

April 13, 2016

IMPACT OF THE FEDERAL PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015 ON NORTH CAROLINA'S CORPORATE AND INDIVIDUAL INCOME TAX RETURNS FOR TAX YEAR 2015

North Carolina's corporate income tax law uses federal taxable income as the starting point in determining North Carolina taxable income. North Carolina's individual income tax law uses federal adjusted gross income as the starting point in determining North Carolina taxable income. In both cases, the reference to federal law is to the Internal Revenue Code ("Code") as of a certain date. Currently, that reference is to the Code as of January 1, 2015. Each year the General Assembly determines whether to update its reference to the Code. Doing so would make recent amendments to the Code applicable for North Carolina income tax purposes. In some cases, the General Assembly chooses not to follow ("decouples" from) certain amendments to federal law.

On December 18, 2015, President Obama signed into law the Protecting Americans From Tax Hikes Act of 2015 ("PATH"). The Act extended several provisions in federal law that had sunset at the end of 2014. Some provisions were extended through the end of 2016 while other provisions were made permanent. The Act also included new tax reduction provisions. If the General Assembly does not update the reference to the Code to December 18, 2015 or later, neither the extension of those provisions that had sunset at the end of 2014 nor the new tax reduction provisions will apply for North Carolina income tax purposes.

The Revenue Laws Study Committee is charged with studying North Carolina's revenue laws and making recommendations with respect to those laws to the General Assembly. On March 8, 2016, the Revenue Laws Study Committee adopted a recommendation to update the reference to the Code to January 1, 2016 but to decouple from specific provisions in PATH. The recommended bill may be viewed [here](#).

If the General Assembly enacts legislation to update the Code reference as recommended, North Carolina will require additions on the tax year 2015 corporate and individual income tax returns for (a) 85% of the amount deducted as bonus depreciation on the federal return and (b) 85% of the difference between the amount deducted on the federal return for Code section 179 expenses, using the federal dollar and federal investment limitations, and the amount that would be deductible for Code section 179 expenses using the North Carolina dollar and North Carolina investment limitations for 2015. For tax year 2015 individual income tax returns, additions would also be required for (a) the amount excluded from gross income for the discharge of qualified principal residence indebtedness, (b) the amount deducted in arriving at adjusted gross income for qualified tuition and related expenses, and (c) the amount excluded from gross income for a qualified charitable distribution from an individual retirement plan by a person who has attained age 70 ½. In lieu of the exclusion from gross income, an individual can include the amount of the qualified charitable distribution in the deduction for charitable contributions if the taxpayer elects to deduct itemized deductions on the North Carolina individual income tax return. In addition, an individual would also be required to exclude amounts paid for mortgage insurance premiums from the deduction for qualified residence interest if the taxpayer claims itemized deductions on the North Carolina return.

Any person required to file a North Carolina income tax return whose 2015 federal taxable income or federal adjusted gross income is impacted by the amendments to federal law included in PATH should consider waiting to file the 2015 North Carolina income tax return until the General Assembly takes action. A taxpayer who files the 2015 income tax return before the General Assembly takes action may have to amend the return to reflect the General Assembly's action. Please note that the General Assembly is scheduled to convene on April 25, 2016. A taxpayer whose income tax return is statutorily due on Friday, April 15, 2016 has until Monday, April 18, 2016 to timely file the return and pay any income tax due because Emancipation Day is observed on April 15, 2016. A taxpayer with a tax return due on April 15, 2016 who chooses to wait for legislation to be enacted should, by April 18, 2016, file an application for an extension of six months to file the income tax return. If a timely application for an extension is filed, the return will be considered timely filed if filed by Monday, October 17, 2016.

If the General Assembly enacts legislation to update the Code reference, the Department will provide additional guidance, including how to report any required additions or deductions on the 2015 return.

Schedule C. Combined Federal Taxable Income Before NOL	A	B	C	D	E
	Principal Member Name	Member Name	Member Name	Eliminations between members (attach schedule)	Combined Totals
	FEIN	FEIN	FEIN		
1. a. Gross receipts or sales					
b. Returns and allowances					
c. Balance (Line 1a minus Line 1b)					
2. Cost of goods sold (Attach schedule)					
3. Gross Profit (Line 1c minus Line 2)					
4. Dividends (Attach schedule)					
5. a. Interest on obligations of the US and its instrumentalities					
b. Other interest					
6. Gross rents					
7. Gross royalties					
8. Capital gain net income (Attach schedule)					
9. Net gain (loss) (Attach schedule)					
10. Other income (Attach schedule)					
11. Total Income (Add Lines 3 through 10)					
12. Compensation of officers (Attach schedule)					
13. Salaries and wages (Less employment credits)					
14. Repairs and maintenance					
15. Bad debts					
16. Rents					
17. Taxes and licenses					
18. Interest					
19. Charitable contributions					
20. a. Depreciation					
b. Depreciation included in cost of goods sold					
c. Balance (Line 20a minus Line 20b)					
21. Depletion					
22. Advertising					
23. Pension, profit-sharing, and similar plans					
24. Employee benefit programs					
25. Domestic production activities deduction					
26. Other deductions (Attach schedule)					
27. Total Deductions (Add Lines 12 through 19, 20c, and 21 through 26)					
28. Taxable Income (Line 11 minus Line 27)					
29. Special Deductions (From Federal Form 1120, Line 29b)					
30. Federal Taxable Income Before NOL (Line 28 minus Line 29. Enter amount from Column E on Form CD-405, Schedule B, Line 10.)					.00

