

NC SALT Workaround

NCACPA State and Local Tax Conference

December 2022



Disclaimer

This presentation is for general information only.

Presentation content can not be interpreted as specific tax advice for a specific tax situation.

This presentation does not take draft or future legislation into account.



NC PTE Tax

NC SALT Legislation



NC SALT Legislation

- On November 18, 2021, the North Carolina General Assembly enacted Session Law 2021-180.
- This law contained a provision that allows certain pass-through entities (“PTEs”) to elect to pay North Carolina income tax at the entity level (a “Taxed PTE”).
- North Carolina now joins several other states that have enacted legislation meant to reduce the impact of the federal state and local tax (“SALT”) deduction cap on an individual’s federal income tax return



Taxed PTE Summary



Taxed PTE Summary

- NC law now allows an eligible S Corporation and an eligible partnership to elect to be taxed for North Carolina income tax purposes at the entity level.
- If a PTE makes a timely election to pay North Carolina income tax as a Taxed PTE, the Taxed PTE pays income tax on the income of its shareholders or partners.
- An eligible PTE can make the Taxed PTE Election by timely filing an NC Tax Return for a tax year that begins on or after January 1, 2022.



Taxed PTE Summary

- The tax on the Taxed PTE is imposed at the individual income tax rate for the applicable taxable year.
- Each Owner of the Taxed PTE is allowed to deduct the Owner's share of the Taxed PTE's income on the Owner's NC Tax Return.



Taxed PTE Summary

- North Carolina law expressly provides that when a PTE elects to be a Taxed PTE, the State's income tax is imposed on the taxable income of the PTE itself.
- Under current federal law, a PTE that elects to pay state income tax at the entity level may generally deduct the full amount of its state income tax as a business expense on the PTE's federal income tax return.



NC PTE Tax

NC Taxed PTE Election



Taxed PTE Election



What type of entity is eligible to make the Taxed PTE Election?

- An eligible S Corporation required to file an NC Tax Return under N.C. Gen. Stat. § 105-131.7, and
- An eligible partnership required to file an NC Tax Return under N.C. Gen. Stat. § 105-154(c).

NOTE: An entity that is not a PTE is not eligible to make the Taxed PTE Election.

Taxed PTE Election

- An eligible S Corporation is an S Corporation as defined under North Carolina law.
- An eligible partnership is defined as a domestic partnership, a foreign partnership, or an LLC that is classified for federal income tax purposes as a partnership. However...



Taxed PTE Election



The following partnerships are not eligible to make an election to be a Taxed Partnership:

- A publicly traded partnership that is described in section 7704(c) of the Code.
- A partnership that has at any time during the taxable year a partner who is not one of the following:
 - (1) An individual.
 - (2) An estate.
 - (3) A trust described in section 1361(c)(2) of the Code.
 - (4) An organization described in section 1361(c)(6) of the Code.

Taxed PTE Election

How can an eligible PTE make the Taxed PTE Election?



- An eligible PTE has the option to make the Taxed PTE Election on its timely filed annual NC Tax Return. The Taxed PTE Election is for the tax year covered by the return.
- The Taxed PTE Election must be made by the due date of the PTE's annual return, including extensions. A Taxed PTE Election on a late-filed NC Tax Return is not valid.


Taxed PTE Election



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2022 D-403 Partnership Income Tax Return

DOR
Use
Only

For calendar year 2022, or fiscal year beginning (MM-DD) _____ - _____ - 22 and ending (MM-DD-YY) _____ - _____ - _____		
Legal Name (USE CAPITAL LETTERS FOR NAME AND ADDRESS) _____ Legal Name Continued _____	Federal Employer ID Number _____ If LLC, Enter N.C. Secretary of State ID _____	Fill in all applicable circles: <input type="radio"/> Initial Return <input type="radio"/> Amended Return <input type="radio"/> Final Return <input type="radio"/> Short Period <input type="radio"/> Partnership is LLC <input type="radio"/> Partnership has Nonresident Owners <input type="radio"/> NC-NPAs attached <input type="radio"/> NC-478 attached <input type="radio"/> Publicly Traded Partnership <input type="radio"/> NC-PE attached
Address _____ City _____ State _____ Zip Code _____ County (Enter first five letters) _____	Apartment Number _____	
 N.C. Education Endowment Fund: A partnership may contribute to the N.C. Education Endowment Fund by making a contribution or designating some or all of partnership's overpayment to the Fund. To make a contribution, enclose Form NC-EDU and the partnership's payment of \$ _____. To designate the partnership's overpayment to the Fund, enter the amount of the partnership's designation on Line 26 on Page 2. (See instructions for information about the Fund.)		
Taxed Partnership	Is the partnership making the election to be a Taxed Partnership for tax year 2022? (For definition of Taxed Partnership, see instructions.)	<input type="radio"/> Yes <input type="radio"/> No
Federal Extension	Was the partnership granted an automatic extension to file its 2022 federal income tax return (Form 1065)?	<input type="radio"/> Yes <input type="radio"/> No



Taxed PTE Election

Can the Election be Revoked?



- Yes. A Taxed PTE can revoke the Taxed PTE Election if an authorized person requests the revocation prior to the due date of the NC Tax Return, including any extensions.
- The election cannot be revoked after the due date of the NC Tax Return for the PTE.
- For tax year 2022, the election may be revoked by filing an amended return and selecting “No” for the Taxed PTE election.

