claimed. For federal purposes, the gain is no longer included at the entity level but instead is passed through separately to the individual shareholders. As a result, the gain is included in federal taxable income on the shareholder's income tax return but is not included as part of the shareholder's share of the corporation's income. (See *North Carolina Schedule K, Line 5.*)

S corporations must identify each nonresident shareholder's share of separately stated income items and enter the amount on the North Carolina Schedule K, Line 12, and on Form NC K-1, Line 7. **Important. Losses attributed to the sale of Section 1231 property are not deductible in the calculation of North Carolina income tax for nonresident shareholders filing composite. Taxpayers wishing to deduct their pro rata share of these losses must do so by filing a North Carolina income tax return.**

Line 21 - North Carolina Income Tax

To determine the amount of income tax due for each nonresident filing composite, use the "Income Tax Rate Schedule" found on Form CD-401S, page 8. North Carolina income tax must be separately computed for each nonresident shareholder filing composite. The S corporation must total the separate income tax for each composite filer and enter the sum on Line 21.

Line 22 - Annual Report Fee

If the corporation elects to pay the annual report fee in paper format with the income tax return, enter \$25.00 on Line 22; **otherwise, enter zero.**

Note. LLCs taxed as corporations are subject to a \$200.00 annual report fee. Go to the Secretary of State's website, www.sosnc.com, for information and payment options. In addition, an LLC subject to franchise tax is allowed a tax credit equal to the difference between the annual report fee on LLCs and the annual report fee on corporations.

Line 24 - Tax Payments and Credits

- Application for Extension.** Taxpayers filing a Form CD-419 enter the amount of income tax paid on Line 10 of the CD-419 on Line 24a.
- 2011 Estimated Tax.** Enter any estimated income tax payments for 2011 (including any portion of the 2010 overpayment that was applied to the 2011 estimated income tax and any payment remitted on behalf of nonresident shareholders) on Line 24b.

- Partnerships.** If the corporation is a nonresident partner enter the amount of tax paid to North Carolina on behalf of the corporate partner on Line 24c. **Important.** If a partnership payment is claimed on Line 24c, a copy of the NC K-1 **MUST** be attached.
- Nonresident Withholding.** Enter the amount of tax withheld from a nonresident corporation for nonwage compensation during the taxable year on Line 24d.
- Tax Credits Attributable to Nonresidents Filing Composite.** To claim an income tax credit, the S corporation must complete Form CD-425, Corporate Tax Credit Summary, and file it with the completed tax return. **The S corporation must include only the amount of income tax credits allocated to nonresident shareholders on whose behalf a composite return is filed.** In order for composite filers to claim an income tax credit limited by statute to 50% of tax, the S corporation must also complete Form NC-478, Summary of Tax Credits Limited to 50% of Tax, and place it on the front of the completed tax return. **Forms for many of these credits, as well as the CD-425 and the NC-478, are available from the Department's website. Failure to substantiate a tax credit may result in the disallowance of the credit.**

The following is a partial list of income tax credits available to corporations:

- Job Creation Tax Credit
- Technology Development Tax Credit
- Central Office or Aircraft Facility Property Tax Credit
- Credit for the Rehabilitation of Historic Structures
- Small Business Health Insurance Tax Credit
- New Work Opportunity Tax Credit
- Investing in Real Property
- Investing in Business Property
- Small Business Unemployment Insurance Tax Credit
- **Credit for a Renewable Energy Property Facility (New)**
- **Interactive Digital Media Tax Credit (New)**

Small Business Unemployment Insurance Tax Credit. A tax credit is allowed for small businesses that make contributions to the State Unemployment Insurance Fund with respect to wages paid for employment in this State. The credit is 25% of the amount of qualified contributions to the State Unemployment Insurance Fund. A small business is defined as a business whose cumulative gross receipts from the business activity for the tax year do not exceed one million dollars (\$1,000,000). The credit may be claimed only against corporate and individual income tax. If the credit exceeds the amount of tax for the taxable year reduced by the sum of all credits allowable, the excess is refundable. The credit applies to taxable years 2010 and 2011. **Important. S Corporations enter only the amount of tax credit attributable to nonresidents filing composite on Line 24e.**

Production Company Credit. The tax credit for qualifying expenses of a production company cannot be claimed on Form CD-401S, Line 24e. Instead, this credit must be claimed on Form NC-415, available from the Department's website.

