

§ 105-154.2. Federal partnership adjustments.

- (a) Definitions. – The following definitions apply in this Part:
- (1) Administrative adjustment request. – An administrative adjustment request filed by a partnership under section 6227 of the Code.
 - (2) Audited partnership. – A partnership subject to a partnership level audit resulting in a federal partnership adjustment.
 - (3) Corporate partner. – A partner that is subject to tax under Part 1 of this Article.
 - (4) Direct partner. – A partner that holds a direct interest in a partnership subject to a federal partnership adjustment.
 - (5) Exempt partner. – A partner that is not subject to State income tax under this Article that holds a direct interest in a partnership subject to a federal partnership adjustment.
 - (6) Federal partnership adjustment. – A change or correction arising from a partnership level audit or an administrative adjustment request that affects the calculation of a taxpayer's State tax.
 - (7) Federal partnership representative. – The person the partnership designates for the taxable year as the partnership's representative, or the person the Internal Revenue Service has appointed to act as the federal partnership representative, pursuant to section 6223(a) of the Code.
 - (8) Final federal partnership adjustment. – A federal partnership adjustment that is final. A federal partnership adjustment is final when the federal partnership adjustment is not subject to administrative or judicial review. If the federal partnership adjustment results from filing an administrative adjustment request, the federal partnership adjustment is final when the administrative adjustment request is filed. Additionally, a federal partnership adjustment relating to a partnership level audit is deemed final in the following circumstances:
 - a. The taxpayer has received a partnership level audit from the Internal Revenue Service for the tax period and the taxpayer does not timely file an administrative appeal with the Internal Revenue Service.
 - b. The taxpayer consented to any of the partnership level audit findings for the tax period and through a final decision or other written agreement with the Internal Revenue Service all rights of appeal have been waived or exhausted.
 - (9) Indirect partner. – A beneficiary of an estate or nongrantor trust or an owner in a partnership or pass-through entity, where the estate, partnership, pass-through entity, or nongrantor trust holds, either itself or through another indirect partner, a direct interest in a partnership or pass-through entity subject to a final federal partnership adjustment.
 - (10) Partnership level audit. – An audit of a partnership by the Internal Revenue Service pursuant to Subchapter C of Title 26, Subtitle F, Chapter 63 of the Code, as enacted by the Bipartisan Budget Act of 2015, Public Law 114-74, which results in federal partnership adjustments.
 - (11) Reviewed year. – The taxable year of a partnership that is subject to a partnership level audit from which federal partnership adjustments arise.
 - (12) State partnership representative. – The federal partnership representative unless the partnership designates another person as its State partnership representative. The Secretary is authorized to establish procedures for designating a person, other than the federal partnership representative, to be a State partnership representative.

(13) Tiered partner. – An estate, partnership, S Corporation, or nongrantor trust that is a partner in a partnership subject to a federal partnership adjustment.

(b) General Rule. – Except in the case of a final federal partnership adjustment that is required to be reported to the Secretary using the procedures in subsection (c) of this section, a partner must report and pay any State income tax due in accordance with the provisions of G.S. 105-130.20 or G.S. 105-159.

(c) Reporting a Final Federal Partnership Adjustment. – Except for the distributive share of adjustments that have been reported as required by subsection (b) of this section and an audited partnership that has made a timely election under subsection (d) of this section, a partnership and a partner must report a final federal partnership adjustment as follows:

- (1) No later than 90 days after the final federal partnership adjustment, a partnership doing business in this State must do both of the following:
 - a. File an income tax return reflecting the partnership's final federal partnership adjustments, as modified by G.S. 105-153.5 and G.S. 105-153.6, and any other information required by the Secretary, and pay the additional amount due under G.S. 105-154(d) and G.S. 105-154.1.
 - b. Notify each of its direct partners of the direct partner's distributive share of the final federal partnership adjustments, including any information necessary for the direct partner to properly file a State income tax return. The information must be in the form prescribed by the Secretary.
- (2) No later than six months after the final federal partnership adjustment, each direct partner subject to tax under this Article must file a State income tax return reporting the direct partner's distributive share of the adjustments reported to the direct partner under sub-subdivision b. of subdivision (1) of this subsection, as modified by G.S. 105-153.5 and G.S. 105-153.6, and any other information required by the Secretary, and pay any additional amount of tax due as if the final federal partnership adjustments had been properly reported.

(d) Election for Partnership to Pay; Exceptions. – Except as otherwise provided in subdivision (2) of this subsection, an audited partnership may elect to report a final federal partnership adjustment arising from a partnership level audit in the manner prescribed by the Secretary. An election made under this subsection is irrevocable and cannot be made if the required income tax return is not filed within the period required by this subsection. The following provisions apply to an audited partnership that makes an election under this subsection:

- (1) Reporting and payment of tax. – The reporting and payment requirements are as follows:
 - a. No later than six months after the final federal partnership adjustment, the audited partnership must file an income tax return reflecting the partnership's final federal partnership adjustment, as modified by G.S. 105-153.5 and G.S. 105-153.6, and provide any other information required by the Secretary.
 - b. No later than six months after the final federal partnership adjustment, the audited partnership must notify each of its tiered partners of the tiered partner's distributive share of the final federal partnership adjustment, including any information necessary for the tiered partner to properly file a State income tax return. The information must be in the form prescribed by the Secretary.