NC PTE Tax

Taxed PTE Tax



Taxed PTE Tax



The North Carolina taxable income of a Taxed PTE is determined by adding the following:

- Each Owner's share of the Taxed PTE's income or loss, subject to the adjustments provided in N.C. Gen. Stat. §§ 105-153.5 and 105-153.6, attributable to North Carolina, and
- Each resident Owner's share of the Taxed PTE's income or loss, subject to the adjustments provided in N.C. Gen. Stat. §§ 105-153.5 and 105-153.6, not attributable to North Carolina.

Taxed PTE Tax



- Separately stated items of deduction are not included when calculating each Owner's share of the Taxed PTE's taxable income.
- In addition, the adjustments required by Stat. § 105-153.5(c3) (for Owners of Taxed PTEs) are not included in the calculation of the Taxed PTE's taxable income.

Taxed PTE Tax



- A Taxed PTE calculates its North Carolina income tax by multiplying its North Carolina taxable income by the tax rate imposed on individuals who are required to file an NC Tax Return
- Beginning January 1, 2022, the individual income tax rate is 4.99%.

NC PTE Tax

Taxed PTE Returns and Payments



Taxed PTE Returns



- A Taxed PTE must file its NC Tax Return by the due date of the applicable NC Tax Return for the PTE.
- Without a valid extension, the due date of the NC Tax Return for an S Corporation and for a partnership is the 15th day of the 4th month following the PTE's year end.

Taxed PTE Returns




- A PTE that is granted an automatic extension to file a federal income tax return will be granted an automatic extension to file its corresponding NC Tax Return if the PTE certifies on its NC Tax Return that the PTE received an automatic federal extension.
- If a PTE is not granted an automatic federal extension to file a federal income tax return, the PTE may still request an extension of time to file its NC Tax Return by filing the applicable North Carolina extension form by the original due date of the PTE's NC Tax Return

Taxed PTE Returns



- Important! Failure to timely file the PTE return will prevent the PTE from making a valid election to be a Taxed PTE.

<p>NCDOR 2022 D-403 Web 8-22 Partnership Income Tax Return</p>		<p>DOR Use Only</p>
<p>For calendar year 2022, or fiscal year beginning (MM-DD) ____ - ____ - 22 and ending (MM-DD-YY) ____ - ____ - ____</p>		
<p>Legal Name (USE CAPITAL LETTERS FOR NAME AND ADDRESS)</p> <p>_____</p> <p>Legal Name Continued</p> <p>_____</p>	<p>Federal Employer ID Number</p> <p>_____</p> <p>If LLC, Enter N.C. Secretary of State ID</p> <p>_____</p>	<p>Fill in all applicable circles:</p> <p><input type="radio"/> Initial Return</p> <p><input type="radio"/> Amended Return</p> <p><input type="radio"/> Final Return</p> <p><input type="radio"/> Short Period</p> <p><input type="radio"/> Partnership is LLC</p> <p><input type="radio"/> Partnership has Nonresident Owners</p> <p><input type="radio"/> NC-NPAs attached</p> <p><input type="radio"/> NC-478 attached</p> <p><input type="radio"/> Publicly Traded Partnership</p> <p><input type="radio"/> NC-PE attached</p>
<p>Address _____ Apartment Number _____</p> <p>City _____ State _____ Zip Code _____ County (Enter first five letters) _____</p>		
<p> N.C. Education Endowment Fund: A partnership may contribute to the N.C. Education Endowment Fund by making a contribution or designating some or all of partnership's overpayment to the Fund. To make a contribution, enclose Form NC-EDU and the partnership's payment of \$ _____. To designate the partnership's overpayment to the Fund, enter the amount of the partnership's designation on Line 26 on Page 2. (See instructions for information about the Fund.)</p>		
<p>Taxed Partnership Is the partnership making the election to be a Taxed Partnership for tax year 2022? (For definition of Taxed Partnership, see instructions.)</p>		<p><input type="radio"/> Yes <input type="radio"/> No</p>
<p>Federal Extension Was the partnership granted an automatic extension to file its 2022 federal income tax return (Form 1065)?</p>		<p><input type="radio"/> Yes <input type="radio"/> No</p>

Taxed PTE Returns

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2022 D-403 Partnership Income Tax Return

DOR Use Only

For calendar year 2022, or fiscal year beginning (MM-DD) = 22 and ending (MM-DD-YY)

Legal Name (USE CAPITAL LETTERS FOR NAME AND ADDRESS) _____
 Legal Name Continued _____

Federal Employer ID Number _____
 If LLC, Enter N.C. Secretary of State ID _____

Address _____ Apartment Number _____
 City _____ State _____ Zip Code _____ County (Enter first five letters) _____

N.C. Education Endowment Fund: A partnership may contribute to the N.C. Education Endowment Fund by making a contribution or designating some or all of partnership's overpayment to the Fund. To make a contribution, enclose Form NC-EDU and the partnership's payment of \$ _____. To designate the partnership's overpayment to the Fund, enter the amount of the partnership's designation on Line 26 on Page 2. (See instructions for information about the Fund.)

