Do not attach a copy of Federal Form 1041 or copies of K-1s to Form D-407. If copies are needed, the Department will request them at a later date.

(A) Who must file Form D-407? A fiduciary must file North Carolina Form D-407 for the estate or trust if he 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) Returns for decedents. - A 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 who has charge of the income of the individual, must file a return 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 2012 or fiscal year beginning in 2012. 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 27640-0545, on or before the 15th of April for an estate or trust filing on the calendar year basis, 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.

(E) Extensions. - If Form D-407 cannot be filed by the due date, the fiduciary may apply for an automatic 6-month extension of time to file the 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 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 or 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 fiduciary should be shown so that he may 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 tax per month with a $5 minimum and a 25 percent maximum. Returns filed after April 15 without a valid extension are subject to a late payment penalty of 10 percent of the unpaid tax (minimum $5). In addition, penalties are assessed for fraud, with 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 a copy of the governing instrument, the fiduciary must file it within 30 days of request.

(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 divides 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.

Line-by-Line Instructions

Line 1 - Enter on Line 1 the federal taxable income from Federal Form 1041, Line 22.

Line 2 - Additions to income - Determine the amount to enter on Line 2 by completing Schedule A, Lines 6 through 15 and allocating the deductions between the beneficiaries and the fiduciary in Schedule B, Line 4. Enter on Line 1 the amount from Line 3, Fiduciary Column of Schedule B.

Line 4 - Deductions from income - Determine the amount to enter on Line 4 by completing Schedule A, Lines 6 through 15 and allocating the deductions between the beneficiaries and the fiduciary in Schedule B, Line 4. Enter on Line 1 the amount from Line 4, Fiduciary Column of Schedule B.

Line 6 - If none of the federal taxable income, as adjusted (Line 5), is from dividends, interest, gains, losses, other intangibles, or from sources outside North Carolina for the benefit of a nonresident beneficiary, the total income of the estate or trust is from dividends, interest, gains, losses, other intangible property, or 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 from sources outside North Carolina for the benefit of nonresident beneficiaries is made on the basis that the nonresident beneficiaries’ income interests for the taxable year relate 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, enter the amount paid in the return at the bottom of the information furnished by the partnership or S corporation to verify the payment. Also enter any North Carolina tax withheld that was reported on Form 1099-R 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 17 - Amount to be Refunded - If the amount on Line 8 is less than the amount on Line 13, subtract and enter the amount to be refunded.

Schedule A - North Carolina Fiduciary Adjustments

Schedule A is provided for the computation of the North Carolina fiduciary adjustments. The following additions and deductions are required by North Carolina law as adjustments to the income of the estate or trust.

Additions to income, to the extent the amounts are not included in income:

Line 1 - Enter on Line 1 any interest received from bonds or obligations of a state or its political subdivisions other than North Carolina if not included in income.

Line 2 - Enter on Line 2 any state, local, or foreign income tax that was deducted from income.

Line 3 - The federal Small Business Jobs Act of 2010 extended the 50 percent bonus depreciation through 2011. Subsequent to this Act, the federal Tax Relief Act of 2010 extended the bonus depreciation from 50 percent to 100 percent for qualified property acquired and placed in service after September 8, 2010 and before January 1, 2012. The Tax Relief Act of 2010 also provides 50% bonus depreciation for qualified property placed in service after December 31, 2011 and before January 1, 2013. Certain long-lived property and transportation property
is eligible for 100% expensing if placed in service January 1, 2013. North Carolina did not adopt the bonus depreciation provisions under IRC sections 168(k) and 168(n) of these Acts. Therefore, if you deducted the bonus depreciation under IRC section 168(k) or 168(n) on your 2012 federal return, you must add to income 85% of the amount deducted. This adjustment does not result in a difference in basis of the affected assets for State and federal income tax purposes. Note: Any amount of election added to income on your 2012 State return may be deducted in five equal installments over your first five taxable years beginning with the tax return for taxable year 2013.

Line 4 - Enter on Line 4 any other additions required, such as the following:
- The amount of federal estate tax that is attributable to income in respect of a decedent and that is deducted under Section 691(c) of the Internal Revenue Code.

Generally, estates and trusts are subject to the same additions and transitional adjustments to the additions on Line 1 that are required of individuals. See the North Carolina Individual Income Tax Instructions for a more detailed explanation of any applicable adjustments.

Line 5 - Enter the total of Lines 1 through 4 on Line 5. The total additions should be apportioned between the beneficiaries and the fiduciary on Schedule B, Line 3.

Deductions from income, to the extent the amounts are included in income:

Line 6 - Enter any interest income which was received from obligations of the United States or United States’ possessions.

Line 7 - Enter the taxable portion of any Social Security or Railroad Retirement benefits included in income.

Line 8 - Important: The following instructions apply if an estate receives retirement benefits on behalf of a decedent because the decedent was a former employee of the State of North Carolina and placed in service before January 1, 2013. The following adjustments apply if a former employee of the federal government and the decedent did not have five years of service with the government as of August 12, 1989, or if the decedent’s estate received benefits because the decedent was employed by another state. (Refer to the instructions for Line 14.) If the estate or trust received retirement benefits during the year from one or more federal, state, or local government retirement plans, enter on Line 8 the amount received or $4,000, whichever is less.