Lines 26 and 27 - Income Tax Due / Overpaid

Subtract Line 25 from Line 23. If Line 25 is less than Line 23 **additional income tax is due.** Enter the amount of additional tax on Line 26 and on Line 29. If Line 25 is more than Line 23, **income tax is overpaid.** Enter the amount of overpayment on Line 27 and on Line 29. **Fill in the circle located next to Line 29 to indicate the amount is overpaid.**

(Overpaid franchise tax can offset underpaid income tax in the same tax year and vice versa. See the "Tax Due or Overpayment" for line-by-line instructions.)

Lines 28 through 30 - Tax Due or Overpayment

A corporation that overpays its franchise or income tax may elect to have its refund applied to an underpaid franchise or income tax liability in the same tax year. The netting of an overpaid tax to an underpaid liability is calculated by adding or subtracting Lines 28 and 29.

Lines 31a and 31b - Interest and Penalties

Interest. Interest at the rate established by G. S. 105-241.1 is charged on taxes paid late even if an extension of time to file is granted. The interest rate on underpayments is the same as the interest rate on overpayments. The rate is established semiannually by the Secretary of Revenue and is listed on the Department's website.

Failure to file penalty. Returns filed after the due date are subject to a penalty of 5% of the tax for each month, or part of a month, the return is late (minimum \$5.00; maximum 25% of the additional tax).

Failure to pay penalty. Returns filed after the statutory due date without a valid extension are subject to a late payment penalty of 10% of the unpaid tax. If the corporation has an extension of time for filing its return, the 10% penalty will apply on the remaining balance due. The minimum penalty is \$5.00.

Collection Assistance Fee. Any part of a tax debt not paid within 90 days is subject to a 20% collection assistance fee. The fee will not apply to taxpayers that make payments under an installment agreement that became effective within 90 days after the tax debt became collectible.

Line 32 - Total Due

Add Lines 30 through 31b and enter the total on Line 32, but not less than zero. **This is the total tax, penalties, and interest due.** Make your check or money order payable to the **North Carolina Department of Revenue.** The Department will not accept a check or money order unless it is drawn on a U.S. (domestic) bank and the funds are payable in U.S. dollars. Mail the return, any balance due, and a personalized payment voucher, Form CD-V, to:

**NC Department of Revenue, P.O. Box 25000,
Raleigh, NC 27640-0530**

Form CD-V (Corporate Payment Voucher). Form CD-V is a personalized voucher that a corporation should send with any balance due. To generate a personalized voucher, go to the Department's website and click on "**Tax Forms**".

Form CD-V Amended (Amended Corporate Payment Voucher). If filing an amended CD-401S, corporations owing additional tax should use Form CD-V Amended.

IMPORTANT. You can pay your franchise and corporate income tax online. Go to the Department's website. Click on "**Electronic Services**", and select "**Businesses**".



Line 33 - Overpayment

If the sum of Lines 28 and 29 is less than zero, the corporation has overpaid its tax. Enter the amount of overpayment on Line 33.

Line 34 - Estimated Income Tax

A corporation may elect to apply part or all of the overpayment shown on Line 33 to its estimated income tax for the following year by entering the amount to be applied on Line 34. This election cannot be changed after the return is filed. **Important. To apply an overpayment from 2011 to 2012 estimated tax, the return must be filed by the last allowable date for making 2012 estimated payments.**

Line 35 - Amount to be Refunded

Enter the amount of overpayment to be refunded on Line 35. The amount to be refunded cannot exceed Line 33 minus Line 34.

Signature and Verification

An authorized officer must sign and date the completed tax form and enter his or her corporate title. **A phone number for the corporation, including area code, is also requested.** If a paid preparer is used, the preparer must also sign and date the return, enter the firm's federal employer ID number, social security number, or PTIN as assigned by the Internal Revenue Service, and fill in the applicable circle to denote the type of number used.

Capital Stock, Surplus, and Undivided Profits - Schedule C

In addition to the items listed on the schedule, include stock subscribed, deferred taxes, and all other surplus, reserves, deferred credits, and inventory valuation reserves, including amounts deferred as result of a LIFO valuation method (LIFO reserves), and liabilities except: (a) reserve for depreciation and amortization as permitted for income tax purposes; (b) accrued taxes; (c) dividends declared; (d) definite and accrued legal liabilities (accounts, notes, mortgages payable, etc.); and (e) billings in excess of costs that are considered a deferred liability under the percentage of completion method of revenue recognition. Deferred tax liabilities may be reduced, but not below zero, by deferred tax assets. No other deferred liabilities may be reduced by deferred tax assets. Deferred income resulting from customer advances for goods or services may be excluded from this base provided: (1) there exists a definite legal liability to render the service or deliver the goods; (2) no part of the advances has been reported or is reportable for income tax purposes; and (3) all related costs and expenses are reflected in the balance sheet as assets. Deferred income net of related deferred income taxes arising from the usual installment sale is not deductible because the corresponding liability would have been discharged at the time of delivery.

