

INSTRUCTIONS FOR NORTH CAROLINA PARTNERSHIP INCOME TAX RETURN, FORM D-403

The references to line numbers and form numbers on federal income tax forms were correct at the time of printing. If they have changed and you are unable to determine the proper line to use, please contact the Department of Revenue.

ATTACH A COPY OF FEDERAL FORM 1065 AND COPIES OF ALL SCHEDULES, INCLUDING EACH FEDERAL K-1.

A. Who must file Form D-403. - Every partnership doing business in North Carolina must file a partnership income tax return, Form D-403, for the taxable year if a federal partnership return was required to be filed. A limited liability company classified as a partnership for federal income tax purposes is also classified as a partnership for State income tax purposes and is required to file a partnership income tax return if a federal partnership return is required to be filed. A partnership which elects to be taxed as a corporation for federal income tax purposes will also be taxed as a corporation for North Carolina income tax purposes. The partnership must file a corporation income tax return, Form CD-405, in lieu of filing Form D-403.

B. Period to be covered by the return. - The return must be filed for the calendar year 1998 or other taxable year beginning in 1998. If the return is an amended return, write amended at the top right of the return.

C. Time and place for filing. - The return of a partnership on a calendar year basis must be filed with the North Carolina Department of Revenue on or before April 15 following the close of the calendar year. If on a fiscal basis, the return must be filed on or before the 15th day of the fourth month following the close of the fiscal year. A fiscal year return should be filed on a form for the year in which the fiscal year begins. (For example, a 1998 form should be used for a fiscal year beginning in 1998.)

D. Signature. - The partnership return must be signed by the managing partner. If the return is prepared by a person or firm other than a partner, it must be signed also by the one preparing the return. If the partnership is a limited partnership, the return must be signed by a general partner.

The managing partner should provide a telephone number where he may be reached during the day if we need additional information to process the return.

E. Extensions - If the partnership return cannot be filed by the due date, the partnership may apply for an automatic 6-month extension of time to file the return. **To receive the extension, the partnership must file Form D-410, Application for Automatic Extension of Time to File State Income Tax Return, by the original due date of the return.** In lieu of filing Form D-410, an automatic 6-month extension of time to file the North Carolina partnership return will be granted if the partnership files Federal Form 8736, Application for Automatic Extension of Time to File for a U. S. Partnership, REMIC or for Certain Trusts, with the Internal Revenue Service, provided the partnership submits a copy of the completed Form 8736 to the N. C. Department of Revenue by the original due date of the return. When filing a copy of Form 8736 in lieu of Form D-410, the partnership must clearly state that the form is for North Carolina; mark through the federal amounts shown on the form; and enter the applicable amounts for North Carolina.

A partnership is not required to send a payment of tax it estimates as due to receive the extension; however, it will benefit the partnership to pay as much as it can with the extension request. An extension of time for filing the partnership return does not extend the time for paying the tax due. A partnership may file the return at any time within the extension period but it must be filed on or before the end of the extension period to avoid the late filing penalty.

F. Penalties. - If a partnership return on which tax is due is not filed by the due date, the partnership will have to pay a penalty of 5 percent of the tax for each month, or part of a month, the return is late. The minimum penalty is \$5.00; the maximum penalty is 25 percent of the unpaid tax. A 10 percent late payment penalty will apply on the remaining balance due if the tax paid by the due date of the return is less than 90 percent of the total amount of tax due. If the 90 percent rule is met, any remaining balance due, including interest, must be paid with the partnership return on or before the expiration of the extension period to avoid the late payment penalty. Returns filed after April 15 without a valid extension are subject to a late payment penalty of 10 percent of the unpaid tax (minimum \$5.00).

In addition, penalties are provided by law for willful failure to file a return on time and for willful attempt to evade or defeat the tax.

