

# NC SALT Workaround

## NCACPA State and Local Tax Conference

December 2024



# Disclaimer

This presentation is for general information only.

Presentation content can not be interpreted as specific tax advice for a specific tax situation.

This presentation does not take draft or future legislation into account.



# NC PTE Tax

## North Carolina SALT Legislation



# NC SALT Legislation

Background: What does a SALT Workaround do?

- The TCJA, passed in 2017, limited the federal deduction for the amount of state and local taxes paid to \$10,000 for tax years 2018-2025.
- IRS Notice 2020-75, permitted state pass-through entity taxes as a workaround to the SALT cap for individual taxpayers.
- In general, these structures allow a pass-through entity to directly pay state taxes on business income and claim the corresponding federal deduction at the entity level (no SALT cap).
- This allows individual owners to maximize their SALT deduction for that income.



# NC SALT Legislation

- Session Law 2021-180, enacted November 18, 2021, created North Carolina's first SALT Workaround structure. This law contained a provision that allows certain pass-through entities ("PTEs") to elect to pay North Carolina income tax at the entity level (a "Taxed PTE").



# NC SALT Legislation

- Session Law 2023-12, enacted April 3, 2023, expanded the eligible partnerships that could make the election.
- This law also significantly changed the calculation of Taxed PTE income beginning with tax year 2023 and expanded the individual income tax credit available for taxes paid to other states.





# NC SALT Legislation

- Session Law 2023-134, enacted October 3, 2023, again expanded the eligible types of partnerships that could make the election.
- Session Law 2024-1 extended the time to make 2022 Taxed Partnership election for 2022 to July 1, 2024.
- Session Law 2024-28 added additional definitions related to Taxed PTEs and removed outdated provisions related to Taxed PTE tax credits.



# NC SALT Legislation

- Session Law 2024-51 added provisions allowing additional time to make the 2023 PTE election for certain taxpayers impacted by Hurricane Helene.
- This presentation will focus on the current (tax year 2023 and forward) Taxed PTE structure.





# NC PTE Tax

## Taxed PTE Summary



# Taxed PTE Summary

- North Carolina law allows eligible S Corporations and eligible partnerships to elect to be taxed for North Carolina income tax purposes at the entity level.
- This is a different taxation structure that the pre-existing S corporation composite returns and partnership payments made of behalf of nonresident partners (both of which are still available).
- If a PTE makes a timely election to pay North Carolina income tax as a Taxed PTE, the Taxed PTE pays income tax on the income of its shareholders or qualifying partners that is attributable to North Carolina.



# Taxed PTE Summary

- The tax on the Taxed PTE is imposed at the individual income tax rate for the applicable taxable year.
- Each Owner of the Taxed PTE is allowed to deduct the Owner's share of the Taxed PTE's income attributable to North Carolina on the Owner's North Carolina Tax Return.



# Taxed PTE Summary

- North Carolina law expressly provides that when a PTE elects to be a Taxed PTE, the State's income tax is imposed on the taxable income of the PTE itself.
- A PTE that elects to pay state income tax at the entity level may generally deduct the full amount of its state income tax as a business expense on the PTE's federal income tax return.
- An eligible PTE can make the Taxed PTE Election by timely filing a NC Tax Return for a tax year that begins on or after January 1, 2022.



# Taxed PTE Summary

- The federal SALT cap is set to expire at the end of 2025.
- Notably, North Carolina law does not provide a sunset date for the SALT workaround.
- Taxpayers should not assume that electing to be a Taxed PTE will always result in a net State/Federal tax benefit for all owners/entities involved.



# NC PTE Tax

## North Carolina Taxed PTE Election





# Taxed PTE Election



## What type of entity is eligible to make the Taxed PTE Election?

- An eligible S Corporation required to file an NC Tax Return under G.S. 105-131.7, and
- An eligible partnership required to file an NC Tax Return under G.S. 105-154(c).

NOTE: An entity that is not a PTE (for example, a sole proprietorship) is not eligible to make the Taxed PTE Election.

# Taxed PTE Election

## S Corporations

- An eligible S Corporation is an S Corporation as defined under North Carolina law.



# Taxed PTE Election

## Partnerships

- An eligible partnership is defined as a domestic partnership, a foreign partnership, or an LLC that is classified for federal income tax purposes as a partnership.
- BUT...



# Taxed PTE Election

The following partnerships are not eligible to make an election to be a Taxed Partnership:



- A publicly traded partnership that is described in section 7704(c) of the Code.
- A partnership that has at any time during the taxable year a partner who is not one of the following:
  - (1) An individual.
  - (2) An estate.
  - (3) Any of the following:
    - a. A trust described in section 1361(c)(2) of the Code.
    - b. A trust if such trust does not have as a beneficiary any person other than an individual, an estate, a trust, or an organization described in section 1361(c)(6) of the Code.
  - (4) An organization described in section 1361(c)(6) of the Code.
  - (5) A partnership, including an entity that is classified as a partnership for federal income tax purposes, or an entity that is classified as a corporation for federal income tax purposes.

