



NORTH
CAROLINA
DEPARTMENT
OF REVENUE

Important Notice: Impact of Session Law 2022-06 on North Carolina Individual and Corporate Income Tax Returns

The following important information is addressed in this notice:

- An explanation of how specific provisions of Session Law 2022-06 affect the 2020 and 2021 North Carolina individual and corporate income tax returns.
- Instructions on how to file a 2020 or 2021 an original or amended income tax return if the provisions of Session Law 2022-06 affect your North Carolina income tax return.

Background

On March 17, 2022, Governor Cooper signed [Session Law 2022-06](#) (House Bill 243). This new law made technical, clarifying, and other modifications to the State's most recent budget ([Session Law 2021-180](#)). Among other things, the new law provides additional assistance to taxpayers impacted by COVID-19.

This important notice explains how certain provisions in the new law affects North Carolina individual and corporate income tax returns, (collectively, "NC Tax Returns"). The notice also provides taxpayers with specific instructions on how to file an original or amended NC Tax Return for tax years 2020 and 2021.

North Carolina Law

Individuals

[N.C. Gen. Stat. § 105-153.4](#) provides that, for individuals, the term "North Carolina taxable income" refers to "the taxpayer's adjusted gross income" as modified in N.C. Gen. Stat. §§ [105-153.5](#) and [105.153.6](#).¹

[N.C. Gen. Stat. § 105-153.3\(1\)](#) provides that "adjusted gross income" is the taxpayer's federal adjusted gross income ("AGI") as "[d]efined in [section 62 of the Code](#)."

[N.C. Gen. Stat. § 105-228.90\(b\)\(7\)](#) defines the term "Code" as "the Internal Revenue Code as enacted as of April 1, 2021, including any provisions enacted as of that date that become effective either before or after that date."

¹ [N.C. Gen. Stat. § 105-153.4\(b\) and \(c\)](#) require additional adjustments for nonresidents and part-year residents.

Corporations

For corporations subject to North Carolina income tax, [N.C. Gen. Stat. § 105-130.2\(15\)](#) defines “State net income” as “federal taxable income as determined under the Code” adjusted as provided in [N.C. Gen. Stat. § 105-130.5](#) and, in the case of a corporation that has income from business activity that is taxable both within and without North Carolina, allocated and apportioned to this State as provided in [N.C. Gen. Stat. § 105.130.4](#).

[Section 63 of the Internal Revenue Code](#) defines “taxable income” as “gross income minus allowable deductions.”

[N.C. Gen. Stat. § 105-130.2\(2\)](#) defines the term “Code” by cross-reference to [N.C. Gen. Stat. § 105-228.90](#).

[N.C. Gen. Stat. § 105-228.90\(b\)\(7\)](#) defines the term “Code” as “the Internal Revenue Code as enacted as of April 1, 2021, including any provisions enacted as of that date that become effective either before or after that date.”

Impacts of Session Law 2022-06 on NC Tax Returns

New Deduction for Proceeds Received from Specific Grant Programs

Generally, for federal income tax purposes, grant payments received from both the federal government and state government are included in gross income and are therefore taxable.² Notwithstanding federal law, North Carolina has enacted N.C. Gen. Stat. § 105-153.5(b)(14a) (for individuals) and N.C. Gen. Stat. § 105-130.5(b)(31a) (for corporations), (collectively, “Taxpayers”) to allow specific grant payments to be deducted when calculating North Carolina taxable income.³ As a result, **for taxable years beginning on or after January 1, 2020**, a Taxpayer may deduct grant proceeds received from one or more of the following programs (collectively, “Grant Payments”) to the extent the proceeds were included in the Taxpayer’s federal income:

- The Business Recovery Grant Program.⁴
- The [ReTOOLNC grant program](#) for recovery from the economic impacts of the COVID-19 pandemic.
- Rent and utility assistance pursuant to [Section 3.3 of S.L. 2020-4](#), as amended by Section 1.2 of [S.L. 2020-97](#).

Notably, the General Assembly retroactively amended North Carolina law to allow Taxpayers to deduct Grant Payments. **If you have already filed your 2020 or 2021 NC Tax Return** and you included Grant Payments in your federal income, you should consider filing an amended return with the Department to deduct the payments. **If you have not filed your 2020 or 2021 NC Tax Return** and you are required to include Grants Payments in your federal income, make

² See [26 U.S. Code § 61](#).

³ See SB 105, s. 34.3B.(a,b), [S.L. 2021-180](#); see also HB 243, s. 20.7.(a,b), [S.L. 2022-06](#).

⁴ See SB 105, s. 34.3A.(a-k), [S.L. 2021-180](#); see also HB 243, s. 13A.1.(a,b), [S.L. 2022-06](#).

sure you deduct the Grant Payments on the correct line when you calculate your North Carolina taxable income.