- c. No later than six months after the final federal partnership adjustment, the audited partnership must pay the amount determined under this subdivision. If properly reported and paid by the audited partnership, the amount shall be treated as paid in lieu of taxes owed by the direct and indirect partners, to the extent applicable, on the same final federal adjustment. The direct partners or indirect partners may not take a deduction or credit for this amount on the State income tax return or claim a refund of the amount paid on the State income tax return. The amount in lieu of taxes is calculated as follows:
1. Exclude from the final federal adjustment the distributive share of all adjustments reported to an exempt partner not subject to tax under this Article.
 2. For the total distributive shares of the final federal adjustment, as modified by G.S. 105-153.5 and G.S. 105-153.6, reported to direct corporate partners subject to tax under this Article, apportion and allocate the adjustments as provided under G.S. 105-130.4 and multiply the resulting amount by the tax rate under G.S. 105-130.3.
 3. For the total distributive shares of the final federal adjustment, as modified by G.S. 105-153.5 and G.S. 105-153.6, reported to nonresident individual direct partners and nonresident grantor trust direct partners subject to tax under this Article, apportion and allocate such adjustments as provided under G.S. 105-130.4 and multiply the resulting amount by the tax rate under G.S. 105-153.7.
 4. For the total distributive shares of the final federal adjustment, as modified by G.S. 105-153.5 and G.S. 105-153.6, reported to resident individual direct partners and resident grantor trust direct partners subject to tax under this Article, multiply that amount by the tax rate under G.S. 105-153.7. For purposes of this sub-sub-subdivision, an audited partnership may deduct from each resident individual direct partner's and resident grantor trust direct partner's distributive share the amount of the resident individual direct partner's and resident grantor trust direct partner's share of distributive income not attributable to the State from the partnership to the extent the resident individual direct partner's and resident grantor trust direct partner's share of distributive income not attributable to the State was included in the partnership's taxable income in another state or the District of Columbia and was subject to an entity-level tax levied on the aggregate distributive share of the partnership's income allocable to one or more of its partners. A partnership is taxable in another state or the District of Columbia if the partnership's business activity in that state or the District of Columbia subjects the partnership to a net income tax or a tax measured by net income.
 5. Add the amounts determined in sub-sub-subdivisions 1. through 4. of this sub-subdivision.

(2) Exceptions. – A partnership may not elect to pay tax under this subsection if any of the following apply:

- a. The partnership made the election to be a taxed partnership under G.S. 105-154.1(a) for the reviewed year.
- b. The partnership's final federal partnership adjustment resulted from an administrative adjustment request.
- c. The partnership was not required to file an information return under the provisions of G.S. 105-154(c) for the reviewed year because the partnership was not doing business in this State for the reviewed year.

(e) Collection of Tax for Failure to Pay. – If an audited partnership makes an election under subsection (d) of this section but does not pay the amount due, the Department may collect the tax from the audited partnership pursuant to G.S. 105-241.22(1). The Secretary must issue a notice of collection for the amount of the tax debt to the audited partnership. If the tax debt is not paid to the Secretary within 60 days of the date the notice of collection is mailed to the audited partnership, the Secretary may assess the partners of the audited partnership for the partners' distributive share of the tax debt by sending the partners a notice of proposed assessment in accordance with G.S. 105-241.9. For purposes of this subsection, the term "tax debt" has the same meaning as defined in G.S. 105-243.1(a).

(f) Tiered Partners. – The direct and indirect partners of an audited partnership that are tiered partners, and all of the owners or beneficiaries of those tiered partners that are subject to tax under this Article, are subject to the reporting and payment requirements of subsection (c) of this section, and the tiered partners are entitled to make the election provided in subsection (d) of this section. The Secretary is authorized to establish procedures and interim time periods for the reports and payments required by tiered partners and their owners or partners and for making the election under this subsection.

(g) Failure of Audited Partnership or Tiered Partner to Report or Pay. – Nothing in this section prevents the Secretary from proposing an assessment against a direct partner or indirect partner pursuant to G.S. 105-241.9 for tax due if a partnership or tiered partner fails to timely make any report or payment required by this section for any reason.

(h) State Partnership Representative. – The partnership's direct partners and indirect partners are bound by the actions of the State partnership representative. In addition, with respect to any action required or permitted to be taken by a partnership under this section, the State partnership representative has the sole authority to:

- (1) Act on behalf of the partnership.
- (2) Bring a contested case hearing in accordance with G.S. 105-241.15.
- (3) Request a judicial review in accordance with G.S. 105-241.16.

(i) Assessments of Additional State Tax Arising from a Final Federal Partnership Adjustment. – The Secretary must assess additional State tax arising from a final federal partnership adjustment in accordance with G.S. 105-241.9. (2026-31, s. 2(a).)