# Taxed PTE Election

The underlined sections were added by Session Laws 2023-12 and 2023-13:



- (1) An individual.
- (2) An estate.
- (3) Any of the following:
  - a. A trust described in section 1361(c)(2) of the Code.
  - b. A trust if such trust does not have as a beneficiary any person other than an individual, an estate, a trust, or an organization described in section 1361(c)(6) of the Code.
- (4) An organization described in section 1361(c)(6) of the Code.
- (5) A partnership, including an entity that is classified as a partnership for federal income tax purposes, or an entity that is classified as a corporation for federal income tax purposes.

Note: (a)(3) and (a)(5) partners are NOT treated the same for purposes of determining the PTE tax.

# Taxed PTE Election



- The partnership qualification changes made by Session Laws 2023-12 and 2023-134 were retroactive to 2022 and continue to apply in future years.



# Taxed PTE Election

## How does an eligible PTE make the Taxed PTE Election?



- An eligible PTE must make the Taxed PTE Election on its timely filed annual NC Tax Return.
- The Taxed PTE Election is for the tax year covered by the return.

# Taxed PTE Election



- The Taxed PTE Election must be made by the due date of the PTE's annual return, including extensions.
- A Taxed PTE Election on a late-filed NC Tax Return is not valid unless a specific statutory exception applies.
  - Session Law 2024-51 allows an eligible PTE additional time to make the Taxed PTE election for tax year 2023 if the NC Tax Return for the PTE was due on or after September 25, 2024, through May 1, 2025, so long as the NC Tax Return is filed on or before May 1, 2025.
  - This additional time applies to all eligible PTEs, regardless of whether the PTE is in a Disaster County.

# Taxed PTE Election

## Can the Election be Changed or Revoked?



### For Tax Years 2023 and later:

- No. A PTE may not make or revoke the election after the original return is filed.
- The election must be made by the due date of the return to be valid.
- A PTE that does not timely file a return by the due date is not allowed to make the election.

# Taxed PTE Returns

- Important! Failure to timely file the PTE return will prevent the PTE from making a valid election to be a Taxed PTE.



<b>NCDOR</b> Web 8-23		<b>D-403</b> Partnership Income Tax Return		<b>2023</b>		DOR Use Only
For calendar year <b>2023</b> , or fiscal year beginning (MM-DD) ____ - ____ - <b>23</b> and ending (MM-DD-YY) ____ - ____ - ____						
Legal Name (USE CAPITAL LETTERS FOR NAME AND ADDRESS) _____ Legal Name Continued _____			Federal Employer ID Number ____ - ____ If LLC, Enter N.C. Secretary of State ID _____		Fill in all applicable circles: <input type="radio"/> Initial Return <input type="radio"/> Amended Return <input type="radio"/> Final Return <input type="radio"/> Short Period <input type="radio"/> Partnership is LLC <input type="radio"/> Partnership has Nonresident Owners <input type="radio"/> NC-NPAs attached <input type="radio"/> NC-478 attached <input type="radio"/> Publicly Traded Partnership <input type="radio"/> NC-PE attached	
Address _____ City _____ State _____ Zip Code _____			Apartment Number _____			
<b>N.C. Education Endowment Fund:</b> A partnership may contribute to the N.C. Education Endowment Fund by making a contribution or designating some or all of the partnership's overpayment to the Fund. To make a contribution, enclose Form NC-EDU and the partnership's payment of \$ _____. To designate the partnership's overpayment to the Fund, enter the amount of the partnership's designation on Line 26 on Page 2. (See instructions for information about the Fund.)						
<b>Taxed Partnership</b> (See instructions for definition of Taxed Partnership.) Is the partnership making the election to be a Taxed Partnership for tax year 2023? <input type="radio"/> Yes <input type="radio"/> No						
<b>Federal Extension</b> Was the partnership granted an automatic extension to file its 2023 federal income tax return (Form 1065)? <input type="radio"/> Yes <input type="radio"/> No						

# NC PTE Tax

## Taxed PTE Tax



# Taxed PTE Tax



Beginning with the 2023 tax year, North Carolina taxable income of a Taxed PTE is determined by adding the following:

- Each Owner's share of the Taxed PTE's income or loss, subject to the adjustments provided in G.S. 105-153.5 and 105-153.6, attributable to North Carolina.

**Note:** Resident Owners' shares of the Taxed PTE's income or loss not attributable to North Carolina are not included in the Taxed PTE's taxable income beginning with 2023.



# Taxed PTE Tax

Income attributable to North Carolina is defined as:



- With respect to a partnership, all items of income, loss, deduction, or credit of the partnership apportioned and allocated to this State pursuant to G.S. 105-130.4.
- With respect to an S Corporation, all items of income, loss, deduction, or credit of the S Corporation apportioned and allocated to this State pursuant to G.S. 105-130.4.