Indebtedness owed to a parent, subsidiary, or affiliated corporation is considered a part of the debtor corporation's capital and must be added to the debtor corporation's capital stock, surplus, and undivided profits. If the creditor corporation has borrowed a part of its capital from outside sources (i.e., sources other than a parent, subsidiary, or affiliated corporation), the debtor corporation may exclude a proportionate part of the debt determined on the basis of the ratio of the creditor corporation's capital borrowed from outside sources to the creditor corporation's total assets.

The creditor corporation, if subject to the tax, can deduct from its capital stock, surplus, and undivided profits the amount of indebtedness owed to it by a parent, subsidiary, or affiliated corporation to the extent that the indebtedness has been added by the debtor corporation on a return filed with this State. **The exclusion permitted the debtor corporation and the deduction permitted the creditor corporation are applicable only to indebtedness owed to or due from a parent, subsidiary, or affiliated corporation.**

Cash Basis Corporations. Corporations using the cash basis method of accounting for income tax purposes cannot compute the capital stock, surplus, and undivided profits base by this method. Assets and liabilities must be accrued and reported for franchise tax purposes.

Investment in North Carolina Tangible Property - Schedule D

Include all tangible assets located in North Carolina at book value (original purchase price less reserve for depreciation permitted for income tax purposes.) For more information regarding when to include leased property, see Administrative Code Section 17NCAC05B.1309. **LIFO valuation is not permitted for inventories.**

A deduction from the tangible property base is allowed for indebtedness incurred and existing by virtue of the purchase or permanent improvement of real estate located in North Carolina. The deductible amount cannot exceed the book value (cost less depreciation) of the real estate acquired or improvements made. Debts incurred in the purchase of personal property are not deductible

even though the funds borrowed are secured by a lien against real estate. Indebtedness owed to a parent, subsidiary, or affiliated corporation constitutes a part of the debtor corporation's capital and, therefore, cannot be deducted from the tangible property tax base (except to the extent explained below) even though the indebtedness was incurred in the purchase or permanent improvement of real estate. The extent to which the indebtedness can be deducted is the amount of the total debt excluded by the debtor corporation from its capital stock, surplus, and undivided profits base by application of the creditor corporation's borrowed capital ratio.

Air or Water Pollution Abatement and Recycling Resource Recovering Facilities. A corporation may deduct from Schedule C and Schedule D the cost of any air cleaning device, sewage or waste treatment plant, and pollution abatement equipment purchased or constructed in this State. The cost of constructing a facility for recycling solid waste or for reducing hazardous waste may also be deducted from these bases. **A deduction is allowed only upon certification from the Department of Environment and Natural Resources.**

Appraised Value of North Carolina Tangible Property - Schedule E

Enter 55% of the appraised value, not book value, of all property listed for county ad valorem tax in North Carolina. This value includes the appraised value of all vehicles for which the county tax assessor has issued a billing during the income tax year. **Values are to be determined as of the dates specified on Schedule E of the return.**

Corporate Member of a Limited Liability Company (LLC)

A limited liability company's income, assets, liabilities, or equity is generally not attributed to a corporation that is a member of the LLC. However, if the corporation or an affiliated group of corporations owns more than fifty percent of the capital interests in a LLC, the corporation must include a percentage of the LLC's net assets in the calculation of the corporation's three franchise tax bases. **For example:** A partnership owns 100% of the capital interests of an LLC. Corporation A is a 51% owner of the partnership. Corporation A constructively owns 51% of the capital interest in the LLC.

If all members of the affiliated group are doing business in NC, then each member includes the percentage of the LLC's assets equal to the member's percentage ownership in the LLC. If some of the members of the group are not doing business in NC, then the percentage of the LLC's assets owned by the group are allocated among the members that are doing business in NC. The percentage attributed to each member doing business in NC is determined by multiplying the percentage of the LLC owned by the entire group by a fraction. The numerator of the fraction is the member's percentage ownership of the LLC and the denominator is the total percentage of the LLC owned by all members doing business in NC.

For example: An affiliated group of corporations owns 100% of the capital interests in an LLC. The group consists of three corporations. Corporation A is doing business in NC and owns 51% of the LLC. Corporation B is doing business in NC and owns 10% of the LLC. Corporation C is not doing business in NC and owns 39% of the LLC. The percentage of the LLC's assets required to be included in Corporation A's and Corporation B's franchise tax bases is determined as follows:

- Corporation A $100\% \times 51\% \div (51\% + 10\%) = 83.61\%$
- Corporation B $100\% \times 10\% \div (51\% + 10\%) = 16.39\%$

Important. If a corporation is required to include a percentage of the LLC's assets in the calculation of its franchise tax bases, the corporation may exclude its investment in the LLC from the computation of the capital stock base. **Also,** if the total book value of the LLC's assets never exceed \$150,000 during the taxable year, no attribution is required.