G. Manager's Responsibility. - In a partnership having one or more nonresident partners, the managing partner is responsible for reporting the share of the income of nonresident partners and is required to compute and pay the tax due for each nonresident partner. If the nonresident partner is a corporation, partnership, trust or estate, the managing partner is not required to pay the tax on that partner's share of the partnership income provided the partner signs an affirmation that the partner will pay the tax with its corporation, partnership, trust or estate income tax return. (Note: This provision does not

extend to grantor trusts because no tax is paid on grantor trust returns.) In such cases, a copy of the affirmation must be attached to the partnership return when it is filed. The Department does not provide a form for the affirmation. Important: A nonresident individual partner is not required to file a North Carolina income tax return when the only income from North Carolina sources is the nonresident's share of income from a partnership doing business in North Carolina, and the manager of the partnership pays the tax due for the nonresident partner. Payment of the tax due by the managing partner on behalf of corporations, partnerships, trusts or estates that are partners does not relieve the partner from filing a North Carolina tax return. Credit for the tax paid by the managing partner may be claimed on the partner's income tax return. See the Tax Rate Schedule on page 2 of Form D-403. The manager is authorized by statute to withhold the tax due from each nonresident partner's share of the partnership income. Note: If a nonresident partner is a tax-exempt organization as described in Section 501 of the Internal Revenue Code, the managing partner is not required to pay the tax unless the income of the organization is from a business enterprise not related to its tax-exempt purpose. Also, the managing partner is not required to pay the tax for nonresident partners who serve as investment vehicles for investing in IRAs and other qualified retirement plans.

H. Estimated income tax - No estimated income tax payment is required of a partnership; however, if the partnership makes any prepayments of tax, include the prepayment on line 11b. A resident individual partner who meets the statutory requirements must file estimated tax on Form NC-40. (See Instructions for Filing North Carolina Individual Income Tax Return, provided with Form D-400.) A nonresident individual partner is not required to pay estimated tax on his distributive share of partnership income.

I. Tax Credits. - All tax credits allowed to individuals are allowed to partnerships with the following exceptions:

- (1) Tax credits for income taxes paid to other states by individuals,
- (2) Credit for childcare and certain employment-related expenses,
- (3) Credit for the disabled,
- (4) Credit for children, and
- (5) Credit for contributions

Attach a separate schedule showing the computation of any tax credits and the allocation of the credits among the partners. If claiming the credit for investing in business property, attach a schedule showing the cost allocated to each partner.

J. Attachments. - Attachments may be used in preparing the partnership return. The attachments must contain all required information, follow the format of the official schedules, and must be attached to the return in the same sequence as the schedules appear on the partnership return. List the partnership's federal identification number on each attachment.

K. Maintaining records. - Canceled checks, receipts, and other evidence of deductions on the partnership return should be kept for a period of at least three years from the due date of the return or three years from the date the return is filed, whichever is later. Lack of adequate records may result in the disallowance of all or part of the deductions.

L. Specific instructions for Schedule NC K-1. - Schedule NC K-1 is used by the partnership to report each partner's share of the partnership's income, adjustments, tax credits, etc. The NC K-1 must reflect the net tax paid by the partnership. Prepare and give a Schedule NC K-1 to each person who was a partner in the partnership at any time during the year. Schedule NC K-1 must be provided to each partner on or before the day on which the partnership return is required to be filed. When reporting the distributive share of dividend income, provide a list of the amount and source of the dividends. When reporting the distributive share of tax credits, provide a list of the amount and type of tax credits. Any amount reported as tax paid by the manager of the partnership should include amounts paid with extension and by other partnerships, if applicable.

SCHEDULE A - ADJUSTMENTS TO INCOME OR LOSS FROM U. S. PARTNERSHIP RETURN, FORM 1065

Line Instructions

Line 1 - Enter on Line 1 the total income or loss from Schedule K, Federal Form 1065. The total income or loss is the combined total of lines 1 through 7 of Schedule K.

Line 2 - The following additions to federal taxable income are required in calculating North Carolina partnership income to the extent the additions are not included in federal taxable income. The total additions should be entered on Line 2 and allocated to the individual partners in Schedule C, Column 5.