# Taxed PTE Tax



- The G.S. 105-153.5(c3) adjustments (for Owners of Taxed PTEs) are not included in the calculation of the Taxed PTE's taxable income.
- Separately stated items of deduction are not included when calculating each Owner's share of the Taxed PTE's taxable income. We will discuss section 179 and bonus depreciation later in this presentation.
- Pursuant to G.S. 105-153.5(c1), a partnership and an S Corporation must add back any amount deducted under IRC section 164 as state, local, or foreign income tax.

# Taxed PTE Tax



- Taxed Partnerships with partnerships or corporations as partners do NOT include the income from these partners in the calculation of Taxed PTE tax. These partners are still subject to the provisions of G.S. 105-154(d).
- Trust partners continue to be included in the calculation of a Taxed PTE's taxable income for tax year 2023.

# Taxed PTE Tax



Common Question: Is the federal deduction for \_\_\_\_\_ included in the taxable income of a Taxed PTE?

- It depends. A deduction is included in the calculation of the Taxed PTE's North Carolina taxable income to the extent the deduction is included in the Taxed PTE's calculation of total income (loss). See federal Form 1065, Schedule K, Lines 1-11.

# Taxed PTE Tax



- A Taxed PTE calculates its North Carolina income tax by multiplying its North Carolina taxable income by the tax rate imposed on individuals.
- North Carolina individual income tax rates:
  - For taxable years beginning in 2023, the individual income tax rate is 4.75%.
  - For Taxable Years beginning in 2024, the North Carolina individual income tax rate is 4.5%.
  - For Taxable Years beginning in 2025, the North Carolina individual income tax rate is 4.25%.
  - For Taxable Years after 2025, the North Carolina individual income tax rate is 3.99%.
  - Additional rate changes may apply to tax years beginning with 2027 based on certain rate reduction triggers. For more information, see Session Law 2023-134.

# NC PTE Tax

## Taxed PTE Returns and Payments









# Taxed PTE Returns

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Legal Name (First 10 Characters)

Federal Employer ID Number

## Part 2. Apportionment Percentage

Note: Apportionment factors must be calculated 4 places to the right of the decimal.

### A. Partnerships Not Apportioning Income Outside North Carolina

Enter 100% on Part 4, Line 12 for each partner.

100.0000 %

### B. Partnerships Apportioning Income Outside North Carolina

1. Gross Receipts Subject to Apportionment
2. Gross Rents Subject to Apportionment
3. Gross Royalties Subject to Apportionment
4. Dividends Subject to Apportionment
5. Interest Subject to Apportionment
6. Other Apportionable Income
7. Share of Receipts from Noncorporate Entities Subject to Apportionment
8. Total (Add Lines 1 through 7 for each column)

1. Within North Carolina	2. Total Everywhere

### 9. N.C. Apportionment Factor

(Divide Line 8 Column 1 by Line 8 Column 2 and enter the factor here and on Part 4, Line 12 for each partner.)

%

### C. Special Apportionment Formulas

Special apportionment formulas apply to certain types of entities such as banks, wholesale content distributors, electric power companies, air transportation companies, water transportation companies, pipeline companies, and railroad companies. If the partnership uses a special apportionment formula, enter the computed apportionment factor here and on Part 4, Line 12 for each partner. Attach a schedule to support the special apportionment calculation. (See instructions and G.S. 105-130.4, 130.4A, and 130.4B for more information.)

%

## Part 3. Nonapportionable Net Distributive Partnership Income (Loss)

Complete this schedule if the partnership has income (loss) classified as nonapportionable income (loss). For additional information, see instructions.

(A) Nonapportionable Income (Loss)	(B) Gross Amounts	(C) Related Expenses	(D) Net Amounts (Column B minus Column C)	(E) Net Amounts Allocated Directly to N.C.

### 1. Nonapportionable Income (Loss)

(Enter the total of Column D here and on Part 1, Line 8)

.00

### 2. Nonapportionable Income (Loss) Allocated to N.C.

(Enter the total of Column E here and on Part 1, Line 10)

.00

Explanation of why income (loss) listed in Part 3 is nonapportionable income (loss):

(Attach additional sheets if necessary)

\* For an acceptable means of computing related expenses, see 17 N.C.A.C. 5C .0304.

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Legal Name (First 10 Characters)

Federal Employer ID Number

## Part 4. Partner Information and Tax Calculation for Nonresident Partners and Taxed Partnerships

(If more than two partners, attach a schedule for each partner. Only one Partners' Total is needed.)

### A. Partners' Shares of Income, Adjustments, Tax Credits, and Other Items (To be completed by all partnerships for each partner.)