Other Information - Schedule F

MUST BE COMPLETED BY ALL TAXPAYERS

Ordinary Income (Loss) From Trade or Business - Schedule G

The computation of net income from trade or business activities follows the determination of ordinary income as defined by the Internal Revenue Code, effective January 1, 2011. S corporations must transfer the information from federal Form 1120S, U.S. Income Tax Return for an S Corporation (Lines 1 through 21), to Schedule G, or attach a copy of the federal form along with all supporting schedules.

Computation of Income (Loss) - Schedule H

- Line 1** Enter the ordinary business income(loss) as taken from federal Form 1120S, Line 21 or from Schedule G, Line 21.
- Lines 2-10** Add income or deduct losses on Lines 2 through 10 that are directly passed to the shareholders as shown on federal Schedule K, Lines 2 through 9.
- Line 11** Total of Lines 1 through 10; enter on Schedule B, Line 10.

Adjustments to Income (Loss) - Schedule I

Taxpayers must make certain adjustments to federal taxable income in arriving at North Carolina taxable income. Specifically, a shareholder's income (loss) is subject only to the adjustments under individual law regardless of the shareholder's residency status or whether the income is attributable to North Carolina. *(For more information on the adjustments to federal taxable income, see Form D-401, Individual Income Tax Instructions available from the Department's website).*

Adjustment for Bonus Depreciation. The federal Small Business Jobs Act of 2010 extended the fifty percent bonus depreciation through 2011. Subsequent to this Act, the federal Tax Relief Act of 2010 extended the bonus depreciation from fifty percent to one hundred percent for qualified property acquired and placed in service after September 8, 2010 and before January 1, 2012. North Carolina did not adopt the bonus depreciation provisions under IRC sections 168(k) and 168(n) of this Act. For taxable years 2010 through 2012, taxpayers are required to add to federal taxable income 85% of the amount allowed as a bonus depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the tax year. In addition, in each of the first five taxable years beginning with the year after the bonus depreciation was added to federal taxable income, taxpayers may deduct the amount of bonus depreciation added to the State income tax return in five equal installments. Therefore, an adjustment is required for any item included in (or excluded from) federal taxable income as a result of this Act. For more specific information, go to the Department's website and enter "http://www.dorn.com/taxes/individual/bonus_depreciation.html".

Shareholders' Pro Rata Share Items - Schedule K

This schedule is provided primarily as a worksheet to the S corporation to summarize all the shareholders' shares of income, North Carolina adjustments, and North Carolina tax credits, and to show the amount of these items that are apportioned or allocated to nonresident shareholders. The name, address, and percentage of ownership of each shareholder must be listed on Schedule K. A North Carolina resident is required to report its full share of corporate income or loss. A nonresident shareholder, however, is only required to report to North Carolina its share of apportioned and allocated income or loss.

The S corporation must give each shareholder a copy of Form NC K-1. The NC K-1 is the form used to report each shareholder's share of these items. The cumulative total of a given line on all of the shareholders' NC K-1s must equal the amount that the corporation reports in the Shareholders' Total column of Schedule K. A nonresident shareholder filing a composite income tax return must be provided with its share of net tax paid on its behalf by the S corporation. *(For additional instructions on Form NC K-1, see page 10.)*

Balance Sheet - Schedule L and Schedule M-1

Complete these schedules only if you do not attach a copy of federal Schedule L and Schedule M-1, along with all supporting schedules.

Analysis of N.C. Accumulated Adjustments Account, N.C. AAA - Schedule M-2

All corporations must maintain an “accumulated adjustments account” (AAA) for federal and state purposes. The N.C. accumulated adjustments account, N.C. AAA, may be different than the federal AAA for S corporations that were in existence prior to 1989. The computation of the N.C. AAA and N.C. other adjustments account is made using the same procedures as the federal computation applying the North Carolina amounts. (See instructions for federal Form 1120S and IRC §1368.)

N.C. Other Adjustments Account. The N.C. other adjustments account, N.C. OAA, is only adjusted by any items of North Carolina income less related expenses that are not included in the N.C. AAA account.

Net Income (Loss) Reconciliation for Corporations With Total Assets of \$10 Million or More - Schedule M-3

Attach a copy of federal Schedule M-3 to the back of this form if the corporation's total assets as reported on federal Schedule L equal or exceed \$10 million.

