

§ 105-154. Information at the source returns.

(a) Repealed by Session Laws 1993, c. 354, s. 14.

(b) Information Returns of Payers. – A person who is a resident of this State, has a place of business in this State, or has an employee, an agent, or another representative in any capacity in this State shall file an information return as required by the Secretary if the person directly or indirectly pays or controls the payment of any income to any taxpayer. The return shall contain all information required by the Secretary. The filing of any return in compliance with this section by a foreign corporation is not evidence that the corporation is doing business in this State.

(c) Information Returns of Partnerships. – A partnership doing business in this State and required to file a return under the Code shall file an information return with the Secretary. A partnership that the Secretary believes to be doing business in this State and to be required to file a return under the Code shall file an information return when requested to do so by the Secretary. The information return shall contain all information required by the Secretary. It shall state specifically the items of the partnership's gross income, the deductions allowed under the Code, each partner's distributive share of the partnership's income, and the adjustments required by this Part. A partner's distributive share of partnership net income includes any guaranteed payments made to the partner. The information return shall also include the name and address of each person who would be entitled to share in the partnership's net income, if distributable, and the amount each person's distributive share would be. The information return shall be signed by one of the partners under affirmation in the form required by the Secretary.

A partnership that files an information return under this subsection shall furnish to each person who would be entitled to share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The information shall be in the form prescribed by the Secretary and must be furnished on or before the due date of the information return.

A partnership that is not doing business in this State because it is a nonresident business performing disaster-related work during a disaster response period at the request of a critical infrastructure company is not required to file an information return with the Secretary. However, the partnership must furnish to each person who would be entitled to share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The definitions and provisions in G.S. 166A-19.70A apply to this paragraph.

(d) **(Effective for taxable years beginning before January 1, 2022)** Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business shall report information concerning the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The distributive share of the income of each nonresident partner includes any guaranteed payments made to the partner. The manager of the business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the income of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager shall include a copy of the affirmation with the report required by this subsection. The affirmation must be annually filed by the nonresident partner and submitted by the manager by the due date of the report required in this subsection. Otherwise, the manager of the business is required to pay the tax on the nonresident partner's share. Notwithstanding the provisions of G.S. 105-241.7(b), the manager of the business may not request a refund of an overpayment made on behalf of a nonresident owner or partner if the manager of the business has

previously filed the return and paid the tax due. The nonresident owner or partner may, on its own income tax return, request a refund of an overpayment made on its behalf by the manager of the business within the provisions of G.S. 105-241.6.

(d) **(Effective for taxable years beginning on or after January 1, 2022)** Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the business shall report information concerning the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The distributive share of the income of each nonresident partner includes any guaranteed payments made to the partner. The business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the income of the business in this State. The Secretary may enforce the business's liability for the tax on each nonresident owner or partner's share of the income by sending the business a notice of proposed assessment in accordance with G.S. 105-241.9. If the nonresident partner is not an individual and the partner has executed an affirmation that (i) the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, or (ii) the partner is not subject to State income tax under this Article, the business is not required to pay the tax on the partner's share. In this case, the business shall include a copy of the affirmation with the report required by this subsection. The affirmation must be annually filed by the nonresident partner and submitted by the due date of the report required in this subsection. Otherwise, the business is required to pay the tax on the nonresident partner's share. Notwithstanding the provisions of G.S. 105-241.7(b), the business may not request a refund of an overpayment made on behalf of a nonresident owner or partner if the business has previously filed the return and paid the tax due. The nonresident owner or partner may, on its own income tax return, request a refund of an overpayment made on its behalf by the business within the provisions of G.S. 105-241.6. This subsection does not apply to a partnership with respect to any taxable period for which it is a taxed partnership unless the taxed partnership has a partner described in G.S. 105-154.1(a)(5). If a taxed partnership has a partner described in G.S. 105-154.1(a)(5), this subsection applies to the taxed partnership with respect to the partner described in G.S. 105-154.1(a)(5).

(e) Publicly Traded Partnership. – The information return and payment requirements under this section are modified as follows for a publicly traded partnership that is described in section 7704(c) of the Code:

- (1) The information return required under subsection (c) of this section 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).
- (2) The payment requirements under subsection (d) of this section do not apply. (1939, c. 158, s. 328; 1945, c. 708, s. 4; 1957, c. 1340, s. 4; 1967, c. 1110, s. 3; 1973, c. 476, s. 193; c. 1287, s. 5; 1989, c. 728, s. 1.25; 1989 (Reg. Sess., 1990), c. 814, s. 19; 1991 (Reg. Sess., 1992), c. 930, s. 2; 1993, c. 314, s. 1; c. 354, s. 14; 1998-98, s. 69; 1999-337, s. 26; 2008-107, s. 28.8(a); 2013-316, s. 1.3(e); 2017-204, s. 1.9(f); 2019-169, s. 1.1(a); 2019-187, s. 1(i); 2020-58, s. 4.3; 2021-180, s. 42.5(g); 2022-13, s. 2.3; 2023-12, s. 1.5(a).)