Taxed Partnership Is the partnership making the election to be a Taxed Partnership for tax year 2022? Yes No
 (For definition of Taxed Partnership, see instructions.)

Federal Extension Was the partnership granted an automatic extension to file its 2022 federal income tax return (Form 1065)? Yes No

Part 1. Informational Return and Tax Due for Nonresident Partners or Taxed Partnership

1. Income (Loss) (From Part 6, Line 12, or Federal Form 1065, Schedule K, add Lines 1-11) 1. _____ .00

2. Guaranteed Payments to Partners 2. _____ .00
 If amount on Line 1, 3, 5, 7, 8, 9, or 10 is negative, fill in circle.
 Example: ●

3. Subtract Line 2 from Line 1 3. _____ .00

4. Additions to Income (Loss) (From Form NC-PE, Part A, Line 16) 4. _____ .00

5. Add Lines 3 and 4 5. _____ .00

6. Deductions from Income (Loss) (From Form NC-PE, Part B, Line 41) 6. _____ .00

7. Net Distributive Partnership Income (Loss) (Line 5 minus Line 6) 7. _____ .00

8. Nonapportionable Net Distributive Partnership Income (Loss) (From Part 3, Line 1) 8. _____ .00

9. Apportionable Net Distributive Partnership Income (Loss) (Line 7 minus Line 8) 9. _____ .00

10. Nonapportionable Net Distributive Partnership Income (Loss) Allocated to N.C. (From Part 3, Line 2) 10. _____ .00

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Legal Name (First 10 Characters) _____

Federal Employer ID Number _____

If the partnership has nonresident partners or if the partnership is a Taxed Partnership, complete Lines 11 through 13. Otherwise, skip to Line 14.

11. Tax Due for Nonresident Partners or Taxed Partnership (Enter Partners' Total from Part 4, Line 18 or Line 30) 11. _____ .00

12. Tax Credits Allocated to Nonresident Partners or Taxed Partnership (Enter Partners' Total from Part 4, Line 19 or Line 31) 12. _____ .00

13. Net Tax Due for Nonresident Partners or Taxed Partnership (Enter Partners' Total from Part 4, Line 20 or Line 32) 13. _____ .00

14. Payments (Add Lines 14a through 14d. Enter total on Line 14e.)

14a. Extension _____ .00

14b. Other Partnerships _____ .00

14c. Withholding from Services _____ .00

14d. Other (Include Estimated Tax Payments) _____ .00

14e. _____ .00

15. Additional Payments (Amended Returns Only. See instructions) 15. _____ .00

16. Add Lines 14e and 15 16. _____ .00

17. Previous Refunds (Amended Returns Only. See instructions) 17. _____ .00

18. Subtract Line 17 from Line 16 (If less than zero, fill in the circle) 18. _____ .00

19. Tax Due (If Line 18 is less than Line 13, subtract Line 18 from Line 13. Otherwise, go to Line 20.) 19. _____ .00

20. Overpayment Before Penalties and Interest (If Line 18 is greater than Line 13, subtract Line 13 from Line 18.) 20. _____ .00

21. a. Penalties (Include all penalties applicable to informational returns. See instructions.) _____ .00

b. Interest _____ .00

c. Interest on the Underpayment of Estimated Income Tax (Taxed Partnerships Only) 21c. _____ .00

d. Add Lines 21a through 21c 21d. _____ .00

If Line 21d is greater than zero and you entered an amount on Line 20, compare Line 21d with Line 20. If Line 21d is greater than Line 20, subtract Line 20 from Line 21d and enter result on Line 22. If Line 21d is less than Line 20, subtract Line 21d from Line 20 and enter result on Line 23.

22. Amount Due (Add Lines 19 and 21d) 22. \$ _____ .00
 Pay in U.S. Currency from a Domestic Bank. You can pay online at www.ncdor.gov.

23. Overpayment After Penalties and Interest 23. _____ .00
 When filing an amended return, see instructions.

24. Amount of Line 23 to be applied to 2023 Estimated Income Tax 24. _____ .00

25. Amount of Line 23 contributed to N.C. Nongame and Endangered Wildlife Fund 25. _____ .00

26. Amount of Line 23 contributed to N.C. Education Endowment Fund 26. _____ .00

27. Amount to be Refunded (Subtract Lines 24, 25, and 26 from Line 23) 27. _____ .00

Taxed PTE Returns



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Legal Name (First 10 Characters) _____

Federal Employer ID Number _____

D. Partners' Share of Taxed Partnership's Tax Credits and Other Items (All Taxed Partnerships must complete Part D for each partner.)

Attach other pages if needed.	Partner 1	Partner 2	Partners' Total
21. Identifying Number			
22. Name			
23. Partners' share of Taxed Partnership's tax credits (See instructions)			
	NC Resident <input type="radio"/> Yes <input type="radio"/> No	NC Resident <input type="radio"/> Yes <input type="radio"/> No	

E. Taxed Partnership's North Carolina Taxable Income for Nonresident Partners (All Taxed Partnerships must complete Part E for each nonresident partner.)

	Partner 1	Partner 2	Partners' Total
24. North Carolina taxable income for nonresident partners (Enter the amount from Line 17)			

F. Taxed Partnership's North Carolina Taxable Income for Resident Partners (All Taxed Partnerships must complete Part F for each resident partner.)