Nonapportionable Income - Schedule N

Nonapportionable income is income that cannot be apportioned because of the U.S. Constitution. Nonapportionable income is not subject to apportionment, but is allocated.

In general, all transactions and activities of a taxpayer that are dependent upon, or contribute to the operations of the taxpayer's economic enterprise as a whole, constitute the taxpayer's trade or business. Income from these type of transactions and activities are operational income and therefore apportionable.

Nonapportionable income includes rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent they are not dependent upon, or contribute to, the operations of the taxpayer's economic enterprise as a whole. Nonapportionable income must be reduced by the related expenses incurred to generate the nonapportionable income. (The instructions for filing a C corporation tax return, available from the Department's website, include a worksheet for the computation of expenses attributable to income not taxed.)

Computation of Apportionment Factor - Schedule O

All corporations, domestic or foreign, doing business in North Carolina must complete Schedule O to compute the capital stock, surplus, and undivided profits franchise tax base and North Carolina taxable income.

Domestic Corporations - Part 1

Domestic corporations and other corporations not apportioning franchise or income outside of North Carolina must enter 100% on Schedule B, Line 15 and on Schedule C, Line 12. Domestic corporations are those corporations or associations created or organized under North Carolina law. Foreign corporations doing business in North Carolina but not taxable in another state must also enter 100% for its apportionment factor.

Multistate Corporations - Part 2

A corporation having income from business activities that is taxable both within and without North Carolina is required to apportion its State net income or net loss. For purposes of allocation and apportionment, a corporation is taxable in another state if (i) the corporation's business activity in that state subjects it to a net income tax or a tax measured by net income, or (ii) that state has jurisdiction based on the corporation's business activity in that state to subject the corporation to a tax measured by net income regardless of whether that state exercises its jurisdiction. For purposes of this section, “business activity” includes any activity by a corporation that would establish a taxable nexus pursuant to 15 United States Code § 381.

All income of corporations other than public utilities and excluded corporations must be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. If the sales factor does not exist, the denominator is the number of existing factors. If a property or a payroll factor does not exist, the denominator is the number of existing factors plus one. **Calculate the apportionment factor to four places to the right of the decimal.**

Lines 1 through 8 - Property Factor

The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this State during the income year and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the income year. The numerator includes not only inventories actually located in North Carolina but also inventories in transit with a North Carolina destination.

Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net rent paid during the current income year. Net annual rent is the annual rent paid by the corporation less any annual rent received by the corporation from subrentals except that subrentals are not deductible when they constitute apportionable income. Any property under construction or any property not actually used or operated in the corporation's business during the income year and any property the income from which constitutes nonapportionable income are excluded in the computation of the property factor.

The average value of property is determined by averaging the values at the beginning and end of the income year, but in all cases the Secretary may require the averaging of monthly or other periodic values during the income year if required to reflect properly the average value of the corporation's property. A corporation that ceases its operation in this State before the end of its income year for any reason whatsoever must use property values as of the first day of the income year and the last day of its operations in this State in determining the average value of property; however, the Secretary may require the averaging of monthly or other periodic values during the income year.

Lines 9 through 11 - Payroll Factor

The payroll factor is a fraction, the numerator of which is the total compensation paid in this State during the income year by the corporation and the denominator of which is the total compensation paid everywhere during the income year. All compensation paid to general executive officers and all compensation paid in connection with nonapportionable income shall be excluded in computing the payroll factor. General executive officers include the chairman of the board, president, vice-presidents, secretary, treasurer, comptroller, and any other officer serving in similar capacities.

Compensation is paid in this State if any of the following applies:

- (1) The individual's service is performed entirely within the State; or
- (2) The individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State.
- (3) Some of the service is performed in this State and the base of operations, or, if there is no base of operations, the place from which the service is directed or controlled, is in this State.
- (4) Some of the service is performed in this State and the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

Lines 12 and 13 - Sales Factor

The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Receipts from any casual sale of property, receipts exempt from

taxation, and the portion of receipts realized from the sale or maturity of securities or other obligations that represent a return of principal are excluded from both the numerator and the denominator of the sales factor. If a corporation is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales are treated as having been made in this State.

Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed is considered the place at which the goods are received by the purchaser.

Direct delivery into this State by the taxpayer to a person or firm designated by a purchaser from within or without the State constitutes delivery to the purchaser in this State.

Other sales are in this State if any of the following applies:

- (1) The receipts are from real or tangible personal property located in this State.
- (2) The receipts are from intangible property and are received from sources within this State.
- (3) The receipts are from services and the income-producing activities are in this State.

Special Apportionment Provisions - Parts 3 and 4

Special apportionment provisions apply to certain types of corporations and excluded corporations. The respective tax statutes should be consulted for specific allocation requirements.