	Partner 1	Partner 2	Partners' Total
1. Identifying number			
2. Name			
3. Address			
4. Partner's share percentage	%	%	%
5. Type of partner (Ex: Ind., Corp., Part.)			
6. Additions to income (loss) (To Form NC K-1, Line 2)			
7. Deductions from income (loss) (To Form NC K-1, Line 3)			
8. Tax credits (To Form NC K-1, Line 4) Note: Enter an amount on Line 8 only if the partner can claim the tax credit. If a Taxed Partnership can claim the tax credit, see Line 23.			
	NC Resident <input type="radio"/> Yes <input type="radio"/> No	NC Resident <input type="radio"/> Yes <input type="radio"/> No	

### B. Income Attributable to North Carolina (To be completed by all partnerships for each partner.)

	Partner 1	Partner 2	Partners' Total
9. Guaranteed payments to partners applicable to income on Part 1, Line 9			
10. Partners' share of the amount from Part 1, Line 9			
11. Add Lines 9 and 10			
12. Apportionment percentage from Part 2	%	%	
13. Multiply Line 11 by Line 12			
14. Guaranteed payments to partners applicable to income on Part 1, Line 10			
15. Partners' share of the amount from Part 1, Line 10			
16. Separately stated items of income attributable to partners			
17. Income Attributable to North Carolina (Add Lines 13 through 16)			

### C. Tax Computation for Nonresident Partners (To be completed by all partnerships for each nonresident partner on whose behalf the partnership is required to pay tax.)

	Partner 1	Partner 2	Partners' Total
	NC-NPA Form attached <input type="radio"/> Yes <input type="radio"/> No	NC-NPA Form attached <input type="radio"/> Yes <input type="radio"/> No	
18. Tax due (Multiply Line 17 by 4.75%)			
19. Tax credits taken on behalf of the nonresident partner (From Form D-403TC, Part 3, Line 13)			
20. Net tax due (Line 18 minus Line 19) Important: When filing an amended return, see instructions.			

Important: All partnerships must provide each partner with a NC K-1 for Form D-403 and any other information necessary for the partner to prepare the appropriate North Carolina tax return.

# Taxed PTE Returns

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Legal Name (First 10 Characters)

Federal Employer ID Number

D. Partners' Share of Taxed Partnership's Tax Credits <small>(To be completed by all Taxed Partnerships for each partner.)</small>			
	Partner 1	Partner 2	Partners' Total
21. Identifying number			
22. Name			
23. Tax credits <small>(Enter an amount on Line 23 only if the Taxed Partnership can claim the tax credit.)</small>			
<b>E. Tax Computation of Taxed Partnership</b> <small>(To be completed by all Taxed Partnerships for each partner for which the partnership is required to pay tax at the entity level.)</small>			
	Partner 1	Partner 2	Partners' Total
24. Income attributable to North Carolina <small>(Enter the amount from Part 4, Line 17)</small>			
25. Tax due <small>(Multiply Line 24 by 4.75%)</small>			
26. Tax credits taken by the Taxed Partnership <small>(From Form D-403TC, Part 3, Line 13)</small>			
27. Net Tax Due <small>(Line 25 minus Line 26)</small>			

Explanation of changes for Amended Return (Attach additional sheets if necessary)

**Important:** All partnerships must provide each partner with a NC K-1 for Form D-403 and any other information necessary for the partner to prepare the appropriate North Carolina tax return.

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Legal Name (First 10 Characters)

Federal Employer ID Number

Part 5. Ordinary Business Income (Loss)		Part 6. Partners' Distributive Share Items	
1. a. Gross receipts or sales	.00	1. Ordinary business income (loss)	.00
b. Returns and allowances	.00	2. Net rental real estate income (loss)	.00
c. Balance <small>(Line 1a minus Line 1b)</small>	.00	3. Other net rental income (loss)	.00
2. Cost of goods sold <small>(Attach schedule)</small>	.00	4. Guaranteed Payments	.00
3. Gross profit <small>(Line 1c minus Line 2)</small>	.00	5. Interest income	.00
4. Ordinary income (loss) from other partnerships, estates, trusts <small>(Attach schedule)</small>	.00	6. Ordinary dividends	.00
5. Net farm profit (loss) <small>(Attach schedule)</small>	.00	7. Royalties	.00
6. Net gain (loss) <small>(Attach schedule)</small>	.00	8. Net short-term capital gain (loss)	.00
7. Other income (loss) <small>(Attach schedule)</small>	.00	9. Net long-term capital gain (loss)	.00
8. <b>Total Income (Loss)</b> Add Lines 3 through 7	.00	10. Net section 1231 gain (loss)	.00
9. Salaries and wages <small>(other than to partners)</small> <small>(Less employment credits)</small>	.00	11. Other income (loss) <small>(Attach schedule)</small>	.00
10. Guaranteed payments to partners	.00	12. <b>Total Income (Loss)</b> Add Lines 1 through 11; enter amount here and on Part 1, Line 1	.00
11. Repairs and maintenance	.00		
12. Bad debts	.00	<b>Part 7. Adjustments to Income (Loss)</b>	
13. Rent	.00	If the partnership is required to add certain North Carolina adjustments to income (loss) or, if the partnership is allowed to deduct certain adjustments from income (loss), the partnership must complete Form NC-PE and attach it to Form D-403.	
14. Taxes and licenses	.00	<b>Important:</b> If you do not attach both pages of Form NC-PE to Form D-403, the Department may be unable to process the partnership return. Form NC-PE is available from the Department's website.	
15. Interest	.00		
16. a. Depreciation			
b. Depreciation reported elsewhere on return			
c. Balance <small>(Line 16a minus 16b)</small>	.00		
17. Depletion	.00		
18. Retirement plans, etc.	.00		
19. Employee benefit programs	.00		
20. Other deductions <small>(Attach schedule)</small>	.00		
21. <b>Total Deductions</b> Add the amounts shown in the far right column for Lines 9 through 20	.00		
22. <b>Ordinary Business Income (Loss)</b> Line 8 minus Line 21; enter amount here and on Part 6, Line 1	.00		