	Partner 1	Partner 2	Partners' Total
25. Guaranteed payments to resident partners			
26. Partners' share of the amount from Part 1, Line 7			
27. Separately stated items of income attributable to resident partners			
28. North Carolina taxable income for resident partners (Add Lines 25 through 27)			

G. Taxed Partnership's Net Tax Due (All Taxed Partnerships must complete Part G to compute net tax due. Important: Use the amounts reported in the Partners' Total column.)

	Partner 1	Partner 2	Partners' Total
29. Add Line 24 and 28			
30. Tax Due (Multiply Line 29 by 4.00%)			
31. Partners' share of tax credits (From Form D-403TC, Part 3, Line 14)			
32. Net Tax Due (Line 30 minus Line 31; enter amount here and on Part 1, Line 13)			

Explanation of changes for Amended Return (Attach additional sheets if necessary)

Important: All partnerships must provide each partner with a NC K-1 for Form D-403 and any other information necessary for the partner to prepare the appropriate North Carolina tax return.

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Legal Name (First 10 Characters) _____

Federal Employer ID Number _____

Part 5. Ordinary Business Income (Loss)

1. a. Gross receipts or sales	_____	.00
b. Returns and allowances	_____	.00
c. Balance (Line 1a minus Line 1b)	_____	.00
2. Cost of goods sold (Attach schedule)	_____	.00
3. Gross profit (Line 1c minus Line 2)	_____	.00
4. Ordinary income (loss) from other partnerships, estates, trusts (Attach schedule)	_____	.00
5. Net farm profit (loss) (Attach schedule)	_____	.00
6. Net gain (loss) (Attach schedule)	_____	.00
7. Other income (loss) (Attach schedule)	_____	.00
8. Total Income (Loss) Add Lines 3 through 7	_____	.00
9. Salaries and wages (other than to partners) (Less employment credits)	_____	.00
10. Guaranteed payments to partners	_____	.00
11. Repairs and maintenance	_____	.00
12. Bad debts	_____	.00
13. Rent	_____	.00
14. Taxes and licenses	_____	.00
15. Interest	_____	.00
16. a. Depreciation	_____	.00
b. Depreciation reported elsewhere on return	_____	.00
c. Balance (Line 16a minus 16b)	_____	.00
17. Depletion	_____	.00
18. Retirement plans, etc.	_____	.00
19. Employee benefit programs	_____	.00
20. Other deductions (Attach schedule)	_____	.00
21. Total Deductions Add the amounts shown in the far right column for Lines 9 through 20	_____	.00
22. Ordinary Business Income (Loss) Line 8 minus Line 21; enter amount here and on Part 6, Line 1	_____	.00

Part 6. Partners' Distributive Share Items

1. Ordinary business income (loss)	_____	.00
2. Net rental real estate income (loss)	_____	.00
3. Other net rental income (loss)	_____	.00
4. Guaranteed Payments	_____	.00
5. Interest income	_____	.00
6. Ordinary dividends	_____	.00
7. Royalties	_____	.00
8. Net short-term capital gain (loss)	_____	.00
9. Net long-term capital gain (loss)	_____	.00
10. Net section 1231 gain (loss)	_____	.00
11. Other income (loss) (Attach schedule)	_____	.00
12. Total Income (Loss) Add Lines 1 through 11; enter amount here and on Part 1, Line 1	_____	.00

Part 7. Adjustments to Income (Loss)

If the partnership is required to add certain North Carolina adjustments to income (loss) or, if the partnership is allowed to deduct certain adjustments from income (loss), the partnership must complete Form NC-PE and attach it to Form D-403.

Important: If you do not attach both pages of Form NC-PE to Form D-403, the Department may be unable to process the partnership return. Form NC-PE is available from the Department's website.

I declare and certify that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Contact Phone Number (include area code) _____

Signature of Managing Partner _____ Date _____

If entity is an LLC and it converted to an LLC during the tax year, enter entity name prior to conversion: _____ Check here if you authorize the North Carolina Department of Revenue to discuss this return and attachments with the paid preparer below.

If prepared by a person other than the managing partner, this certification is based on all information of which preparer has any knowledge.

Signature of Paid Preparer Other Than Managing Partner _____ Date _____ Address of Paid Preparer _____

Preparer's FEIN, SSN, or PTIN _____ Preparer's Contact Phone Number (include area code) _____

Fill in applicable circle: FEIN SSN PTIN

MAIL TO: North Carolina Department of Revenue, P.O. Box 25000, Raleigh, North Carolina 27640-0640

Taxed PTE Payments

Is a Taxed PTE required to pay estimated income tax payments?



- Yes. A Taxed PTE that can reasonably expect to have a North Carolina income tax liability of at least five hundred dollars (\$500) is required to pay estimated tax payments in the same manner as a C corporation.
- Note: The Taxed PTE will not be subject to interest for underpayment of estimated income tax for the first tax year for which it makes the election to be a Taxed PTE (this includes all Taxed PTEs for the 2022 tax year).

Taxed PTE Payments



- A Taxed PTE required to pay estimated income tax generally must make estimated tax payments in four equal installments.
- The installments are generally due on or before the 15th day of the fourth, sixth, ninth and twelfth months of the taxable year (for calendar year filers, April 15, June 15, September 15, and December 15).