Line 9 - If the estate or trust received retirement benefits during the year from one or more private retirement plans other than federal, state, or local government retirement plans, enter on Line 9 the amount received or $2,000, whichever is less.

Line 10 - Enter the amount from Line 10 or $4,000, whichever is less. (If retirement benefits received are received from both a governmental plan and a private plan, the maximum deduction on Line 11 is $4,000.)

Line 12 - Enter any state, local, or foreign income tax refund that was included in income.

Line 13 - North Carolina law did not adopt the 50 percent bonus depreciation provisions in IRC section 168(k) for the tax year 2008 or in IRC sections 168(k) or 168(n) for tax years 2009 and 2010. Similarly, North Carolina did not adopt the provisions of the Small Business Jobs Act of 2010 which extended the 50 percent bonus depreciation through 2011 and the Tax Relief Act of 2010 which also provides 50% bonus depreciation for qualified property placed in service after December 31, 2011 and before January 1, 2012. The Tax Relief Act of 2010 also provides 50% bonus depreciation for qualified property placed in service after December 31, 2011 and before January 1, 2013. Certain long-lived property and transportation property is eligible for 100% expensing if placed in service before January 1, 2013. Because North Carolina did not adopt the bonus depreciation provisions under IRC sections 168(k) and 168(n) of these Acts, an adjustment is required to add to income 85% of the amount deducted. Any amount that was added to income on the 2008 State return on line 13a, 20 percent of the amount added back on the 2009 State return on Line 13b, 20 percent of the bonus depreciation added back on the 2010 State return on Line 13c, and 20 percent of the bonus depreciation added back on Line 13d were apportioned between the beneficiaries and the fiduciary.

Line 14 - Enter on Line 14 any other deductions required, such as the following:
- As a result of the North Carolina Supreme Court’s decision in Bailey v. State of North Carolina, North Carolina may not tax certain retirement benefits received by retirees (and their beneficiaries and estates) of the State of North Carolina and its local governments or by United States government retirees (and their beneficiaries and estates), including military retirees. The exclusion applies to retirement benefits received from certain defined benefit plans, such as the Berean, Teachers’ and State Employees’ Retirement System, the North Carolina Local Governmental Employees’ Retirement System, the North Carolina Consolidated Judicial Retirement System, the Federal Employees’ Retirement System, or the United States Civil Service Retirement System, if the retiree has five or more years of creditable service as of August 12, 1989. The exclusion also applies to retirement benefits received from the State’s $401(k) and $457 plans if the retiree had contributed or contracted additional benefits before August 12, 1989. This exclusion does not apply to local government $457 plans or to $403(b) annuity plans. Benefits from other State, local, and federal retirement plans may or may not be excluded depending on rulings in the Bailey case. The exclusion does not apply to retirement benefits paid to former teachers and state employees of other states and their political subdivisions. An estate entitled to exclude retirement benefits from North Carolina income tax should claim a deduction on Line 14 for the amount of excludable retirement benefits included in federal taxable income. A copy of Form 1099-R received from the payer must be attached to the return to support the deduction.

Generally, estates and trusts are subject to the same deductions and transitional adjustments allowed to individuals. See the North Carolina Individual Income Tax Instructions for a more detailed explanation of any applicable adjustments.

Line 15 - Enter the total of Line 6, 7, 11, 12, 13e and 14 on Line 15. The total deductions on Line 15 should be apportioned between the beneficiaries and the fiduciary on Schedule B, Line 4.

Schedule B - Allocation of Adjustments

In taxing estates and trusts, all income is taxable to the fiduciary or to the beneficiaries. The conduct rules in the Federal form are applicable for North Carolina income tax purposes. Under the conduct 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 estate or trust and the beneficiaries based on the distributions of income made during the taxable year. Unless the trust instrument or will creating the estate or trust specifically provides for the distribution of certain classes of income to different beneficiaries, the apportionment of additions and deductions to the beneficiaries is determined on the basis that each beneficiary’s share of the income for regular tax purposes (from 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 beneficiaries, any addition or deduction directly attributable to a particular class of income must be apportioned to the beneficiary to which that specific class of income is distributed. In apportioning the adjustments, the income for regular tax purposes must be adjusted for distributions to the beneficiaries which are not reflected in the amount on Line 7. The adjusted total income (Line 21) should be calculated based on the adjusted total income from Schedule K-1, Federal Form 1041 and the additional tax credits are claimed, submit a separate schedule showing how the additional tax credits were determined and how they are allocated between the beneficiaries and the fiduciary on Schedule B, Line 4.

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 determine the tax credit allowable to the fiduciary; however, the tax credit may be claimed where the instructions are met and the fiduciary believes that the state is entitled to the tax credit. Each beneficiary should be furnished a Schedule NC K-1 showing the applicable additions, deductions, tax credits, etc., to be reported on his North Carolina individual income tax return. A nonresident, in calculating the percentage of taxable income subject to North Carolina tax on line 16 of Page 2 of the individual income tax return, must adjust his share of the income from North Carolina sources only by the additions and deductions attributable to the North Carolina income tax. The fiduciary’s portion of the additions and deductions should be reported on Lines 2 and 4, respectively, on Page 1 of Form D-407.

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