I declare and certify that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.  
Contact Phone Number (include area code)

Signature of Managing Partner

Date

If entity is an LLC and it converted to an LLC during the tax year, enter entity name prior to conversion:

☐ Check here if you authorize the North Carolina Department of Revenue to discuss this return and attachments with the paid preparer below.

If prepared by a person other than the managing partner, this certification is based on all information of which preparer has any knowledge.

Signature of Paid Preparer Other Than Managing Partner

Date

Address of Paid Preparer

Preparer's FEIN, SSN, or PTIN

Preparer's Contact Phone Number (include area code)

Fill in applicable circle: ☐ FEIN ☐ SSN ☐ PTIN

**MAIL TO:** North Carolina Department of Revenue, P.O. Box 25000, Raleigh, North Carolina 27640-0640

# Taxed PTE Payments

## Is a Taxed PTE required to pay estimated income tax payments?



- Yes. A Taxed PTE that can reasonably expect to have a North Carolina income tax liability of at least five hundred dollars (\$500) is required to pay estimated tax payments in the same manner as a C corporation.
- A Taxed PTE required to pay estimated income tax generally must make estimated tax payments in four equal installments.
- The installments are generally due on or before the 15th day of the fourth, sixth, ninth and twelfth months of the taxable year (for calendar year filers, April 15, June 15, September 15, and December 15).

# Taxed PTE Payments



- Note: The Taxed PTE will not be subject to interest for underpayment of estimated income tax for the first tax year for which it makes the election to be a Taxed PTE (this includes all Taxed PTEs for the 2022 tax year).

# Taxed PTE Payments

## Payment Requirements



- Apart from any required estimated tax payments, the full amount of tax shown due on the Taxed PTE's North Carolina income tax return must be paid within the time allowed for filing the return. An extension of time to file is not an extension of time to pay.
- The Taxed PTE will be subject to interest and the failure to pay penalty if it fails to pay the tax due by the original due date of the return even if it is not required to make estimated tax payments.



# Taxed PTE Payments



- Note: Section 164(a) of the Internal Revenue Code provides a deduction for state and local income taxes “paid or accrued.”
- When a tax payment must be submitted to the Department in order for the payment to qualify as a deduction for federal income tax purposes is a federal tax question.

# Taxed PTE Payments



- To make an estimated tax payment, the Taxed PTE must use the Pass-Through Entity Estimated Income Tax voucher:
  - Form NC-40 PTE (partnerships)
  - Form CD-429 PTE ( S Corps)

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## NC-40 PTE Taxed Partnership Estimated Income Tax

DOR Use Only

### GENERAL INSTRUCTIONS

**Who Must File Form NC-40 PTE:** (1) A Taxed Partnership that is required to make estimated income tax payments for a tax year. (2) A partnership that voluntarily makes prepayments of income tax for a tax year.

Generally, a Taxed Partnership that can reasonably expect to have a North Carolina income tax liability of at least five hundred dollars (\$500) must pay estimated income tax. The term "North Carolina income tax liability" means the amount of income tax the Taxed Partnership expects to owe for the tax year after subtracting any tax credits. The term "taxable year" means the calendar or fiscal year in which the Taxed Partnership expects to earn the income upon which the estimated tax is based.

**When to File Form NC-40 PTE:** A Taxed Partnership required to pay estimated income tax generally must make the payments in four equal installments. The installments are generally due on or before the 15th day of the fourth, sixth, ninth, and twelfth months of the taxable year (for calendar year filers, April 15, June 15, September 15, and December 15).

If the due date of the payment falls on a federal or State holiday or a weekend, a payment postmarked by the day following that holiday or weekend is considered on time. A schedule for determining when a Taxed Partnership must pay its estimated income tax is located on page 2.