Taxed PTE Payments



- To make an estimated tax payment, the Taxed PTE must use the Pass-Through Entity Estimated Income Tax voucher, Form NC-429 PTE, available from the Department's website.

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NC-429 PTE Pass-Through Entity Estimated Income Tax

DOR Use Only

GENERAL INSTRUCTIONS

Who Must File Form NC-429 PTE: (1) A taxed partnership or a taxed S Corporation that is required to make estimated income tax payments for a tax year. (2) A partnership or S Corporation that voluntarily makes prepayments of income tax for a tax year.

Generally, a taxed partnership or a taxed S Corporation ("a Taxed PTE") that can reasonably expect to have a North Carolina income tax liability of at least five hundred dollars (\$500) must pay estimated income tax. The term "North Carolina income tax liability" means the amount of income tax the Taxed PTE expects to owe for the tax year after subtracting any tax credits. The term "taxable year" means the calendar or fiscal year in which the Taxed PTE expects to earn the income upon which the estimated tax is based.

When to File Form NC-429 PTE: A Taxed PTE required to pay estimated income tax generally must make the payments in four equal installments. The installments are generally due on or before the 15th day of the fourth, sixth, ninth and twelfth months of the taxable year (for calendar year filers, April 15, June 15, September 15, and December 15).

If the due date of the payment falls on a federal or State holiday or a weekend, a payment postmarked by the day following that holiday or weekend is considered on time. A schedule for determining when a Taxed PTE must pay its estimated income tax is located on page 2.

Interest on Underpayment of Estimated Tax: A Taxed PTE may be subject to interest on the underpayment of estimated income tax if it does not pay enough tax by the installment due date. This is true even if the Taxed PTE is due a refund when it files its return. Interest is calculated separately for each installment. For more information, see Form CD-429B, "Underpayment of Estimated Tax by C-Corporations," available on the Department's website.

SPECIFIC INSTRUCTIONS

Complete the worksheet below to determine the estimated income tax of the Taxed PTE for the tax year. If the Taxed PTE is required to pay estimated income tax (or if the PTE voluntarily prepays income tax), fill in the applicable circle to indicate the correct type of PTE and enter the amount of payment.

Worksheet for Computation of Estimated North Carolina Income Tax <i>(Complete worksheet to determine if estimated income tax is due.)</i>	Column A Nonresidents' Share	Column B Residents' Share
1. Estimated Income (Loss)	1.	1.
2. Estimated Additions to Income (Loss)	2.	2.
3. Estimated Deductions from Income (Loss)	3.	3.
4. Estimated Income (Loss) After North Carolina Adjustments <i>(Combine Lines 1 through 3, for both columns)</i>	4.	4.
5. Estimated Nonapportionable Income (Loss)	5.	
6. Estimated Apportionable Income (Loss) <i>(Line 4 minus Line 5, Column A)</i>	6.	
7. Amount of Line 6 Estimated to be Apportioned to North Carolina <i>(Column A Only)</i>	7.	
8. Amount of Line 5 Estimated to be Directly Allocated to North Carolina <i>(Column A Only)</i>	8.	
9. Estimated North Carolina Taxable Income <i>(Combine Lines 7 and 8, Column A. Add the total to Line 4, Column B. Enter the result here.)</i>	9.	
10. Estimated North Carolina Income Tax <i>(Multiply Line 9 by 4.99%)</i>	10.	
11. Estimated Tax Credits	11.	
12. Estimated North Carolina Net Tax Due <i>(Line 10 minus Line 11)</i> <i>If \$500 or more, see the schedule on Page 2 to determine the amount and due date of each installment. If \$500 or less, no payment is required at this time.</i>	12.	

Submit this form in its entirety. Do not separate the coupon from the rest of the form.

Pass-Through Entity Estimated Income Tax

North Carolina Department of Revenue

Beginning Tax Year (MM-DD-YY)

Ending Tax Year (MM-DD-YY)

Federal Employer ID Number

N.C. Secretary of State ID Number (if applicable)

Legal Name (First 35 Characters) USE CAPITAL LETTERS FOR YOUR NAME AND ADDRESS

Address

City

State Zip Code

Fill in circle if: Partnership S Corporation

AMOUNT OF THIS PAYMENT

\$ _____ .00

If your address has changed since the filing of your last tax return, report the correct address on Form NC-AC, Address Correction Notification.

Mail this form with your check or money order in U.S. currency from a domestic bank to:
N.C. Department of Revenue, P.O. Box 25000, Raleigh, N.C. 27640-0650.
Do not fold, tape, or staple the return or check. Do not send cash.

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Reporting Requirements



Taxed PTE Reporting



In addition to the applicable federal and State reporting requirements for partnerships and S Corporations (e.g., each Owner's share of the PTE's income, adjustments, tax credits, etc.), a Taxed PTE must also report to its Owners:

- That it made the election to be a Taxed PTE; and
- The amount of the Owner's share of income or loss from the Taxed PTE to the extent it was included in the Taxed PTE's North Carolina taxable income.