Additions to federal taxable income:

- (1) Any state, local, or foreign income tax deducted on the federal partnership return,
- (2) Interest on bonds and other obligations of states and political subdivisions other than North Carolina, if not included in federal taxable income,
- (3) Other additions to federal taxable income:
 - Amounts that were included in the basis of property under federal law but not under State law prior to January 1, 1989, must be added to taxable income in the year that the partnership income includes a gain or loss from the sale or other disposition of the property.

Line 4 – The following deductions must be deducted from federal taxable income in calculating North Carolina partnership income to the extent the deductions are included in federal taxable income. The total deductions should be entered on Line 4 and allocated to the individual partners in Schedule C, Column 6.

Deductions from federal taxable income:

- (1) Interest from obligations of the United States or its possessions,
- (2) State, local, or foreign income tax refunds included on the federal return,
- (3) Other deductions from federal taxable income:
 - Amounts that were included in the basis of property under State law but not under federal law prior to January 1, 1989, should be deducted from taxable income in the year that the income includes a gain or loss from the sale or other disposition of the property.
 - Interest included in federal taxable income from obligations of the State of North Carolina, its political subdivisions and nonprofit educational institutions organized or chartered under North Carolina law.

Other additions and deductions may be necessary to ensure that the transition to the tax changes effective January 1, 1989 does not result in double taxation of income, exemption of otherwise taxable income from taxation or double allowance of deductions. If any other additions, deductions, transitional adjustments, or tax credits apply to the partnership, attach a schedule to the return explaining the amount claimed. Note: Internal Revenue Code section 179 expense is not deductible on Form D-403.

Line 6 – Enter the amount of salaries, interest, or other “guaranteed payments” made to a partner for services or for the use of capital. Salaries to partners and retirement payments to partners who are not active are treated as part of a partner’s distributive share of ordinary income and must be apportioned to North Carolina on the same basis as other partnership distributive income.

Line 8 – In determining the tax due for nonresident partners, a partnership must apportion to North Carolina the income derived from activities carried on within and outside North Carolina that are not segregated from its other business activities. A partnership’s business activities are not segregated if it does not employ a method of accounting that clearly reflects the income or loss of its separate activities. If the partnership’s business activities in North Carolina are not segregated from its business activities in other states, enter on line 8 the income on line 7 that is to be apportioned to North Carolina. If all of the partnership’s business activities are integrated, enter on line 8 the amount from line 7. Income derived as a partner in another partnership or as a shareholder in an S corporation must be allocated instead of apportioned to North Carolina.

Line 9 – In determining the tax due for nonresident partners, a partnership must allocate to North Carolina the income derived from business activities in North Carolina that are segregated from its other business activities. Income derived from a partnership’s business activities outside of North Carolina that are segregated from its other business activities are not includable in determining the tax due for nonresident partners. If the partnership’s business activities in North Carolina are segregated from its business activities in other states, enter on line 9 the income on line 7 that is solely from the partnership’s business activities in North Carolina. If all of the partnership’s business activities are solely in North Carolina, enter on line 9 the amount from line 7.

Line 10 – Complete Schedules B, C, and D to determine the total tax due for nonresident partners.

Line 11a – If Form D-410 (or Federal Form 8736) was filed to request an extension of time to file the partnership return, enter any tax paid with the extension form.

Line 11b – Enter any other prepayments of tax that were made prior to filing this partnership return.

Line 11c – If tax was paid by other partnerships or by S corporations, enter the amount paid. Include with the return a copy of the information furnished by the partnership(s) or S corporation(s) to verify the amount claimed. North Carolina income tax is required to be withheld from the compensation paid to a nonresident partnership or limited liability company for services performed in North Carolina in connection with a performance, an entertainment or athletic event, a speech, or the creation of a film, radio, or television program. In addition to any tax paid by other partnerships or S corporations, include on line 11c only the portion of tax withheld that is attributable to nonresident partners on whose behalf the managing partner is required to pay the tax. Attach Form NC-1099PS to the front of the return to verify the North Carolina income tax withheld.

