Instructions for Estates and Trusts Income Tax Return

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 estate and trusts income tax return and are not intended to cover all provisions of the law.

(A) Who must file Form D-407 - A fiduciary must file North Carolina Form D-407 for the estate or trust if the fiduciary is required to file a federal income tax return for estates and trusts and (1) the estate or trust derives income from North Carolina sources or (2) the estate or trust derives any income which is for the benefit of a resident of North Carolina. Exception: With respect to grantor trust returns, the Department of Revenue has access to the federal information contained in the federal grantor trust returns. Therefore, a State grantor trust return is not required to be filed when the entire trust is treated as a grantor trust for federal tax purposes.

(B) Other returns to be filed by fiduciaries: (1) The personal representative must file an individual income tax return, Form D-400, for the last taxable year of the decedent if the decedent had income that was sufficient to require the filing of an individual income tax return.

(2) Returns for other individuals - A fiduciary, including the guardian of a minor (who has not filed a return) and the guardian of a mentally incompetent individual, must make or file returns for the taxable year of the income of the trust or estate if a return is required on Form D-400 if a return is required for such an individual.

(C) Period to be covered by the return - Returns shall be filed for the calendar year 2016 or fiscal year beginning in 2016. If the return is filed for other than a calendar year, fill in the beginning and ending dates of the taxable year in the boxes at the top of page 1.

(D) Time and place for filing - Returns must be filed with the North Carolina Department of Revenue, P. O. Box 25000, Raleigh, North Carolina 27640-0861, on or before the 15th day of the month following the calendar year, and on or before the 15th day of the fourth month following the close of the fiscal year for an estate or trust filing on a fiscal year basis. However, for tax year 2016, the due date is Tuesday, April 18, 2017, because April 15 is on a Saturday and April 17 is the Emancipation Day holiday observed in the District of Columbia.

(E) Extensions - If Form D-407 cannot be filed by the due date, the fiduciary may apply for an 8-month extension of time to file a return. To receive the extension, the fiduciary must file Form D-410P, Application for Extension for Filing Partnership, Estate, or Trust Tax Return, by the original due date of the return.

The fiduciary is not required to send a payment of the tax it estimates as due to receive the extension; however, it will benefit the estate or trust to pay as much as it can with the extension request.

A 10 percent late payment penalty will apply on the remaining balance due if the tax paid by the original due date of the return is less than 90 percent of the total tax due. If the 90 percent rule is met, any remaining balance due must be paid with the estate or trust return on or before the expiration of the extension period to avoid the late payment penalty. A fiduciary 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.

(F) Signature - The fiduciary or authorized representative must sign Form D-407. The return must also be signed by the person or in the name of the firm or corporation preparing the fiduciary’s return for compensation. The daytime telephone number of the preparer should be shown so the fiduciary can be reached if additional information is needed to process the return. For tax due returns only, the preparer’s facsimile signature is acceptable provided the preparer submits with the return a letter, manually signed by the preparer, identifying each return bearing the facsimile signature by taxpayer name and identifying number and a declaration under penalty of perjury that the facsimile signature on each return is the signature used by the preparer to sign the return.

(G) When and to whom the tax must be paid - The tax of an estate or trust must be paid in full when the return is filed. 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 or money order unless it is drawn on a U.S. (domestic) bank and the funds are payable in U.S. dollars.

(H) Penalties and interest - For failure to file a timely estate or trust return, the penalty is 5 percent of the net tax due per month with a 25 percent maximum. Returns filed after April 15 without a valid extension are subject to a late payment penalty of 5 percent per calendar month of unpaid tax. In addition, penalties are provided for payment of the tax after the due date, for willful failure to file on time, and for willful attempt to evade or defeat the tax. Taxes also bear interest from the due date until the date paid.

(I) Copy of governing instrument - A copy of the decedent’s will or the trust instrument is not required unless the Department of Revenue requests it. If the Department requests it, a copy (including any amendments) with the following: (1) A signed statement under affirmation that the copy of the will is true and complete. (2) A statement listing the provisions of the will or the trust instrument that divide the income among the estate or trust and the beneficiaries.

