



**NCACPA Taxation Resource Group
Representation Subcommittee**

Member Questions and Comments for NCDOR Meeting

TAXES

Individual Income Tax

Removing the other addition or subtraction lines created difficulty in compliance for practitioners and taxpayers. Not all allowable additions and subtractions were included on the 2020 form. Additionally, many K-1s received by taxpayers do not provide the necessary detail to align each addition or subtraction with a provided line item. What is DOR's position on this matter, and is there any consideration of allowing an "other" line in the future? Alternatively, would DOR consider adding additional lines?

The Department has added a "Reserved" line to several of its individual income tax forms beginning with tax year 2021. If allowable additions and deductions are inadvertently left off the forms or changed by state/federal law after the forms are finalized, the Reserved line will allow taxpayers to make the appropriate adjustments. See also the response to question 5, below, regarding changes made for K-1s issued by pass through entities.

Are there specific items that were being included in other additions and subtractions that were problematic? Would DOR consider adding more specific instructions as to what is allowed as additions and subtractions?

There were a wide variety of items improperly included on the other line, falling under two broad categories. First, many items with a specific line item on the return were incorrectly placed on the other line, causing confusion for both taxpayers and the Department. Second, the other line was used to claim items that did not qualify for a NC deduction or adjustment, generating compliance issues for both taxpayers and the Department. Due to these concerns, the Department does not have any plans to reintroduce the catch-all "other" line at this time. All additions and deductions allowed by statute will be given a specific line on the return. Subsequent changes to the law will be addressed using the reserved line (see question 1, above) and the more detailed Schedule PE and NC K-1 supplement (see question 5, below).

If a practitioner identifies a valid adjustment that does not have a specific line, what is the mechanism to include that in current year reporting recognizing the lag time between identifying issues and adjusting forms or giving specific official guidance?

The reserved line will be used to account for adjustments without a specific line item. When an adjustment without a line item is identified by the Department, the Department will issue guidance specifying how to use the reserved line to account for the adjustment.

If the federal individual tax return is being mailed to the IRS, (or is not required to be filed), would NC accept an E-filed D-400 or would NC require the return to be paper filed?

NCDOR does allow state-only returns and they are considered “unlinked” returns. Each software product may or may not support unlinked returns so it is important for the taxpayer to verify this capability with the software provider.

Can tax notices be updated provide more information as to what the NCDOR has issue with so we can more quickly assess how to address? For example, interest charges on underpayment of estimated tax.

The agency appreciates feedback on potential language improvements to help explain the assessment. If there are specific notice examples that can be provided, the agency can review to determine if changes are possible. The agency will be reviewing and updating notices to remain consistent with tax law changes and to help overall clarity of the notices.

Please provide updated timing and a progress report on the Power of Attorney process and the provision of notices to POAs.

The first part of this transformation will be complete in January 2022.

- The Department has implemented a document management system with a digital signature capability.
- The POA registration form (GEN-58) has been turned into a digital form and was tested between 9/27 and 10/5 with external volunteers that consisted of the following 38 volunteers:
 - Hispanic outreach org. - 5 volunteers
 - NCACPA – 10 volunteers
 - NC State Bar – 7 volunteers
 - NC Small Biz Network – 16 volunteers
- The application was pushed to all DOR staff on November 30th at 6:00 PM.
- Training for staff December 1-January 7.
- Certification of administrators December 6-17.
- The online POA registration will go live to a limited number of people in January 10-31 and is expected to be in full production in February 2022.
- Benefits are
 - Shorter waiting times as there is no need to send mail and establish a wet signature
 - Easier to look up and manage
 - Completes the first phase and prepares the way for digital notices

The second part of this transformation is underway.

- IBM is being contracted to review the printing of notices generated by the mainframe (majority of notices) to determine the best way to send the notices to the document management system. This analysis is expected to be completed mid-year 2022.
 - Based on that analysis we will immediately launch the project to send notices to the Document Management system and we anticipate that will be completed by the end of 2022.
 - In parallel, we will contract with the Document Management System vendor to contract for the work needed to do the lookup and email notification.
 - Based on the size and complexity of the work I would anticipate that we would go live at some level by the end of the year 2022 or Q1 2023.

- Note: Some legislation may be required to fund the lookup and email notification as well as provide clarity around the Departments ability to transmit PII via secure email.

Does the Department reconcile reported withholding (other than estimated tax payments) on individuals' accounts?

The Department does reconcile withholding from the population that files the NC-3 and corresponding W-2's timely. Please note, NC-3 filing compliance is not at 100%.

Can the Department produce a transcript of estimated tax payments and withholding for individual accounts?

Unfortunately, our current system of record does not have that capability. However, taxpayers may request this information and our staff can manually research and provide verbal or written confirmation of estimated payments and NC-3 withholding (if available)

Are all submitted W-2 and 1099 tax withholdings recorded and matched against individual returns?

The Department utilizes all information returns, like NC-3 and corresponding documents to ensure taxpayers have not erred in reporting individual income tax withheld.

Does the Department issue a refund to a taxpayer if recorded tax withholdings for the taxpayer are greater than the amount claimed by the taxpayer on their individual return?