Taxed PTE Reporting

NCDOR **D-403 NC K-1**
2022 Partner's Share of North Carolina Income, Adjustments, and Credits

Use Form D-403 NC K-1 to report each partner's share of the partnership's income (loss), N.C. adjustments, N.C. tax credits, etc. Each partner should keep Form D-403 NC K-1, Form NC K-1 Supplemental Schedule, and any other information provided to them by the partnership for their records. The partner is not required to attach the information to their N.C. tax return unless specifically required to do so.

For calendar year 2022, or fiscal year beginning (MM-DD) ___ - ___ - 22 and ending (MM-DD-YY) ___ - ___ - ___

Information About the Partnership

Partnership's Federal Employer ID Number _____ Partnership's Name, Address, and Zip Code _____

Is the Partnership a Taxed Partnership? Yes No



Information About the Partner

Partner's Identifying Number _____ Partner's Name, Address, and Zip Code _____

Is the Partner a N.C. Resident? Yes No

If the partner is a disregarded entity, enter the name and taxpayer identification number of the disregarded entity below:

Name of Disregarded Entity _____ Taxpayer Identification Number of Disregarded Entity _____

A. All Partners (All partnerships must complete Part A for each partner.)

Partner's Pro Rata Share Items	Amount	Individuals Filing Form D-400 Enter Amount on:
1. Share of Partnership Income (Loss) (From federal Schedule K-1 for Form 1065. Add Part III, Lines 1 through 11)		(This amount should already be included in federal adjusted gross income)
2. Additions to Income (Loss) (From Form D-403, Part 4, Line 6. Attach Form NC K-1 Supplemental Schedule)		Form D-400 Schedule S, Part A
3. Deductions from Income (Loss) (From Form D-403, Part 4, Line 7. Attach Form NC K-1 Supplemental Schedule)		Form D-400 Schedule S, Part B
4. Share of Tax Credits (From Form D-403, Part 4, Line 8)		Form D-400TC
5. Share of Tax Withheld from Compensation Paid for Services Performed in N.C. (Not included on Form D-403, Part 1, Line 14c)		Form D-400, Line 20 (N.C. residents only)

B. Nonresidents Only (All partnerships must complete Part B for each nonresident partner.)

Partner's Pro Rata Share Items	Amount	Individuals Filing Form D-400 Enter Amount on:
6. Portion of Line 1 Above From N.C. Sources		Form D-400 Schedule PN, Column B, Line 11
7. Portion of Line 2 Above Attributable to N.C. Source Income (Attach Form NC K-1 Supplemental Schedule)		Form D-400 Schedule PN, Column B, Part B, or Form D-400 Schedule PN-1, Column B, Part A
8. Portion of Line 3 Above Attributable to N.C. Source Income (Attach Form NC K-1 Supplemental Schedule)		Form D-400 Schedule PN, Column B, Part B, or Form D-400 Schedule PN-1, Column B, Part B
9. Nonresident's Share of Net Tax Paid by the Manager of the Partnership (From Form D-403, Part 4, Line 20)		Form D-400, Line 21c

C. Taxed Partnerships Only (All Taxed Partnerships must complete Part C for each partner.)

Partner's Pro Rata Share Items	Amount	Individuals Filing Form D-400 Enter Amount on:
10. Share of North Carolina Taxable Income, if the amount is less than zero (From Form D-403, Part 4, Line 24 or Line 28)		Form D-400 Schedule S, Part A (all partners) and Form D-400 Schedule PN-1, Column B, Part A (nonresidents only)
11. Share of North Carolina Taxable Income, if the amount is greater than zero (From Form D-403, Part 4, Line 24 or Line 28)		Form D-400 Schedule S, Part B (all partners) and Form D-400 Schedule PN-1, Column B, Part B (nonresidents only)



NC PTE Tax

Taxed PTE Owners



Taxed PTE Owners



- A taxpayer that is an Owner of a Taxed PTE may deduct the amount of the taxpayer's share of income from the Taxed PTE to the extent it was included in the Taxed PTE's North Carolina taxable income and the taxpayer's adjusted gross income.

Taxed PTE Owners

Part B. Deductions From Federal Adjusted Gross Income *(Only deduct items that are included in federal adjusted gross income)*