**Interest on Underpayment of Estimated Tax:** A Taxed Partnership may be subject to interest on the underpayment of estimated income tax if it does not pay enough tax by the installment due date. This is true even if the Taxed Partnership is due a refund when it files its return. Interest is calculated separately for each installment. For more information, see Form CD-429B, "Underpayment of Estimated Tax by C-Corporations," available on the Department's website.

### SPECIFIC INSTRUCTIONS

Complete the worksheet below to determine the estimated income tax of the Taxed Partnership for the tax year. If the Taxed Partnership is required to pay estimated income tax (or if the partnership voluntarily prepays income tax), enter the amount of payment. **Submit this form in its entirety.**

### Worksheet for Computation of Estimated North Carolina Income Tax

Use this worksheet to determine if estimated income tax is due. This worksheet is for your convenience and is not required to be completed. If you complete this worksheet, do not include income (loss) allocated to the following partners: (1) North Carolina partnerships, (2) North Carolina S Corporations, (3) Non-North Carolina partnerships if you plan to file Form NC-NPA on behalf of the partnership, or (4) Non-North Carolina S Corporations if you plan to file Form NC-NPA on behalf of the S Corporation.

1. Estimated Income (Loss) to be Reported on Federal Form 1065, Schedule K.	1.
2. Estimated North Carolina Additions to Income (Loss)	2.
3. Estimated North Carolina Deductions from Income (Loss)	3.
4. Estimated Income (Loss) After North Carolina Adjustments (Combine Lines 1 through 3)	4.
5. Estimated Nonapportionable Income (Loss)	5.
6. Estimated Apportionable Income (Loss) (Line 4 minus Line 5)	6.
7. Amount of Line 6 Estimated to be Apportioned to North Carolina	7.
8. Amount of Line 5 Estimated to be Directly Allocated to North Carolina	8.
9. Estimated North Carolina Taxable Income (Combine Lines 7 and 8)	9.
10. Estimated North Carolina Income Tax (Multiply Line 9 by 4.75%)	10.
11. Estimated Tax Credits	11.
12. Estimated North Carolina Net Tax Due (Line 10 minus Line 11) If \$500 or more, see the schedule on Page 2 to determine the amount and due date of each installment. If \$500 or less, no payment is required at this time.	12.

Submit Page 1 in its entirety. **DO NOT** submit Page 2.

### Taxed Partnership Estimated Income Tax

North Carolina Department of Revenue

Beginning Tax Year (MM-DD-YY)

Ending Tax Year (MM-DD-YY)

Federal Employer ID Number

N.C. Secretary of State ID Number (if applicable)

Legal Name (First 35 Characters) USE CAPITAL LETTERS FOR YOUR NAME AND ADDRESS

Address

City

State

Zip Code

AMOUNT OF THIS PAYMENT

\$ \_\_\_\_\_ .00

If your address has changed since the filing of your last tax return, report the correct address on Form NC-AC, Address Correction Notification.

Mail this form with your check or money order in U.S. currency from a domestic bank to:  
N.C. Department of Revenue, P.O. Box 25000, Raleigh, N.C. 27640-0650.  
Do not tape or staple the check to the form. Do not send cash.

**NC-40 PTE**  
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# Taxed PTE Payments

## Payment Transfers



- **Note:** The Department cannot transfer estimated income tax payments made by an individual to a Taxed PTE. Estimated income tax payments made by an individual that result in an overpayment of N.C. income tax can only be refunded to the individual.

# Taxed PTE Payments

## Payment Requirements



- If the Taxed PTE files a return showing an amount due with the return and does not pay the amount shown due, the Department may collect the tax from the Taxed PTE pursuant to G.S. 105-241.22(1). The Department must issue a notice of collection for the amount of the tax debt to the Taxed PTE.
- If the tax debt (as defined in G.S. 105-243.1(a)) is not paid to the Secretary within 60 days of the date the notice of collection is mailed to the Taxed PTE, the Owners of the Taxed PTE are not allowed the deduction provided in G.S. 105-153.5(c3). If the disallowance results in additional tax due for the Owners, the Department will send the Owners a notice of proposed assessment in accordance with G.S. 105-241.9.

# NC PTE Tax

## Reporting Requirements



# Taxed PTE Reporting



In addition to the applicable federal and State reporting requirements for partnerships and S Corporations (e.g., each Owner's share of the PTE's income, adjustments, tax credits, etc.), a Taxed PTE must also report to its Owners:

- That it made the election to be a Taxed PTE; and
- The amount of the Owner's share of income or loss from the Taxed PTE to the extent it was included in the Taxed PTE's North Carolina taxable income.

# Taxed PTE Reporting



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**D-403 NC K-1**  
**2023 Partner's Share of**  
**North Carolina Income,**  
**Adjustments, and Credits**

DOR  
Use  
Only

Use Form D-403 NC K-1 to report each partner's share of the partnership's income (loss), N.C. adjustments, N.C. tax credits, etc. Each partner should keep Form D-403 NC K-1, Form NC K-1 Supplemental Schedule, and any other information provided to them by the partnership for their records. The partner is not required to attach the information to their N.C. tax return unless specifically required to do so.