Information reporting is not 100% compliant which precludes the Department from issuing refunds on less than 100% of information.

Does the Department retain the withholding reported to an individual on a W-2/1099 for a certain period? For example: A delinquent individual tax return filer is not able to locate or ask for W-2s from 3 years back (or longer) and there are multiple (more than 2) that have NC withholding.

Yes, if the employer filed NC-3 W-2's.

Can DOR track withholding tax payments to SSN or TIN, which should be credited to a taxpayer's account? This is important in instances where the employer/payor does not file NC payroll returns and/or issue W-2s. A taxpayer should not lose the tax paid in, simply because the employer has gone out of business or is not responsive, and the taxpayer can't get a copy of a prior W-2 or 1099-R.

Our system of record does not currently have that level of technological capability. Taxpayers under examination can present any and all corroborating documentation to the auditor to substantiate any amount of tax withheld.

Under current tax law, if a taxpayer has a 2020 Federal NOL and carries the loss back 5 years, NC is requiring the taxpayer to also file a 2015-2019 amend returns to report no tax change on the state returns and to carry forward the loss to the future. Is there any consideration of allowing a NC taxpayer to simplify or streamline the carryforward of the 2020 NOL without filing prior year amended returns to report the disallowed carryback? Any suggestions would be appreciated.

N.C.G.S. 105-153.5(c2)(14) currently provides as follows: " For taxable years 2021 through 2025, a taxpayer who made an addition under subdivision (8), (9), or (10) of this subsection may deduct twenty percent (20%) per tax year of the sum of the amount added under subdivisions (8), (9), and (10) of this

subsection.” Because the statute requires the taxpayer to make the addition under subdivisions (8)-(10) in order to qualify for the associated deduction, the Department cannot administratively streamline this process. Any change to this requirement would require a change to the statute

Are all submitted W-2 and 1099 tax withholdings recorded and matched against individual returns? Does the Department issue a refund to a taxpayer if recorded tax withholdings for the taxpayer are greater than the amount claimed by the taxpayer on their individual return? **Duplicate Question**

Corporate Income and Franchise Tax - C and S Corporations

Are there plans adjust DOR software to allow e-filing of S Corp returns with bonus depreciation deductions that are not pro rata among the current shareholders. We have several S Corps that have experienced changes in stock ownership over the years (some shareholders have left & some new shareholders have joined) and therefor the allocation of the bonus depreciation deduction is not pro rata among the current shareholders. [See the attached diagnostic we get from Ultra Tax.](#)

Current business rules are in place and should not impede the electronic filing of a return when there is a change in stock ownership and bonus depreciation deductions are addressed properly on the S Corporation or Partnership tax return. (Ex. A shareholder that leaves the S Corp could continue to take the bonus depreciation deduction on their own tax return but the S Corp should not include this amount in their Deductions from Federal Adjusted Gross Income). For any further evaluation, we would require specific examples that are causing the issues.

Partnership, LLC, and Fiduciary Returns

We recently had a timely filed estate income tax due 9/15 (FYE 5/31) that was electronically transmitted just prior to the deadline. There was tax due which had to be mailed with a voucher. Executor receives a tax notice dated 9/22 for balance due plus interest and penalties. The checks had actually cleared the bank a day earlier on 9/21. We reached out to the practitioner priority line and was told that their is no balance due now. My question to NCDOR is, can you provide more time to allow for paper checks to clear the bank and be posted in your system - perhaps give the taxpayers 2 weeks from the filing deadline. This ended up being a waste of a notice generated and taxpayer resources. I have seen this happen on individual returns as well where a notice is generated within 7 days, not giving the checks time to clear and post.

As of October 2021, this should no longer occur. The Department had procedures in place to prevent this from occurring; however, notices were still being issued in some instances. The Department has made adjustments to address this scenario. If this continues to happen, please provide the notice ID for any examples to Brittany.Johnson@ncdor.gov.

If the budget passes allowing PPP expenses for 2020, what is the NCDOR’s position on requiring amended returns for pass-through entities such as partnerships, S-corps and trusts. Will DOR require amended returns and Schedule K-1s to be issued prior to the individual filing an amended return requesting a refund? Any recommendations on handling this matter?
See Important Notice Issued

Can lines be added to the returns and to Schedule K-1 to match form D-400 Schedule S?

Yes. For tax year 2021, the Department has created a new form for pass through entities, Schedule PE. This form essentially acts as a Schedule S for the pass through entity return, providing specific lines for each NC adjustment. The Department has also created a supplemental schedule for the NC K-1, which

also provides a line-by-line breakdown of the NC pass through adjustments from the Schedule PE. These changes will assist taxpayers in accurately reporting passed through NC adjustments on their individual income returns.

Sales and Use Tax (excluding Consumer Use Tax)

Consumer Use Tax

Tax Credits

DEALING & INTERACTING WITH THE DEPARTMENT

Communications with the Department of Revenue

Were the notices sent for 2015 S-Corp returns part of a DOR initiative? Can this type of inquiry be done timelier (within the 3-year statute) so that taxpayer's have a better opportunity to substantiate the return was filed. After 5 years it is often difficult for taxpayers to gather the needed information.