17. State or Local Income Tax Refund		▶ 17.	
18. Interest Income From Obligations of the United States or United States' Possessions		▶ 18.	
19. Taxable Portion of Social Security and Railroad Retirement Benefits		▶ 19.	
20. Retirement Benefits Received by Vested N.C. State Government, N.C. Local Government, or Federal Government Retirees, i.e. Bailey Settlement		▶ 20.	
21. Certain Retirement Benefits Received by a Retired Member of the United States Uniformed Services Not Deducted on Line 20		▶ 21.	
22. Bonus Asset Basis		▶ 22.	
23. Bonus Depreciation			
▶ 23a. 2017	▶ 23b. 2018	▶ 23c. 2019	
▶ 23d. 2020	▶ 23e. 2021	Total	
		23f. (Add Lines 23a -23e)	
24. IRC Section 179 Expense			
▶ 24a. 2017	▶ 24b. 2018	▶ 24c. 2019	
▶ 24d. 2020	▶ 24e. 2021	Total	
		24f. (Add Lines 24a -24e)	
25. Recognized IRC Section 1400Z-2 Gain		▶ 25.	
26. Gain From the Disposition of Exempt N.C. Obligations Issued Before July 1, 1995		▶ 26.	
27. Exempt Income Earned or Received by a Member of a Federally Recognized Indian Tribe		▶ 27.	
28. Amount by Which State Basis Exceeds Federal Basis for Property Disposed of in 2022		▶ 28.	
29. Ordinary and Necessary Business Expense Reduced or not Allowed Due to Claiming a Federal Tax Credit in Lieu of a Deduction		▶ 29.	
30. Personal Education Student Account Deposits		▶ 30.	
31. Certain State Emergency Response and Disaster Relief Reserve Fund Payments		▶ 31.	
32. Certain Economic Incentive Payments		▶ 32.	
33. Certain N.C. Grant Payments		▶ 33.	
34. Certain Net Operating Loss Carrybacks <i>(Limited to 20% of amount added to AGI in tax years 2013 through 2019)</i>		▶ 34.	
35. Excess Net Operating Loss Carryforward <i>(Limited to 20% of amount added to AGI in 2019 and 2020)</i>		▶ 35.	
36. Excess Business Loss <i>(Limited to 20% of amount added to AGI in 2018, 2019, and 2020)</i>		▶ 36.	
37. Business Interest Limitation <i>(Limited to 20% of amount added to AGI in 2019 and 2020)</i>		▶ 37.	
38. Taxed Pass-Through Entity Income <i>(New for 2022)</i>		▶ 38.	
39. N.C. Net Operating Loss <i>(New for 2022)</i>		▶ 39.	
40. Reserved for Future Use		▶ 40.	
41. Total Deductions - Add Lines 17 through 22, 23f, 24f, and 25 through 40 <i>(Enter the total here and on Form D-400, Line 9)</i>		▶ 41.	



Taxed PTE Owners

NC Decoupling Adjustments



- Except as specifically excluded by statute, the adjustments provided in N.C. Gen. Stat. §§ 105-153.5 and 105-153.6 are included in the calculation of the tax imposed on Taxed PTEs.
- The required North Carolina adjustments, even when included in the amount of tax calculated for the Taxed PTE, must also be passed-through and reported on the Owners' NC Tax returns.

Taxed PTE Owners

Is a nonresident Owner of a Taxed S Corporation required to file an NC Tax Return?



- The North Carolina Administrative Code provides that “[a] nonresident shareholder in an S Corporation shall not be required to file a North Carolina individual income tax return when the only income from North Carolina sources is his or her share of S Corporation income and the S Corporation pays the tax on his or her behalf.”
- This rule applies to nonresident shareholders of Taxed S Corporations to the extent the Taxed S Corporation complies with the provisions of new N.C. Gen. Stat. § 105-131.1A.

Taxed PTE Owners

Is a nonresident Owner of a Taxed Partnership required to file an NC Tax Return?



- The North Carolina Administrative Code provides that “[a] nonresident individual partner is not required to file a North Carolina individual 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 has reported the income of the nonresident partner, including any guaranteed payments made to the partner, and paid the tax due.”
- This rule applies to nonresident partners of Taxed Partnerships to the extent the Taxed Partnership complies with the provisions of new N.C. Gen. Stat. § 105-154.1.

NC PTE Tax

Tax Credits



Tax Credits



- A Taxed PTE that qualifies to claim an income tax credit may apply each Owner's share of the tax credit against the Owner's share of the Taxed PTE's income tax.
- A Taxed PTE cannot pass a North Carolina income tax credit to its Owners. In addition, a PTE cannot pass to its Owners any carryforward of an unused portion of a tax credit that was claimed by the Taxed PTE on the Taxed PTE's NC Tax Return.

Tax Credits



- A Taxed PTE must pass through to its Owners any income tax credit required to be taken in installments if the first installment of the tax credit was claimed by the Owner of the Taxed PTE.
- A Taxed PTE must pass through to its Owners any carryforward of an unused income tax credit required to be taken in installments if the first installment of the tax credit was claimed by the Owner of the Taxed PTE.

Tax Credits



- A Taxed PTE cannot pass through to its Owners any income tax credit required to be taken in installment if the first installment of the tax credit was claimed by the Taxed PTE.
- A Taxed PTE cannot pass through to its Owners any carryforward of an unused income tax credit required to be taken in installments if the first installment of the tax credit was claimed by the Taxed PTE.



Taxed S Corporation

- A Taxed S Corporation is allowed a tax credit against the income taxes levied against it by NC so long as the Taxed S Corporation was subject to and paid income tax to another state or country on the same income that NC taxed under new N.C. Gen. Stat. § 105-131.1A with respect to resident shareholders.
- The resident shareholder of a Taxed S Corporation is not allowed a tax credit on the shareholder's NC Tax Return for taxes paid by the Taxed S Corporation to another state or country on income that is taxed to the Taxed S Corporation.



