

# Instructions for Partnership Income Tax Return

# 2010

North Carolina Department of Revenue

**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. These instructions are to be used as a guide in the preparation of a North Carolina partnership income tax return and are not intended to cover all provisions of the law.**

**Important.** At the time this publication went to print, the North Carolina General Assembly had not adopted the Small Business Jobs Act of 2010 that was signed into law by President Obama on September 27, 2010, including the provisions for bonus depreciation and section 179 expense. Therefore, an adjustment will be required for any item included in (or excluded from) federal taxable income as a result of this Act. Before filing your 2010 North Carolina income tax return, check the Department's website to see if the General Assembly adopted any of the provisions of the Act.

**Do not attach a copy of Federal Form 1065 or copies of K-1s to Form D-403. If copies are needed, the Department will request them at a later date.**

**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. (**Exception:** A partnership whose only activity is as an investment partnership is not considered to be doing business in North Carolina. Consequently, an investment partnership is not required to file an income tax return in North Carolina nor pay income tax to North Carolina on behalf of its nonresident partners.) 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. 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 2010 form should be used for a fiscal year beginning in 2010.)

**C. 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.

**D. 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-410P, Application for Extension for Filing Partnership, Estate, or Trust Tax Return, by the original due date of the return.**

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.

**E. 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 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.

**F. 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, including the surtax, for each nonresident partner. See the **Tax Rate Schedule** and the **Surtax Computation** on Page 4 of Form D-403. 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 files Form NC-NPA, Nonresident Partner Affirmation. Form NC-NPA affirms 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 NC-NPA must be attached to the partnership return when it is filed. 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. The manager is authorized by statute

**Page 2** 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.

**Publicly Traded Partnerships** - Effective for taxable years beginning on or after January 1, 2008, a publicly traded partnership that is described in section 7704(c) of the Code is exempt from the payment and filing requirements under G.S. 105-154(c) and (d). The filing requirement is limited to partners whose distributive share of the partnership's net income during the tax year was more than five hundred dollars (\$500.00) and the payment requirements do not apply.

**G. 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 14. A resident individual partner who meets the statutory requirements must file estimated tax on Form NC-40. (See Individual Income Tax Instructions for Form D-400 for information on the requirements for paying estimated income tax.) A nonresident individual partner is not required to pay estimated tax on his distributive share of partnership income.

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

- (1) Credit for childcare and certain employment-related expenses
- (2) Credit for the disabled
- (3) Credit for children
- (4) Credit for contributions by nonitemizers
- (5) Credit for long-term care insurance
- (6) Credit for adoption expenses
- (7) Earned Income Tax Credit

**Tax Credit for Small Businesses That Pay N.C. Unemployment Insurance:** A new section was added to allow a tax credit for small businesses that make contributions to the State Unemployment Insurance Fund with respect to wages paid for employment in this State. A small business is defined as a business whose cumulative gross receipts from the business activity for the tax year do not exceed one million dollars (\$1,000,000). The amount of tax credit allowed is 25% of the qualified contributions to the State Unemployment Insurance Fund and applies to only taxable years 2010 and 2011. If the credit exceeds the amount of tax imposed for the taxable year reduced by the sum of all credits allowable, the excess is refundable. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits. The credit is computed in Part 5 of Form D-403TC.

A partnership may pass through to each of its partners the partner's distributive share of an income tax credit for which the partnership qualifies. Any dollar limit on the amount of a tax credit applies to the partnership as a whole instead of to the individual partners. Maximum dollar limits and other limitations that apply in determining the amount of tax credit available to a taxpayer apply to the same extent in determining the amount of tax credit for which a partnership qualifies, with one exception. The exception is a limitation that the tax credit cannot exceed the tax liability of the taxpayer.

If there are nonresident partners whose share of tax is being paid by the manager of the partnership, and the partnership claims a tax

credit, complete Form D-403TC, Partnership Tax Credit Summary, and include the form with the partnership return. Attach a separate schedule showing the computation of any tax credits and the allocation of the credits among the partners. If claiming any credit that is limited to 50 percent of the partnership's tax, less the sum of all other credits claimed, complete Form NC-478 and attach it to the front of the partnership return. The partnership must provide sufficient information about the tax credits to allow the partner to complete the Form NC-478 series.

**I. 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 in the same sequence as the schedules appear on the partnership return. List the partnership's federal identification number on each attachment.

**J. 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 (including surtax) 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 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.

#### **Part 1 - Computation of Income Tax Due or Refund**

##### **Line Instructions**

**Important:** If the partnership operated only in North Carolina and had no nonresident partners, complete only Lines 4 and 6, Part 1 (and Lines 13 or 14 if any payments were made), Part 3A, and Part 4.

**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 11 of Schedule K.

**Line 2** - 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 4** - 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. Complete Part 4, Lines 1 through 5 and enter the total additions on Part 1, Line 4. Allocate the total additions on Line 4 to the individual partners in Part 3, Line 6.

##### **Additions to federal taxable income:**

- (1) Interest on bonds and other obligations of states and political subdivisions other than North Carolina, if not included in federal taxable income
- (2) Any state, local, or foreign income tax deducted on the federal partnership return
- (3) An addition is required for any bonus depreciation deducted from federal taxable income as a result of the Small Business Jobs Act of 2010.

**Page 3** (4) Other additions to federal taxable income. An  
D-403A addition is required for all other expenses or deductions  
Web included in federal taxable income as a result of the Small  
11-10 Business Jobs Act of 2010.