Qualified Capital Intensive Corporation. A corporation that qualifies as a capital intensive corporation must apportion income by using the sales factor alone. *(See G.S.105-130.4(s1) for a list of conditions that must be met before a corporation can be considered a capital intensive corporation.)*

Excluded Corporations. Any corporation engaged in business as a multistate building or construction contractor, a securities dealer, a loan company, or a corporation that receives more than fifty percent (50%) of its ordinary gross income from intangible property apportions income by using the sales factor alone. A building or construction contractor is a business so classified under the North American Industry Classification System.

Air and Water Transportation. All income of an air or water transportation company is apportioned by the ratio of revenue-ton miles in North Carolina to total revenue-ton miles. A revenue-ton mile is one ton of passenger, freight, mail, or other cargo carried one mile; each passenger is deemed to weigh 200 pounds.

Railroads. All income of a railroad company must be apportioned by multiplying the income by a fraction, the numerator of which is the "railway operating revenue" from business done in this State and the denominator of which is the total railway operating revenue of the company everywhere. *(See G.S. 105-130.4(m) for a detailed definition of railway operating revenue.)*

Motor Carriers. All income of a motor carrier of property or passengers must be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" mean miles traveled by vehicles owned or operated by the company hauling property for a charge, carrying passengers for a fare, or traveling on a scheduled route. *(Complete the worksheet below.)*

Computation of Apportionment Factor for Motor Carriers - Vehicle Miles Factor	
1.	Number of vehicle miles traveled in N.C.
2.	Total number of vehicle miles traveled everywhere
3.	Percentage of Mileage in N.C. Factor <i>(Divide Line 1 by Line 2; enter amount here and on Schedule O, Part 4)..... %</i>

Telephone Companies. All income of a telephone company must be apportioned by multiplying the income by a fraction, the numerator of which is gross operating revenues earned in this State plus other revenue items attributed to this State specifically listed in G.S. 105-130.4(n) and the denominator of which is the total gross operating revenue from all business done by the company everywhere less uncollectible revenue. *(Complete the worksheet below.)*

Computation of Apportionment Factor for Telephone Companies - Gross Operating Revenue Factor	
1. Gross Operating Revenues in North Carolina	
a.	Gross operating revenue from local service in N.C.
b.	Gross operating revenue from toll services within N.C.
c.	N.C. portion of revenue from interstate toll services
d.	Gross operating revenues in N.C. from other services
e.	Total gross operating revenues assignable to N.C. <i>(Add Lines 1a - 1d)</i>
f.	N.C. uncollectible revenue ()
g.	Total adjusted gross operating revenues assignable to N.C. <i>(Line 1e minus Line 1f)</i>
2. Gross Operating Revenues Everywhere	
a.	Total gross operating revenues
b.	Total uncollectible revenue ()
c.	Total adjusted gross revenues everywhere <i>(Line 2a minus 2b)</i>
3. Gross Operating Revenue Factor <i>(Divide Line 1g by Line 2c; enter amount here and on Schedule O, Part 4)..... %</i>	

Forms and Instructions for the NC-478 Series

Forms and Instructions for the NC-478 series are available from the Department's website, www.dornc.com, or by calling toll free 1-877-252-3052.

Shareholder's Share of North Carolina Income, Adjustments, and Credits - Form NC K-1

Form NC K-1 is the form used by the S corporation to report to each shareholder its share of the S corporation's income, adjustments, tax credits, etc. Prepare and give a Form NC K-1 to each entity that was a shareholder in the S corporation at any time during the tax year. Form NC K-1 must be provided to each shareholder on or before the due date of the return. ***(A Form NC K-1 is available in this booklet. Additional forms are available from the Department's website.)***

Shareholders that are **residents of North Carolina** must be provided with the total amount of their proportionate share of the following items:

1. North Carolina adjustments to federal taxable income, NC K-1, Lines 2 and 3.
2. Shareholder's distributive share of tax credits, NC K-1, Line 4. When reporting the distributive share of tax credits, a list of the amount and type of each tax credit must be provided to the shareholder.
3. Any tax withheld from nonwage compensation for personal services in North Carolina by the S corporation, NC K-1, Line 5.

Shareholders that are **nonresidents of North Carolina** must be provided with their share of the same items listed above for North Carolina residents, along with the following items:

1. North Carolina income apportioned and allocated for business activities occurring outside of North Carolina, NC K-1, Line 6.
2. Shareholder's share of separately stated items of income, NC K-1, Line 7.
3. Any North Carolina income tax paid by the S corporation on behalf of the nonresident shareholder, NC K-1, Line 8.

