



**Tax Administration
North Carolina Department of Revenue
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Raleigh, North Carolina 27640-0001
www.dornc.com**

**IMPORTANT NOTICE: RESPONSIBLE PERSON LIABILITY
STATUTE OF LIMITATIONS AMENDED**

Effective May 11, 2016 as provided by S.L. 2016-5, the statute of limitations for assessing a responsible person for unpaid taxes of a business entity under N.C. Gen. Stat. § 105-242.2(e) is amended to provide that the period of limitations “expires **the later of (i) one year after the expiration of the period of limitations for assessing the business entity or (ii) one year after a tax becomes collectible from the business entity under G.S. 105-241.22(3), (4), (5), or (6)** [emphasis added].” **This amendment to the period of limitations for assessing a responsible person applies to a tax that becomes collectible from the business entity under N.C. Gen. Stat. §§ 105-241.22(3), (4), (5), or (6) on or after May 11, 2016.**

N.C. Gen. Stat. § 105-241.22 provides:

The Department may collect a tax in the following circumstances:

...

- (3) When a taxpayer and the Department agree on a settlement concerning the amount of tax due.
- (4) When the Department sends a notice of final determination concerning an assessment of tax and the taxpayer does not file a timely petition for a contested case hearing on the assessment.
- (5) When a final decision is issued on a proposed assessment of tax after a contested case hearing.
- (6) When the Office of Administrative Hearings dismisses a petition for a contested case for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of the statute.

N.C. Gen. Stat. § 105-242.2(b) provides:

Each responsible person in a business entity is personally and individually liable for the principal amount of taxes that are owed by the business entity and are listed in this subsection. If a business entity does not pay the amount it owes after the amount becomes collectible under G.S. 105-241.22, the Secretary may enforce the responsible person’s liability for the amount by sending the responsible person a notice of proposed assessment in accordance with G.S. 105-241.9. This subsection applies to the following:

- (1) All sales and use taxes collected by the business entity upon its taxable transactions.
- (2) All sales and use taxes due upon taxable transactions of the business entity but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.
- (3) All taxes due from the business entity pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.
- (4) All income taxes required to be withheld by the business entity.

The following definitions apply to N.C. Gen. Stat. § 105-242.2:

- (1) Business entity. – A corporation, a limited liability company, or a partnership.
- (2) Responsible person. – Any of the following:

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- a. The president, treasurer, or chief financial officer of a corporation.
 - b. A manager of a limited liability company or partnership.
 - c. An officer of a corporation, a member or company official of a limited liability company, or a partner in a partnership who has a duty to deduct, account for, or pay taxes listed in N.C. Gen. Stat. § 105-242.2(b).
 - d. A partner who is liable for the debts and obligations of a partnership under N.C. Gen. Stat. §§ 59-45 or 59-403.

Assistance

General questions regarding this notice should be directed to the Taxpayer Assistance and Collection Center at telephone number 1-877-252-3052 (toll-free).

To the extent that there is any change in statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance issued prior to the date of this notice conflicts with this important notice, the provisions contained in this important notice supersede.