For calendar year **2023**, or fiscal year beginning (MM-DD) = 23 and ending (MM-DD-YY) =

**Information About the Partnership**

Partnership's Federal Employer ID Number: \_\_\_\_\_ Partnership's Name, Address, and Zip Code: \_\_\_\_\_

Is the Partnership a Taxed Partnership? ☐ Yes ☐ No

**Information About the Partner**

Partner's Identifying Number: \_\_\_\_\_ Partner's Name, Address, and Zip Code: \_\_\_\_\_

Is the Partner a N.C. Resident? ☐ Yes ☐ No

Is the partner a beneficial owner of a disregarded entity? ☐ Yes ☐ No (If "yes", enter the name and taxpayer identification number of the disregarded entity below.)

Name of Disregarded Entity: \_\_\_\_\_ Taxpayer Identification Number of Disregarded Entity: \_\_\_\_\_

A. All Partners (To be completed by all partnerships for each partner.)		
Partner's Pro Rata Share Items	Amount	Individuals Filing Form D-400 Enter Amount on:
1. Share of Partnership Income (Loss) (Add Lines 1 through 11 from federal Form 1065, Schedule K-1)	_____	(This amount should already be included in federal adjusted gross income)
2. Additions to Income (Loss) (From Form D-403, Part 4, Line 6)	_____	Form D-400 Schedule S, Part A
3. Deductions from Income (Loss) (From Form D-403, Part 4, Line 7)	_____	Form D-400 Schedule S, Part B
4. Share of Tax Credits (From Form D-403, Part 4, Line 8)	_____	Form D-400TC
5. Share of Tax Withheld from Compensation Paid for Services Performed in N.C. (Not included on Form D-403, Part 1, Line 14c)	_____	Form D-400, Line 20 (N.C. residents only)

B. Nonresidents Only (To be completed by all partnerships for each nonresident partner.)		
Partner's Pro Rata Share Items	Amount	Individuals Filing Form D-400 Enter Amount on:
6. Portion of Line 1 Attributable to North Carolina	_____	Form D-400 Schedule PN, Column B, Line 11
7. Portion of Line 2 Attributable to North Carolina	_____	Form D-400 Schedule PN, Column B, Part B, or Form D-400 Schedule PN-1, Column B, Part A
8. Portion of Line 3 Attributable to North Carolina	_____	Form D-400 Schedule PN, Column B, Part B, or Form D-400 Schedule PN-1, Column B, Part B
9. Nonresident's Share of Net Tax Paid by the Partnership (From Form D-403, Part 4, Line 20)	_____	Form D-400, Line 21c

C. Taxed Partnerships Only (To be completed by all Taxed Partnerships for each partner for which the partnership is required to pay tax at the entity level.)		
Partner's Pro Rata Share Items	Amount	Individuals Filing Form D-400 Enter Amount on:
10. Share of Loss Attributable to North Carolina (From Form D-403, Part 4, Line 24, if the amount of Line 24 is less than zero)	_____	Form D-400 Schedule S, Part A (all partners) and Form D-400 Schedule PN-1, Column B, Part A (nonresidents only)
11. Share of Income Attributable to North Carolina (From Form D-403, Part 4, Line 24, if the amount of Line 24 is zero or greater)	_____	Form D-400 Schedule S, Part B (all partners) and Form D-400 Schedule PN-1, Column B, Part B (nonresidents only)

# NC PTE Tax

## Taxed PTE Owners





# Taxed PTE Owners



## For Tax Years Beginning with Tax Year 2023

- Taxed PTEs only include income attributable to North Carolina in the calculation of Taxed PTE tax.
- A taxpayer that is an Owner of a Taxed PTE may deduct the amount of the taxpayer's share of income from the Taxed PTE to the extent it was included in the Taxed PTE's North Carolina taxable income and the taxpayer's adjusted gross income.
- Note this will only encompass income attributable to North Carolina beginning with tax year 2023.



# Taxed PTE Owners



- Resident owners are now also allowed a separate deduction for PTE income not attributable to North Carolina. See G.S. 105-153.5(c3)(1a) (for S corporation shareholders) and (3a) (for partnership partners).

# Taxed PTE Owners



## G.S. 105-153.5(c3)(1a) and (3a) Deduction

- For taxable years beginning on or after January 1, 2023, Session Law 2023-12 created a deduction from AGI to a resident individual taxpayer who is an Owner of a PTE for the taxpayer's share of income not attributable to North Carolina from the PTE to the extent the income was:
  - Included in the PTE's taxable income in another state or the District of Columbia.
  - Subject to an entity-level tax levied on the aggregate share of the PTE's income allocable to one or more of its Owners.
  - Included in the taxpayer's AGI modified by North Carolina law.
- Note: A PTE is taxable in another state or the District of Columbia if the PTE's business activity in that state or the District of Columbia subjects the PTE to a net income tax, or a tax measured by net income. In addition, the PTE does not have to make the election to be a Taxed PTE for North Carolina purposes in order for the PTE Owner to qualify for the deduction.