Taxed Partnership

- A Taxed Partnership is allowed a tax credit against the income taxes levied against it by NC so long as the Taxed Partnership was subject to and paid income tax to another state or country on income that was taxed to the Taxed Partnership with respect to its resident partners.
- The resident partner of a Taxed Partnership is not allowed a tax credit on the individual's NC Tax Return for taxes paid by the Taxed Partnership to another state or country on income that is taxed to the Taxed Partnership

Tax Credits

Taxed PTE for NC Purposes, Non-Taxed PTE in Another State



- A PTE may be a Taxed PTE for North Carolina tax purposes, but may not be a taxed entity in another state. In such cases, the other state's income tax, if any, is paid by the Owner(s) of the PTE.
- If a Taxed PTE for North Carolina purposes is not a taxed entity in another state where the PTE does business and the Owner of the PTE pays income tax to the other state on their share of income from the PTE, the North Carolina resident Owner of the PTE may be allowed a tax credit for income taxes paid to other states.

Tax Credits



- The credit is subject to the provisions of new N.C. Gen. Stat. § 105-153.9(a)(4) (for Taxed S Corporation shareholders) or new N.C. Gen. Stat. § 105-153.9(a)(5) (for Taxed Partnership partners).
- These statutory provisions instruct the Owners of a Taxed PTE to use their share of the income from the Taxed PTE and the amount of tax imposed on the Taxed PTE when calculating their North Carolina income tax credit.

Tax Credits – NC PTE

Non-Taxed PTE for NC Purposes, Taxed PTE in Another State



- In some instances, a PTE that is not a Taxed PTE for North Carolina tax purposes may elect or be required to pay income tax as an entity under the laws of another state.
- In such circumstances, North Carolina does not provide a mechanism for the PTE to claim a North Carolina tax credit for income taxes the PTE paid to the other state.
- If allowable at all, the tax credit must be taken by the resident Owner of the PTE on their NC Tax Return. The Owner's eligibility for the tax credit is dependent on the type of PT.

Tax Credits – NC PTE

S Corporations



- N.C. Gen. Stat. § 105-131.8(a) provides that, “[f]or purposes of N.C. Gen. Stat. §§ 105-153.9 and 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term “net income tax” means any tax imposed on or measured by a corporation's net income.”

Tax Credits – NC PTE

S Corporation



- In order to qualify for the tax credit, the other state cannot have measured the income of the North Carolina resident shareholders by the income of the S Corporation.

Tax Credits – NC PTE

S Corporation



- For taxes paid by an S Corporation to a state that imposes a tax on the S Corporation that meets the requirements of N.C. Gen. Stat. § 105-131.8(a), the North Carolina resident shareholder can claim a tax credit for taxes paid to the other state subject to the provisions of N.C. Gen. Stat. §§ 105-153.9 and
- For taxes paid by an S Corporation to a state that imposes a tax on the S Corporation that does not meet the requirements of N.C. Gen. Stat. § 105-131.8(a) the North Carolina resident shareholders cannot claim a tax credit for taxes paid to that state.

Tax Credits – NC PTE

Partnership



- There is no provision in North Carolina law that allows a North Carolina resident partner of a partnership to claim a tax credit for entity-level income taxes paid by the partnership to another state.
- Consequently, any income tax required to be paid (or elected to be paid) to another state by a partnership as an entity under the laws of the other state cannot be claimed by the North Carolina resident partner as a tax credit on the partner's NC Tax Return.

More PTE Information

Review the Department's Notice dated April 14, 2022. This notice will be updated periodically.

Additional information will be available on the Department's website (www.ncdor.gov) with the 2022 tax forms and instructions.

Have Other Questions? Contact NCDOR at
1-877-252-3052



NC Net Operating Losses



NC NOLs



- S.L. 2021-180 creates a NC net operating loss calculation.
- Prior to 2022, only federal NOLs were included in the calculation of NC taxable income (via AGI).
- The new NC NOL will be a stand-alone calculation. Federal NOLs (via additions to AGI), will no longer be included in NC taxable income.

NC NOLs



- Similar to the NOL provisions under section 172 of the Code.
- 15 year carryforward for NC NOLs.
- No NC NOL carryback.
- Allows a federal NOL carryforward for federal NOLs incurred and not absorbed prior to January 1, 2022.
- Effective for tax years beginning on or after January 1, 2022.

Student Loans

Student Loans



Student Loans



- The White House has indicated that President Biden's recent student loan forgiveness will be excluded from federal income tax due to the student loan forgiveness exemption contained in IRC 108(f)(5).
- As part of the American Rescue Plan, Congress enacted Section 108(f)(5) of the Internal Revenue Code to expand the types of student loan forgiveness that would not be treated as taxable income for purposes of federal income tax.

Student Loans



- The North Carolina General Assembly did not adopt Section 108(f)(5) of the IRC for purposes of the state income tax. Therefore, student loan forgiveness excluded pursuant to IRC 108(f)(5) is currently considered taxable income in North Carolina.
- See N.C. Stat. 105-153.5(c2)(22) for limited exceptions to the general rule.
- The Department of Revenue is monitoring any further enactments by the General Assembly that could change the taxability of student loan forgiveness in North Carolina.

Military Retirement

Military Retirement Deduction



Military Retirement



- In 2022, North Carolina enacted new legislation that expanded the eligibility of the military retirement deduction to qualifying members of the uniformed services.
- The new law extends the deduction to qualifying retirees of the commissioned corps of the National Oceanic and Atmospheric Administration or the United States Public Health Service can deduct qualifying retirement pay.
- For more information, see the Department's Important Notice dated May 2, 2022 (updated August 5, 2022)

Contact Information

Register for e-alerts at www.ncdor.gov

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