Assessment, Refund, and Appeals Processes

Session Law 2007-491 revised several of the statutes within Article 9 of Chapter 105 reforming the former assessment, refund, and appeals processes. The new processes are briefly explained below. Primary changes include:

- A uniform procedure for all refunds, including the statute of limitations relative to those requests and how requests for refunds are handled.
- When a federal determination has been made and the taxpayer timely notifies the Department of the federal determination, changes to the taxpayer's State tax liability are generally limited to those items related to the federal determination.
- The Department no longer has to issue a proposed assessment for tax, penalties, or interest due when a taxpayer files a tax return reflecting a liability but does not pay it. Any tax, penalties, or interest due is immediately collectible.
- Hearings on protested assessments or denials of refund move from the Department's Administrative Hearings Officer to Administrative Law Judges at the Office of Administrative Hearings.
- Final Decisions issued subsequent to the hearing at the Office of Administrative Hearings are appealed to the Business Court or Superior Court rather than the Tax Review Board.
- A liability must be paid to appeal to the Business Court or Superior Court.

Statute of Limitations for Refunds. The general statute of limitations for requesting a refund is now the same for any type of claim for refund. It is the later of (i) three years after the due date of the return or (ii) two years after payment of the tax.

Procedure for Obtaining a Refund. Taxpayers may request a refund of an overpayment by filing an amended return reflecting the overpayment or filing a claim for refund that identifies the taxpayer, the type and amount of tax overpaid, the applicable tax period, and the basis for the claim within the statute of limitations. The Department must, within six months of receiving the amended return or demand for refund, either (i) refund the amount requested; (ii) adjust the amount requested, refund the adjusted amount, and provide the taxpayer with a reason for the adjustment; (iii) deny the refund in its entirety and send the taxpayer a notice of proposed denial; or (iv) request additional information concerning the request for refund. If a taxpayer does not respond to a request for information, the Department may deny the refund and issue a notice of proposed denial. If the taxpayer provides the requested information, the Department must take one of the actions listed above within the later of (i) the remainder of the six-month period; (ii) 30 days after receiving the information; or (iii) a time period mutually agreed upon by the Department and the taxpayer. If the Department does not take one of these actions within the required time, the inaction is considered to be a proposed denial of the requested refund.

Limit on Refunds and Assessments After a Federal Determination. The amount of refund that can be requested or assessment that can be proposed when the Department is timely notified by a taxpayer of a federal determination and the general statute of limitations has expired is limited. If a taxpayer timely files a return reflecting a federal determination that affects the amount of State tax payable, the taxpayer is entitled to a refund only if the refund is the result of adjustments related to the federal determination. Likewise, the taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination.

Requesting Review of Proposed Denial of Refund or Proposed Assessment. A taxpayer who objects to a proposed assessment or a proposed denial of refund must request the Department review the proposed action as the first step in the appeals process. The request for review must be filed with the Department within 45 days after (i) the date the notice of the proposed assessment or the proposed denial of refund was mailed to the taxpayer, if delivered by mail or (ii) the date the notice of the proposed assessment or the proposed denial of refund was delivered to the taxpayer, if delivered in person.

Result When Taxpayer Does Not Request a Review. A proposed denial of a refund becomes final and is not subject to further administrative or judicial review if the taxpayer does not file a timely request for the Department to review the proposed denial. A proposed assessment becomes final and is not subject to further administrative or judicial review if the taxpayer does not file a timely request for the Department to review the proposed assessment. Upon payment of the tax, the taxpayer may request a refund of the tax paid.

If a proposed assessment becomes final because the taxpayer does not file a timely request for a review, the Department must send the taxpayer a notice of collection before it attempts to collect the tax.

Action on Request for Review. When the Department receives a timely request for a review of a proposed assessment or proposed denial of a refund, it must conduct a review of the proposed action and either (i) grant the refund or remove the assessment; (ii) schedule a conference with the taxpayer; or (iii) request additional information from the taxpayer concerning the requested refund or proposed assessment.

The Department must schedule a conference with a taxpayer if the review of the proposed assessment or proposed denial of a refund does not result in granting the refund requested or removing the assessment. Conferences are informal; no testimony under oath is taken; the rules of evidence do not apply; and the taxpayer may present any objections to the proposed action. The Department and the taxpayer may either (i) agree on a settlement; (ii) agree that additional time is needed to resolve the issue; or (iii) disagree with the taxpayer's objection to the proposed action. If a taxpayer fails to attend the conference without notifying the Department, the Department and the taxpayer are considered to be unable to resolve the issue.