**Line 6** - The following deductions from federal taxable income are required in calculating North Carolina partnership income to the extent the deductions are included in federal taxable income. The total deductions from Part 4, Line 10 should be entered on Part 1, Line 6 and allocated to the individual partners in Part 3, Line 7.

**Deductions from federal taxable income:**

- (1) Interest from obligations of the United States or United States' possessions
- (2) State, local, or foreign income tax refunds included on the federal return
- (3) North Carolina law did not adopt the 50 percent bonus depreciation provisions in IRC section 168(k) for the tax year 2008 or in IRC sections 168(k) or 168(n) for the tax year 2009. Any amount added to federal taxable income on the 2008 or 2009 State partnership return may be deducted in five equal installments beginning with the 2009 and 2010 State partnership returns, respectively. Enter 20 percent of the bonus depreciation added back on the 2008 State partnership return on Part 4, Line 8a and 20 percent of the amount added back on the 2009 State partnership return on Part 4, Line 8b. **Note:** When there is a change in ownership at the partner level in tax years subsequent to 2008, a new partner is not entitled to share in the depreciation deduction claimed on the partnership return because the new partner would not have added back the depreciation in 2008 or 2009. Therefore, the total deductions attributable to the special bonus depreciation for each individual partner included on Line 7, Part 3 of Form D-403 and on Line 3 of Form NC K-1 will not equal the total deduction attributable to the special depreciation claimed on Line 8, Part 4 of Form D-403.
- (4) Other deductions from federal taxable income. A deduction is allowed for any amounts included in federal taxable income as a result of the Small Business Jobs Act of 2010.

**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 10a** - Complete Parts 2 and 3 to determine the tax for nonresident partners.

**Line 10b** - Enter on Line 10b the total surtax due for all nonresident partners. If the nonresident partner's North Carolina taxable income does not exceed \$60,000, the surtax is not due. If the nonresident partner is a corporation or partnership, the surtax is determined on the respective income tax return. If the nonresident partner is an estate or trust, there is no surtax due.

**Line 11** - Enter the total tax credits allocated to nonresident partners.

**Line 12** - Enter the net tax due or net overpayment for all nonresident partners.

**Line 13** - If Form D-410P was filed to request an extension of time to file the partnership return, enter any tax paid with the extension form.

**Line 14** - Enter any other prepayments of tax that were made prior to filing this partnership return. If filing an amended return, include on Line 14 any amount paid with the original partnership return.

**Line 15** - 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 15 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 19** - Total due for nonresident partners. (Add Lines 17 and 18c - The manager of the partnership must pay this amount with the return. The tax may be paid by check or money order payable in U.S. dollars to the North Carolina Department of Revenue. **Important:** The Department will not accept a check, money order, or cashier's check unless it is drawn on a U.S. (domestic) bank and the funds are payable in U.S. dollars.)

**Line 20** - If total payments on Line 16 exceed the net tax due for nonresident partners on Line 12, subtract and enter the amount to be refunded. If Line 12 is net overpayment, add Line 12 to Line 16 and enter the amount to be refunded.

**Part 2 - Apportionment Percentage For Partnerships Having One or More Nonresident Partners and Operating in North Carolina and 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.

**Page 4** **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.

### **Part 3A - Partners' Shares Of Income, Adjustments, Tax Credits and Other Items**

#### **Line-by-Line Instructions:**

**Line 4** - Enter the same percentage used for federal income tax purposes.

**Line 6** - Enter each partner's share of the additions to federal taxable income from Part 1, Line 4.

**Line 7** - Enter each partner's share of the deductions from federal taxable income from Part 1, Line 6.

**Line 8** - 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.

### **Part 3B - Computation of North Carolina Taxable Income for Nonresident Partners**

**Line 9** - Enter each nonresident partner's distributive share of the

guaranteed payments that are applicable to the income reported on Part 1, Line 8.

**Line 14** - Enter each nonresident partner's distributive share of the guaranteed payments that are applicable to the income reported on Part 1, Line 9.

**Line 16** - Special rules apply for gain from the sale, exchange, or disposition of Internal Revenue Code Section 1231 property on which a Code Section 179 expense deduction was previously claimed. For federal purposes, the gain is no longer included at the entity level but instead is passed through separately to the individual partners. As a result, the gain is included in federal taxable income on the partner's income tax return but is not included as part of the partner's share of the partnership's income.

Partnerships must identify each nonresident partner's share of separately stated income items and enter that amount on Form D-403, Page 3, Part 3, Line 16.

### **Part 3C - Computation of Tax Due for Nonresident Partners on Whose Behalf the Partnership Pays the Tax**

**Line 18a** - Compute the tax due for each nonresident partner and enter the amounts for each partner on Line 18a. See the Tax Rate Schedule on Page 4.

**Line 18b** - A surtax of 2 percent or 3 percent of each nonresident partner's North Carolina tax liability (Part 3, Line 18a) is due if the nonresident partner's North Carolina taxable income exceeds \$60,000. If the nonresident partner's North Carolina taxable income (Part 3, Line 17) exceeds \$60,000, use the Surtax Percentage Table on Page 4 to determine the applicable percentage. Complete the Surtax Computation to determine the surtax due for each nonresident partner and enter the amounts for each partner on Line 18b.

**Line 20** - If the total amount of tax, including the surtax, for each nonresident partner shown on Lines 18a and 18b is more than each nonresident partner's tax credits shown on Line 19, subtract and enter the result on Line 20, Net Tax Due. 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.

**Line 21** - If the total amount of tax, including the surtax, for each nonresident partner shown on Lines 18a and 18b is less than each nonresident partner's tax credits shown on Line 19, subtract and enter the result on Line 21, Net Overpayment.