Schedule D. Combined Adjustments to Federal Taxable Income	A	B	C	D	E
	Principal Member Name	Member Name	Member Name	Eliminations between members (attach schedule)	Combined Totals
	FEIN	FEIN	FEIN		
1. Additions:					
a. Taxes based on net income					
b. Dividends paid by captive REITs					
c. Contributions					
d. Royalties paid to related members (See instructions)					
e. Expenses attributable to income not taxed (See instructions)					
f. Domestic production activities deduction (From Schedule C, Line 25)					
g. Other (Attach explanation or schedule)					
2. Total Additions (Add Lines 1a-1g)					
3. Deductions:					
a. U.S. obligation interest (net of expenses)					
b. Other deductible dividends (See instructions)					
c. Dividends received from captive REITs					
d. Royalties received from related members (See instructions)					
e. Interest on deposits with FHLB (net of expenses) S&L's only					
f. Bonus depreciation (See instructions)					
g. Section 179 expense deduction					
h. Other (Attach explanation or schedule)					
4. Total Deductions (Add Lines 3a-3h)					
5. Combined Adjustments to Federal Taxable Income (Line 2 minus Line 4. Enter amount from Column E on Form CD-405, Schedule B, Line 11.)					.00

Schedule E. Combined Apportionment Factor (Only one apportionment factor is to be calculated for the combined group. The standard three factor formula must be used unless more than 50% of the group's combined income subject to apportionment is generated from a business activity subject to special apportionment. In that case, the formula applicable to that industry is used to apportion the income of the entire group, see Schedule E, Parts 2 or 3. The apportionment factor **must be calculated 4 places** to the right of the decimal.)

Part 1. Standard Three Factor	A	B	C	D	E
	Principal Member Name	Member Name	Member Name	Eliminations between members (attach schedule)	Combined Totals
	FEIN	FEIN	FEIN		
1. Property - NC (Beginning of income year)	a. Land				
	b. Buildings				
	c. Inventories				
	d. Other Property				
	e. Total - NC (Add Lines 1a through 1d)				
2. Property - NC (End of income year)	a. Land				
	b. Buildings				
	c. Inventories				
	d. Other Property				
	e. Total - NC (Add Lines 2a through 2d)				
3. Average Value of Property - NC (Add Line 1e plus Line 2e; divide by 2)					
4. Rented Property - NC (Multiply annual rents by 8)					
5. Property - Everywhere (Beginning of income year)	a. Land				
	b. Buildings				
	c. Inventories				
	d. Other Property				
	e. Total - Everywhere (Add Lines 5a through 5d)				
6. Property - Everywhere (End of income year)	a. Land				
	b. Buildings				
	c. Inventories				
	d. Other Property				
	e. Total - Everywhere (Add Lines 6a through 6d)				
7. Average Value of Property - Everywhere (Add Line 5e plus Line 6e; divide by 2)					
8. Rented Property - Everywhere (Multiply annual rents by 8)					
9. Property Factor	a. Add Lines 3 and 4; enter sum here				
	b. Add Lines 7 and 8; enter sum here				
	c. Divide Line 9a by 9b; enter factor here				%
10. a. Gross Payroll - NC					
b. Compensation of General Executive Officers					
c. Net Payroll - NC (Line 10a minus Line 10b)					
11. a. Gross Payroll - Everywhere					
b. Compensation of General Executive Officers					
c. Net Payroll - Everywhere (Line 11a minus Line 11b)					
12. Payroll Factor	a. Enter amount from Line 10c				
	b. Enter amount from Line 11c				
	c. Divide Line 12a by 12b; enter factor here				%
13. Gross Receipts - NC					
14. Gross Receipts - Everywhere					
15. Sales Factor	a. Enter amount from Line 13				
	b. Enter amount from Line 14				
	c. Divide Line 15a by 15b; enter factor here				%
16. Sales Factor (Enter the same factor as on Line 15c)					%
17. Total Factors (Add Lines 9c, 12c, 15c, and 16)					%
18. NC Combined Apportionment Factor (Divide Line 17 by the number of factors present. Enter factor on Form CD-405, Schedule B, Line 17.)					%

Schedule E. Combined Apportionment Factor (continued)					
Part 2. Single Sales Factor (Excluded corporations, qualified capital intensive corporations, and certain public utilities must apportion North Carolina corporate income tax using the sales factor alone. See G.S. 105 -130.4 for more information.)	A	B	C	D	E
	Principal Member Name	Member Name	Member Name	Eliminations between members (attach schedule)	Combined Totals
	FEIN	FEIN	FEIN		
1. Gross Receipts - NC					
2. Gross Receipts - Everywhere					
3. Sales Factor (Divide Line 1 by Line 2. Enter factor on Form CD-405, Schedule B, Line 17)					<input type="text"/> %
Part 3. Other Special Factor (Special apportionment factors apply to certain types of corporations such as telephone companies, motor carriers, and railroad companies. The respective tax statutes should be consulted for additional information. If the combined group uses a special apportionment factor, enter factor for the group on Form CD-405, Schedule B, Line 17. See G.S. 105 -130.4 for more information.)					<input type="text"/> %

Schedule F. Schedule of Payments Made by Each Member of the Combined Group	A	B	C		E
	Principal Member Name	Member Name	Member Name		Combined Totals
	FEIN	FEIN	FEIN		
1. First estimated tax payment (From Form CD-429)					
2. Second estimated tax payment (From Form CD-429)					
3. Third estimated tax payment (From Form CD-429)					
4. Fourth estimated tax payment (From Form CD-429)					
5. Overpayment from prior year return (From 2014 Form CD-405, Line 40)					
6. Total estimated tax payments (Add Lines 1 through 5. Enter total on Form CD-405, Schedule B, Line 29b)					<input type="text"/> .00
7. Total income tax extension payments. (From Form CD-419, Line 10) Add Columns A through C. Enter total on Form CD-405, Schedule B, Line 29a.					<input type="text"/> .00