The Department will not automatically recalculate your North Carolina taxable income. For more information on the correct line to deduct Grant Payments for tax year 2020 and 2021, see “How to Amend a NC Tax Return,” located on page 4 of this notice.

New Deduction for Employers That Took the Federal Payroll Tax Credit for Employee Retention in lieu of a Federal Income Tax Deduction

The [Coronavirus Aid, Relief, and Economic Security](#) (“CARES”) Act provided eligible employers (“Employers”) with a federal tax credit known as the Employee Retention Credit (“ERC”). The ERC is a refundable tax credit taken against certain federal employment taxes. Because the ERC is not taken against federal income tax, [N.C. Gen. Stat. § 105-153.5\(b\)\(11\)](#) (for individuals) and [N.C. Gen. Stat. § 105-130.5\(b\)\(11\)](#) (for corporations) does not apply, even though under [federal law](#) the Employer is required to reduce the Employer’s deduction for qualified wages by the amount of the ERC.

To allow an Employer to deduct the amount of qualified wages disallowed for federal income tax purposes because the Employer took the ERC, the General Assembly amended North Carolina tax law to add a new deduction. Specifically, **for taxable years beginning on or after January 1, 2020**, a Taxpayer may deduct the following when calculating North Carolina taxable income:

The amount by which a deduction for an ordinary and necessary business expense was required to be reduced or was not allowed under the Code because the taxpayer claimed a federal employee retention tax credit against employment taxes in lieu of a deduction. The deduction is allowed only to the extent that a similar credit is not allowed against the North Carolina income tax liability for the expenses.⁵

Like the Grant Payment deduction, the ERC deduction is effective retroactively. **If you have already filed your 2020 or 2021 NC Tax Return** and you reduced qualified wages for the year because you claimed the ERC, you should consider filing an amended return with the Department. **If you have not filed your 2020 or 2021 NC Tax Return** and you reduced your qualified wage expense for the year because you claimed the ERC, make sure you deduct the additional expenses on the correct line when you calculate your North Carolina taxable income.

The Department will not automatically recalculate your North Carolina taxable income. For more information on the correct line to deduct the additional qualified wage expense for tax year 2020 and 2021, see “How to Amend a NC Tax Return,” located on page 4 of this notice.

⁵ See HB 243, s. 20.15.(a,b), [S.L. 2022-06](#).

Impacts on Original or Amended NC Tax Returns for Tax Years 2020 and 2021

If the provisions of [Session Law 2022-06](#) affect your North Carolina taxable income for tax year 2020, see the table below to determine which specific line(s) you should use to report the change:

Entity Type	Grant Payment Deduction:	ERC Deduction:
Individual	Form D-400 Schedule S , Line 32	Form D-400 Schedule S , Line 29
Partnership	Form D-403 , Part 7, Line 9	Form D-403 , Part 7, Line 9
C-Corporation	Form CD-405 , Schedule H, Line 3(g)	Form CD-405 , Schedule H, Line 3(g)
S-Corporation	Form CD-401S , Schedule I, Line 3	Form CD-401S , Schedule I, Line 3

If the provisions of [Session Law 2022-06](#) affect your North Carolina taxable income for tax year 2021, see the table below to determine which specific line(s) you should use to report the change:

Entity Type	Grant Payment Deduction:	ERC Deduction:
Individual	Form D-400 Schedule S , Line 32	Form D-400 Schedule S , Line 28
Partnership	Form NC-PE , Line 32	Form NC-PE , Line 28
C-Corporation	Form CD-405 , Schedule H, Line 3(g)	Form CD-405 , Schedule H, Line 3(g)
S-Corporation	Form NC-PE , Line 32	Form NC-PE , Line 28

Important: If your NC Tax Return reflects an overpayment, the return must be filed within the [general statute of limitations for obtaining a refund](#). If you file an amended NC Tax Return, it is also important to remember the following:

- You must fill out the amended NC Tax Return completely. *(For more information on how to amend your NC Tax Return, see the instructions for filing the applicable NC Tax Return available on the [Department's website](#).)*
- You must submit all documents that support the change you made to the original return.

Assistance

If you have any questions about this notice, you may call the North Carolina Department of Revenue Customer Interaction Center at 1-877-252-3052 (8:00 am until 4:30 pm EST, Monday through Friday), or write the Department at PO Box 25000, Raleigh, NC 27640-0640. Additional information on new legislation affecting North Carolina taxes may be obtained from the Department's annual law change document, available on the [Department's website](#).

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 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 notice, the provisions contained in this important notice supersede the previous guidance.