Yes, the delinquent notices that were mailed in August resulted from the Department not receiving a 2015 corporate tax return. This is completed annually as part of the Department's Corporate Suspension process. While the identification of corporate delinquents is an automated process, processing the correspondence that results from the delinquents is a labor-intensive process that takes several months after the delinquents are sent. After all of the correspondence is worked, any corporation that did not file a return or submit information that a return was not required is certified for suspension with the Secretary of State. After a corporation is suspended, they are required by statute to file any returns that may be outstanding and pay the full amount of tax, penalty, and interest due to be reinstated. If you need assistance with any matters pertaining to Corporate Suspension/Reinstatement, please email CSU@ncdor.gov or call (877) 919-1819 ext. 1120406.

In instances of future mass mailings, can the NCACPA or the public be notified of the pending event?

Notices are generated on a regular basis, at least weekly; therefore, it would be difficult to communicate any specific information associated with the mass mailings.

Please discuss the proper procedure for responding to a NCDR tax assessment notice. There appears to be a change in procedures with the "Notice of Assessment" letter in terms of how to respond to an assessment that you disagree with.

Can you explain the different documents provided to taxpayers and which start clocks ticking?

To ensure a complete and accurate response to your question, please submit a copy of the specific two Notices you refer to in the question. Once received, we will review the Notices and respond; however, there has been no change in procedures with respect to filing a request for review with the Department within the required statutory time period.

Taxpayer Audits, Enforcement, & Collection Actions

The DOR blanket policy of not reinstating a defaulted installment agreement regardless of whether the taxpayer was at fault for the default or not is causing big problems for the DOR as well as taxpayers. It is forcing TPs to file more Offers in Compromise which are delaying collections while they are pending and then the problem is worse (more interest for example) for the taxpayer when their Offer is not accepted. There needs to be a procedure for bringing "innocent" back into installment agreements that they can live with. That way the DOR is getting at least some money from the taxpayers and the taxpayer is not at risk of enforced, disruptive collection action. Is the DOR open to reconsidering their defaulted installment agreement reinstatement policy?

The Department's installment payment agreement policy is intended to bring the taxpayer back into tax filing and payment compliance. One of the cornerstones of the program is to ensure the taxpayer remains in filing and payment compliance for current years while maintaining their current installment agreement. The current accounts receivable is predominantly comprised of individual income tax and the policy is, in part, designed to educate the taxpayer to increase income tax withheld for wage earners and/or estimated tax payments through the year for non-wage earners. The Department does understand each taxpayer may have different facts and circumstances. The Department encourages taxpayers to communicate with staff in the Taxpayer Assistance & Collection Division and discuss those specific issues. Taxpayers may be asked to provide appropriate documentation to support any adjustments to a current installment agreement or exceptions to the policy

Interaction with Practitioner Priority Service Offices

The tax practitioner priority service is a valuable tool for preparers. Please advise on the follow:

- Best times to call, Agents are available to answer the practitioner line anytime during business hours (8:00-5:00).
- What can be discuss with a POA v. the box on the return to authorize a representative to discuss the return, and
- Does the check box allow the individual signor or the firm to discuss the return?

The paid preparer check box authority is extended only to an individual paid preparer, not to other employees of a company.

What internet browsers does the E-Business Center accommodate?

E-Business is fully supported by Internet Explorer. The agency is working to support more browsers.

OTHER

Forms, Filings, & Operational Procedures

Current NC Corporate and Partnership returns make it difficult to e-file 52/53-week year-end returns (very common in hospitality industries). The current form has a hard code beginning date of 20.

However, a 52/53-week year-end could have a date that begins in Dec 2019, for example. Are there plans to accommodate 52/53-week year filings?

The Department already accommodates a 52/53 week year end filers. Software packages should be designed to allow 52/53-week year-end filers and there is a business rule in place for both Corporations and Partnerships that would allow a taxpayer additional days in excess of 52 weeks in the case of a 52/53-week year-end. If there are specific examples, we are happy to evaluate further.

Regarding e-filing amended income tax returns, please update us on what tax returns and tax years the NCDOR is allowing to be amended electronically. Please be specific.

For Individual Income, Corporate and Partnership, NCDOR can accept amended returns for current tax year (2020) and the 2 prior years (2018 & 2019).

For Estates and Trusts, NCDOR can only accepted amended returns for the current tax year (2020).

Other General Questions

Suggestions (areas that you feel need improvement or would like to see changed)

Years ago, we could fax a copy of a North Carolina Power of Attorney to the local office, and call someone the next day and resolve an issue immediately. Currently, we must submit the POA and wait a week or more for it to be processed before we can communicate with the Department. This can be especially problematic in the case of collection issues where timely communication is critical. Are there plans to streamline this process to allow timelier resolution of issues?

Currently the most efficient contact is for the taxpayer or representative to fax their completed Power of Attorney to the number listed on the GEN-58 form. This form is posted on the NCDOR website. In 2022, the agency will offer an electronic option for taxpayers and representatives to submit the GEN-58 Power of Attorney forms.