(J) Specific Instructions for Form NC K-1 - Schedule NC K-1 for Form D-407 is used by an estate or trust to report each beneficiary’s share of income, adjustments, tax credits, etc. Prepare and give a Schedule NC K-1 to each person who was a beneficiary of the estate or trust at any time during the year. Schedule NC K-1 must be provided to each beneficiary on or before the day on which the estate or trust return is required to be filed.

(K) N.C. Education Endowment Fund Contribution - You may contribute to the N. C. Education Endowment Fund by making a contribution or designating some or all of your overpayment to the Fund. To make a contribution, simply enclose Form NC-EDU and your payment. You can access Form NC-EDU online at www.ncdor.gov. Write the contribution amount on Form NC-EDU. Your election to contribute to the Fund cannot be changed after you file your return. Additional contributions to the Fund may be made by mailing your donation directly to the North Carolina Department of Public Instruction, Cash Collections, 6331 Mail Service Center, Raleigh, North Carolina 27699-6331. Make check payable to “North Carolina Department of Public Instruction” and indicate either on the check or in an attached note that it is a contribution for the North Carolina Education Endowment Fund. To designate your overpayment, see instructions for Line 19 below.

Line-by-Line Instructions

Line 1 - Enter on Line 1 the federal taxable income from Federal Form 1041.

Line 2 - Additions to income - Determine the amount to enter on Line 2 by completing Line 1 and, for Line 2, add up the following: (1) interest, dividends, gains, losses, other intangible income, or business income from sources outside North Carolina for the benefit of a nonresident beneficiary, the total income of the estate or trust is taxable to the fiduciary and you should enter zero on Line 6. If there are nonresident beneficiaries and Line 5 includes any income from interest, dividends, gains, losses, other intangible income, or business income from sources outside North Carolina for the benefit of a nonresident beneficiary, enter the amount of such income for the benefit of nonresident beneficiaries on Line 6. The determination of the amount of federal taxable income (as adjusted) which is from intangible property or is business income from sources outside North Carolina for the benefit of a nonresident beneficiary is based on the income beneficiary’s state of residence on the last day of the taxable year of the estate or trust. In the case of both resident and nonresident income beneficiaries, the determination of the amount of federal taxable income (as adjusted) which is from intangible property or sources outside of North Carolina for the benefit of the nonresident beneficiaries’ income interests for the taxable year relates to the income interests of both resident and nonresident income beneficiaries for the taxable year.

Line 9 - Complete Form D-407TC, Estates and Trusts Tax Credit Summary to determine the fiduciary’s share of any tax credits. Enter on Line 9 the amount from Form D-407TC, Line 13.

Line 10 - If Form D-410P was filed to request an extension of time to file Form D-407, include any tax paid with the extension on Line 10.

Line 11 - No estimated tax is required of a fiduciary; however, if the fiduciary makes any prepayments of tax, include the prepayment on Line 11. If filing an amended return, include on this line any amount paid with the original return.

Line 12 - If tax was paid by a partnership or S corporation on behalf of the estate or trust, enter the amount paid and include with the return a copy of the information furnished by the partnership or S corporation. As well, enter any North Carolina tax withheld that was reported on Form T999R and include a copy of the form.

Line 15 - Enter the total penalties on Line 15a and interest due on Line 15b. [See (H) Penalties and interest above.] Add Lines 15a and 15b and enter the total on Line 15c.

Line 16 - Pay this Amount - Add lines 14 and 15c and enter the total. The total tax, penalties, and interest due must be paid by the fiduciary responsible for administering the estate or trust.

Line 18 - Contribution to the N. C. Nongame and Endangered Wildlife Fund - Help keep North Carolina wild by contributing any portion of your refund to the N. C. Nongame and Endangered Wildlife Fund. Your tax deductible contributions are essential to monitoring and managing our wildlife populations, including turtles,
flying squirrels, frogs, mussels, salamanders, and hundreds of bird species from
terms and pelicans to woodpeckers and warblers. Conserving these species and
their habitats is important to our state, our economy, and our quality of life. If wildlife
conservation is important to you, please give what you can and help conserve
North Carolina’s wildlife for future generations to enjoy.