Final Determination after Department Review. The Department must issue a notice of final determination if the Department and the taxpayer are unable to resolve the taxpayer's objection to a proposed denial of refund. The notice must state the basis for the final determination and inform the taxpayer of the procedure for contesting the determination. The Department is required to conclude its review of the proposed assessment or proposed denial of a refund and issue a final determination if needed within nine months of the date the taxpayer filed the request for review. The Department and the taxpayer may mutually agree to extend the time limit.

Contested Case Hearing on Final Determination. A taxpayer who disagrees with a notice of final determination issued by the Department may petition for a contested case hearing before an administrative law judge at the Office of Administrative Hearings pursuant to Article 3 of Chapter 150B of the General Statutes. A taxpayer may not petition for a contested case hearing until the Department has issued a notice of final determination. The petition for a contested case hearing must be filed within 60 days of the date the Department mails or personally delivers the notice of final determination. The taxpayer does not have to pay the additional tax due prior to the contested case hearing.

Judicial Review of Decision After Contested Case Hearing. A taxpayer who receives an unfavorable decision in a contested case hearing may appeal the decision by filing a petition for judicial review with the Superior Court of Wake County and a Notice of Designation to designate the case as a mandatory complex business case to be heard by the Business Court. The appeal must be filed within 30 days after receipt of the final decision for the contested case hearing. The taxpayer must pay the tax liability set forth in the final decision to appeal.

Civil Action Challenging Statute as Unconstitutional. If a taxpayer's only objection to a proposed assessment or denial of a refund is the constitutionality of a statute, the Office of Administrative Hearings will dismiss the petition for a contested case hearing for lack of jurisdiction. The taxpayer may then challenge the constitutionality of the statute by bringing a civil action in the Superior Court of Wake County and filing a Notice of Designation to designate the case as a mandatory complex business case to be heard by the Business Court. The action must be filed within two years of the dismissal. The taxpayer must pay the tax liability before filing the action.

Collection of Tax. The Department can collect a tax when (i) a taxpayer files a return showing an amount due on the return and does not pay the amount shown due; (ii) the Department sends a notice of collection after the taxpayer does not file a timely request for a review of a proposed assessment; (iii) the taxpayer and the Department agree on a settlement concerning the amount of tax due; (iv) the Department issues a notice of final determination with respect to a proposed assessment and the taxpayer does not file a timely petition for a contested case hearing; (v) a final decision is issued on a proposed assessment of tax after a contested case hearing; or (vi) the Office of Administrative Hearings dismisses a petition for a contested case hearing for lack of jurisdiction because the issue is the constitutionality of a statute.

How to Get Forms and Assistance

By Personal Computer:



Access the Department's website, www.dornc.com, 24 hours a day, 7 days a week to:

- Download current year forms, instructions, and other publications
- Download prior year forms and instructions
- Find answers to frequently asked tax questions
- Find the latest information regarding the Department of Revenue

By Phone:



Call **1-877-252-3052 (toll free)** and select the Corporate Tax option to hear recorded information on many frequently asked franchise and corporate income tax questions. Some of the questions include information on the following:

- Filing Requirements
- Tax Credits
- Computation of Franchise and Corporate Income Tax
- LLC's
- Payments, Notices and Refunds
- Non-Profit Entities

This service is available 24 hours a day, seven days a week.

Additional Electronic Services

The following additional electronic services are available at the Department of Revenue's website www.dornc.com. Click "**Electronic Services**" and select "**Businesses**".



- **CD-V Franchise Tax and Corporate Income Tax Payment Voucher**
Pay your current year franchise and/or corporate income tax.
- **CD-V Amended Franchise and Corporate Income Tax Payment Voucher**
Pay the tax on your franchise and corporate income tax amended return.
- **CD-419 Application for Extension for Filing Franchise and Corporate Income Tax Return**
File your franchise and corporate income tax extension and pay the tax.
- **CD-429 Corporate Estimated Income Tax**
Pay your corporate estimated income tax payments.
- **Bills and Notices**
Make a payment on a bill or notice that you received from the Department of Revenue.
- **E-Alerts**
Join our Tax Updates Mailing List. Mailings through this list will include bulletins, directives, and other important notices about law changes and related tax matters.

Important Notice Regarding Substitute Returns

Any facsimile or substitute form must be approved by the Department of Revenue prior to its use. If you use computer generated returns, the software company is responsible for requesting approval and receiving an assigned identification number. The Department publishes a list of software developers who have received approval on our website. Photocopies of the return are not acceptable. **Returns that cannot be processed by our imaging and scanning equipment will be returned to the taxpayer with instructions to refile on an acceptable form.**

5,000 copies of this booklet were printed at a cost of \$2,440.00 or approximately \$.488 each