

1. **DOR requires 1099s be filed via NC3, even if there is no withholding. In many CPAs' cases, they may have clients who have no payroll but do have some 1099s. These Clients have no withholding account numbers because they have no payroll, so CPAs have to take an extra step of making an account number for each client to whom this applies. For those clients who do have payroll, it is typically outsourced, and those vendors are already going to submit W2s and 1099s for compliance. There is confusion as to why the CPA then needs to also submit an NC3 in order to get the DOR the exact same 1099.**

To be clear, DOR only requires certain 1099 forms to be filed via a Form NC-3 when an informational return is required to be filed with the Secretary under North Carolina law. G.S. 105-163.2A, 105-163.3, and 105-163.7 requires an informational return to be filed with the Department when a person is required to withhold State income taxes or voluntarily withholds State income taxes from wages, compensation, or pension payments during the taxable year.

Even if a Form NC-3 is not required to be filed, certain persons may have a requirement to report W-2 and 1099 statements with the Department. G.S. 105-154(b) requires a person who is a resident of North Carolina, has a place of business in North Carolina, or has an employee, an agent, or another representative in any capacity in North Carolina to file an informational return with the Secretary if the person directly or indirectly pays or controls the payment of any income to any taxpayer.

Persons not required to file Form NC-3 **should not apply for a withholding number with the Secretary and should not file a Form NC-3.** Instead, the required information should be reported to the Secretary via the eNC3 Application. For additional information on the eNC3 Application including step-by-step guidelines on how to use the eNC3 Application, see the [eNC3 webpage](#) located on the Department's website.

Importantly, persons who are required to file Form NC-3 must file the form in the manner prescribed by the Secretary. By statute and by rule, the manner prescribed by Secretary requires Form NC-3 and the State's copy of required W-2 and 1099 statements to be filed electronically on or before the due date. Persons who fail to file Form NC-3 in the manner prescribed by the Secretary are subject to the informational return penalties as prescribed in G.S. 105-236(a)(10). Persons who are not required to file Form NC-3 but are still required to provide the Secretary with income information pursuant to G.S. 105-154 are **not subject** to the informational return penalties prescribed in G.S. 105-236(a)(10).

Note. The eNC3 Application was designed to provide preparers and taxpayers with as much flexibility as DOR was able to allow and foresee. If a taxpayer outsources its payroll obligation and the taxpayer's arrangement with the payroll company requires the payroll company to file Form NC-3 with the Department on behalf of the taxpayer for only W-2 information, the taxpayer should not submit a separate Form NC-3 with the Department unless the 1099 information reflects North Carolina withholding. If the 1099 information reflects North Carolina withholding, the taxpayer must submit a

complete Form NC-3 for the taxpayer. Failure to timely file a complete Form NC-3 will subject the taxpayer to the informational return penalties as prescribed in G.S. 105-236(a)(10).

2. ***“CPAs and payroll vendors of a client now must both file NC3s. Is the NCDOR prepared to receive and accept two NC3 submissions under the same business withholding account number? These will have different withholding reconciliations and payments and may appear to contradict one another, so there could be much room for error.”***

See the response to question #1 above.

3. ***“Many small businesses outsource their payroll services to a third party provider. In many instances, that 3rd party provider is only processing payroll and does not also pay the businesses independent contractors (or for example their landlords, or attorneys, whom also occasionally will get 1099’s as well). Therefore, at year end there will be a separate submission NC-3 reconciling the payroll tax withholdings and including W-2’s accordingly, and then a second separate submission of an NC-3 form including the 1099’s accordingly. In addition, if there was no withholding on those 1099’s, then the NC-3 form will be submitted reflecting zeros in the withholding reconciliation accordingly. If there was tax withholding on those 1099’s, then the NC-3 form withholding reconciliation will reflect that accordingly. Is the NCDOR prepared to receive and accept 2 NC-3 submissions under the same business withholding account number, that will have different withholding reconciliations and payments if applicable that appear to contradict one another and not take exception to this?***

Furthermore, if an unintentional error is subsequently discovered on a 1099 that was filed, and a corrected NC-3 and 1099 are submitted, will the NCDOR again be able to differentiate a seemingly contradictory NC-3 form withholding reconciliation from any other NC-3 form submitted that reflects the payroll withholding information?”

See the response to question #1 above.

If an amended submission is required, the taxpayer must combine the information for W-2 and 1099 statements and file one complete Form NC-3X. Form NC-3X and the corrected W2 or 1099 statement must be filed electronically using the Department’s eNC3 Application.

4. ***“One possible consideration, if the NCDOR is going to mandate filing of 1099’s directly is that a different form (not an NC-3) accompany that submission so as to ensure no confusion and possible notices and/or penalties unnecessarily. I***

assume that this was considered and for whatever reason was rejected, and surely it is too late to implement a change for this year, but thought I would say it anyway."

In 2019, DOR will look into options to address this issue.

- 5. CPAs are having difficulty complying with the .txt format required of the form by the DOR's online portal. This seems to be related to software vendors not having released their latest versions that can create compatible files. As of last week the DOR was still having conversations with QuickBooks to resolve the issues.**

Software vendors were able to begin testing their products with DOR in November. Each vendor determines their own timeline for testing their products and releasing software updates. In addition, software vendors may choose not to support the .txt file format for uploads. Please note that PDF and excel documents created by software products cannot be converted to a .txt file for upload. Files must meet DOR's specifications for successful upload in the eNC3 application. The Department has confirmed that QuickBooks desktop version will not support the creation of a .txt file for the NC-3 or 1099. DOR will work with QuickBooks in 2019 to determine if this can be implemented in the future.

DOR encourages CPAs to reach out to their software vendors to determine if their products support the upload of the NC-3, W2s, and/or 1099s. In addition, software providers that choose to register with DOR and provide confirmation that their products meet DOR's file specifications will be listed on the DOR's website (new for 2019). Note that software providers may test and meet all requirements but choose not to go through DOR's review process. Those providers will not be listed but the software may still meet DOR's specifications.

New in 2019, DOR is providing an excel template that can be used to create a .txt file for W2s. See <https://www.ncdor.gov/excel-option> for more information.

- 6. There are also concerns about small businesses and non-profits not being aware of the requirement to e-File an NC3 with annual 1099s (let alone that they need to file at all), because many do not have CPAs working for them. Will they be notified of this requirement?**

Form NC-3 filing requirements were included in an important notice issued by the Department on October 17, 2018. The important notice was posted to the DOR website. In addition, on October 17, 2018, an [e-alert](#) was sent to persons who had previously registered with the Department to receive e-alerts. The Department also notified the NCACPA of this important notice.

Note. Taxpayers who are assessed an informational return penalty can request a penalty waiver using **new Form NC-5501**. Importantly, the informational return

penalty waiver request will not affect the taxpayer's good compliance record for filing tax returns. [Form NC-5501](#) is available on the Department's website.