Line 12 – Net tax due for nonresident partners (Subtract line 11d from line 10 and enter the result on line 12).

Line 13 – Enter the total of any penalties and interest due. (See F. Penalties on page 1.)

Line 14 – Total tax, penalties, and interest due for nonresident partners. (Add lines 12 and 13 – The manager of the partnership must pay this amount with the return.)

Line 15 – If total payments on line 11d exceed the total tax due for nonresident partners on line 10, subtract and enter the amount to be refunded.

SCHEDULE B – APPORTIONMENT PERCENTAGE FOR PARTNERSHIPS HAVING ONE OR MORE NONRESIDENT PARTNERS AND OPERATING IN ONE OR MORE OTHER STATES

Method to be Used in Apportioning Partnership Income:

A partnership with one or more nonresident partners whose business activities in North Carolina are unified and integrated with its business activities in other states is required to apportion its partnership income to North Carolina 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 the sales factor exists, but the payroll or the property factor does not exist, the denominator is the number of existing factors plus one.

Property Factor

The property factor is the percentage determined by dividing the average value of the partnership’s real and tangible personal property owned or rented and used in this State during the year by the average value of all of the partnership’s real and tangible personal property owned or rented and used during the year. With respect to rentals, assign values for property rented by the partnership at 8 times the net annual rental rate. The net annual rental rate is the annual rental rate paid less any annual rental rate received by the partnership from subrentals.

Payroll Factor

The payroll factor is the percentage determined by dividing the total compensation paid by the partnership in this State during the income year by the total compensation paid everywhere during the income year.

Sales Factor

The sales factor is determined by dividing the total sales of the partnership in this State during the income year by the total sales of the partnership everywhere during the income year. For purposes of the formula used for apportioning partnership income to North Carolina, the sales factor is doubled. For any partnership engaged in business as a building or construction contractor, a securities dealer, a loan company or for a partnership which receives more than 50 percent of its ordinary gross income from investments in and/or dealing in intangible property, the partnership’s income shall be apportioned by the use of only the sales factor in Schedule B.

SCHEDULE C – PARTNERS’ SHARES OF INCOME, ADJUSTMENTS, TAX CREDITS, ETC.

Column-by-Column Instructions:

Column 3 – The partners’ shares percentage is a partner’s share of income, gain, loss, deduction, or credit. Generally, this percentage is determined by the partnership agreement. Enter the same percentage used for federal income tax purposes.

Column 5 – Enter each partner’s share of the additions to federal taxable income from line 2, page 1 of Form D-403.

Column 6 – Enter each partner’s share of the deductions from federal taxable income from line 4, page 1 of Form D-403.

Column 7 – Enter each partner’s share of allowable tax credits. See the individual income tax instructions for a detailed explanation of available tax credits and attach a separate schedule showing the computation of any tax credits claimed.

SCHEDULE D – COMPUTATION OF TAX DUE FOR NONRESIDENT PARTNERS

Column 8 – Enter each nonresident partner’s distributive share of the guaranteed payments that are applicable to the income reported on line 8, Schedule A.

Column 13 – Enter each nonresident partner’s distributive share of the guaranteed payments that are applicable to the income reported on line 9, Schedule A.

Column 16 – Compute the tax due for each nonresident partner and enter the amounts for each partner in Column 16. See the Tax Rate Schedule on page 2 of Form D-403.

Column 17 – Enter in Column 17 the share of allowable tax credits for each nonresident partner.

Column 18 – Subtract the amount of each nonresident partner’s tax credit in Column 17, from the tax due from each partner in Column 16 and enter the result in Column 18. Enter the total tax due for nonresident partners on Line 10, page 1. The manager of the partnership is responsible for payment of the total tax, penalties, and interest due for each nonresident partner and must furnish each nonresident partner information to be included with his individual income tax return verifying the tax paid on his share of the partnership earnings in North Carolina.