

## **Important Notice: North Carolina Announces Voluntary Corporate Transfer Pricing Resolution Initiative**

On August 1, 2020, the North Carolina Department of Revenue will implement a voluntary initiative to work with corporate taxpayers to expedite the resolution of corporate intercompany pricing issues (“Intercompany Pricing Issue”) subject to N.C. Gen. Stat. § 105-130.5A.

Certain North Carolina corporate taxpayers may engage in transactions between members of an affiliated group (“intercompany transactions”). Intercompany transactions that lack economic substance or are not at fair market value can cause a taxpayer to inaccurately report net income attributable to the State. N.C. Gen. Stat. § 105-130.5A. If the Department determines a taxpayer has an Intercompany Pricing Issue, the Department may redetermine the State net income of the corporation properly attributable to its business carried on in the State. The Department’s initiative provides taxpayers with potential Intercompany Pricing Issues an opportunity to fairly and expeditiously resolve with the Department all tax years within the statute of limitations for which the taxpayer has filed a return.

### **A. Purpose**

The purpose of this initiative is to fairly and consistently expedite the resolution of corporate Intercompany Pricing Issues subject to N.C. Gen. Stat. § 105-130.5A, provide certainty and uniformity to taxpayers, reduce time in disputes, and form an efficient basis for resolution of this corporate tax issue for all open tax years.

### **B. Scope & Eligibility**

The initiative applies to all filed corporate income tax returns within the statute of limitations that have intercompany transactions that would be subject to adjustment under N.C. Gen. Stat. § 105-130.5A. This includes taxpayers in the request for review process, currently under audit, notified of upcoming audit, and unidentified taxpayers with related party intercompany pricing.

### **C. Initiative Timeframe**

The initiative will commence August 1, 2020 and conclude by December 1, 2020, not including documentation or accounting follow-up.

### **D. Procedure and Timeline**

By September 15, 2020, taxpayers must agree in writing to participate in the initiative by completing and emailing the Election to Participate form available at:

<https://www.ncdor.gov/documents/nc-tpri-participation-election>

- If you are not currently under audit, you should send your election to participate to John Seibert by email to [john.seibert@ncdor.gov](mailto:john.seibert@ncdor.gov).
- If you are currently under audit, you should send your election to participate to your auditor by email to [rick.gilbert@ncdor.gov](mailto:rick.gilbert@ncdor.gov).

- By October 16, 2020, taxpayers must provide all required transfer pricing, tax, and financial information and documentation to the Department.
- Within 31 days of receipt of documentation, the Department will provide a proposed adjustment through a written summary report of its methodology and conclusions. The proposed adjustment will be prepared under the requirements of N.C. Gen. Stat. § 105-130.5A.
- Taxpayers have 15 days to accept the proposal. Taxpayers may offer modifications or adjustments to the proposal within this time frame, but an agreement must be reached by the end of 15 days.
- If an agreement is reached, the parties will enter into a settlement agreement resolving the transfer pricing issue and any other issues agreed upon. Otherwise, the parties may pursue their rights and remedies under Articles 4 and 9 of Chapter 105 of the North Carolina General Statutes.
- The Department will waive penalties for any agreed upon issue pursuant to penalty waiver policy.

#### **E. Questions**

If you have questions about the initiative, you may email John Seibert or Rick Gilbert at the email addresses listed above, or call John at (919) 814-1079, or Rick at (919) 814-1183.