If you wish to contribute to the Fund, enter the amount of your contribution on Line 18.
Your election to contribute to the Fund cannot be changed after you file your return.
If you are not due a refund, you may still contribute to this Fund by donating online or
mailing your donation directly to the North Carolina Wildlife Resources Commission,
1702 Martin Luther King Jr. Center, Raleigh, North Carolina 27699-1702. Checks should be
made payable to the Nongame and Endangered Wildlife Fund. For more information
about the Fund or to donate online, check out www.ncwildlife.org/give.

Schedule B - Apportionment of Income and Adjustments

In taxing estates and trusts, all income is taxable to the fiduciary or to the
investor. In the case of estates and trusts, it is taxable for North Carolina income tax purposes. Under the conduit rules regardless of who is taxed, the
income retains its same character as when received by the estate or trust. The
additions and deductions to federal taxable income of an estate or trust must
be apportioned between the fiduciary as the conduit and the beneficiaries based on the
distributions of income made during the taxable year. If the trust instrument or will
that created the estate or trust does not provide for the distribution of certain classes
of income, the different beneficaries' share of additions and deductions may not be
apportioned to the beneficiaries is determined on the basis that each beneficiary's share of the
estate's or trust's “total income,” the sum of lines 1 through 8 on the beneficiary's
Schedule K-1, Federal Form 1041, relates to “adjusted total income” from line 17
of Federal Form 1041. If the trust instrument or will specifically provides for the
distribution of certain classes of income to different beneficaries, any addition or
deduction directly attributable to a particular class of income must be apportioned
to that class to which it pertains. If the income is distributed in kind, in apportioning
the adjustments, the total income on Federal Schedule K-1 must be adjusted for
benefit of beneficiaries that are not reflected in the total income. The adjusted total income (Line 17 of Federal Form 1041) must be adjusted (1) to exclude classes of income that are not part of the distribution to the beneficiary; (2) to include classes of income that are a part of the distribution to the beneficiary but are not included on Line 17; and (3) by any deduction treated differently for
federal and state tax purposes. The adjusted total income on Federal Schedule K-1,
apportioned to the beneficiaries on Schedule B, and the total additions and deductions should be reported on Lines 2 and 4, respectively, on Page 1 of Form D-407.

Form D-407TC - Estates and Trusts Tax Credit Summary

The tax credit for income tax paid to another state or country must be allocated between the
fiduciary and the beneficiaries. Part 5 of Form D-407TC must be completed to
to determine the tax credit allowable to the fiduciary; however, before
Part 5 can be completed, gross income (from Line 9, Federal Form 1041) on which
such tax was paid must be allocated between the fiduciary and the beneficiaries.

The fiduciary’s share and each beneficiary’s share of the gross income on which tax
has been paid to another state or country and the amount of tax paid on the income
depends on the governing instrument and such amounts should be entered on
Federal Form 1041, Line 9 and by paying the fee of $500.00 with the 2013 tax return on April 15, 2014.

For example, the Article 3J credit for creating jobs is repealed for business activities
that occur on or after January 1, 2014. In tax year 2013, a taxpayer, which met all
eligibility requirements set out in N.C. Gen. Stat. § 105-129.63 and satisfied the
threshold requirement for job creation, creates jobs in this State. The taxpayer claimed the jobs credit by filing Form NC-478A (the applicable NC-478 series
form) and by paying the fee of $500.00 with the 2013 tax return on April 15, 2014.
The taxpayer is allowed to take the first installment of the 2013 jobs credit on its
2014 tax return and the second installment on its 2015 return. Any unused portion of the first or second installment if applicable may be carried forward for
five tax years. The taxpayer allocates the tax credit attributable to the remaining
installments as long as the taxpayer continues to meet the requirements of N.C.
Gen. Stat. § 105-129.83 and N.C. Gen. Stat. § 105-129.87. If the taxpayer fails to maintain eligibility requirements, remaining installments are forfeited and only
the carryforward amount of a previously accrued installment may be taken, subject to the
carryforward provisions of N.C. Gen. Stat. § 105-129.84.