# Taxed PTE Owners



- Income not attributable to North Carolina is defined as all items of income, loss, deduction, or credit of the entity other than income attributable to the State.
- **IMPORTAT:** Under G.S. 105-153.9(f), an owner is not allowed a tax credit for taxes paid to another state on income which qualifies for this deduction.

# Taxed PTE Owners



**Page 2** Last Name (First 10 Characters) Tax Year Your Social Security Number  
D-400 Sch. S Web 8-23 **2023**

**Part B. Deductions From Federal Adjusted Gross Income** (Only deduct items that are included in federal adjusted gross income)

17. State or Local Income Tax Refund	▶ 17.	.00
18. Interest Income From Obligations of the United States or United States' Possessions	▶ 18.	.00
19. Taxable Portion of Social Security and Railroad Retirement Benefits	▶ 19.	.00
20. Retirement Benefits Received by Vested N.C. State Government, N.C. Local Government, or Federal Government Retirees, i.e. Bailey Settlement	▶ 20.	.00
21. Certain Retirement Benefits Received by a Retired Member of the United States Uniformed Services Not Deducted on Line 20	▶ 21.	.00
22. Bonus Asset Basis	▶ 22.	.00
23. Bonus Depreciation		
▶ 23a. 2018 .00	▶ 23b. 2019 .00	▶ 23c. 2020 .00
▶ 23d. 2021 .00	▶ 23e. 2022 .00	Total 23f. (Add Lines 23a-23e) .00
24. IRC Section 179 Expense		
▶ 24a. 2018 .00	▶ 24b. 2019 .00	▶ 24c. 2020 .00
▶ 24d. 2021 .00	▶ 24e. 2022 .00	Total 24f. (Add Lines 24a-24e) .00
25. Recognized IRC Section 1400Z-2 Gain	▶ 25.	.00
26. Gain From the Disposition of Exempt N.C. Obligations Issued Before July 1, 1995	▶ 26.	.00
27. Exempt Income Earned or Received by a Member of a Federally Recognized Indian Tribe	▶ 27.	.00
28. Amount by Which State Basis Exceeds Federal Basis for Property Disposed of in 2023	▶ 28.	.00
29. Ordinary and Necessary Business Expense Reduced or not Allowed Due to Claiming a Federal Tax Credit in Lieu of a Deduction	▶ 29.	.00
30. Personal Education Student Account Deposits	▶ 30.	.00
31. Certain State Emergency Response and Disaster Relief Reserve Fund Payments	▶ 31.	.00
32. Certain Economic Incentive Payments	▶ 32.	.00
33. Certain N.C. Grant Payments	▶ 33.	.00
34. Certain Net Operating Loss Carrybacks (Limited to 20% of amount added to AGI in tax years 2013 through 2019)	▶ 34.	.00
35. Excess Net Operating Loss Carryforward (Limited to 20% of amount added to AGI in 2019 and 2020)	▶ 35.	.00
36. Excess Business Loss (Limited to 20% of amount added to AGI in 2018, 2019, and 2020)	▶ 36.	.00
37. Business Interest Limitation (Limited to 20% of amount added to AGI in 2019 and 2020)	▶ 37.	.00
38. Taxed Pass-Through Entity Income	▶ 38.	.00
39. N.C. Net Operating Loss	▶ 39.	.00
40. Reserved for Future Use	▶ 40.	.00
41. Total Deductions - Add Lines 17 through 22, 23f, 24f, and 25 through 40 (Enter the total here and on Form D-400, Line 9)	▶ 41.	.00

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# Taxed PTE Owners

## Is a nonresident Owner of a Taxed S Corporation required to file an NC Tax Return?



- The North Carolina Administrative Code provides that “[a] nonresident shareholder in an S Corporation shall not be required to file a North Carolina individual income tax return when the only income from North Carolina sources is his or her share of S Corporation income and the S Corporation pays the tax on his or her behalf.”
- This rule applies to nonresident shareholders of Taxed S Corporations to the extent the Taxed S Corporation complies with the provisions of G.S. 105-131.1A.



# Taxed PTE Owners

## Is a nonresident Owner of a Taxed Partnership required to file an NC Tax Return?



- The North Carolina Administrative Code provides that “[a] nonresident individual partner is not required to file a North Carolina individual income tax return when the only income from North Carolina sources is the nonresident's share of income from a partnership doing business in North Carolina, and the manager of the partnership has reported the income of the nonresident partner, including any guaranteed payments made to the partner, and paid the tax due.”
- This rule applies to nonresident partners of Taxed Partnerships to the extent the Taxed Partnership complies with the provisions of G.S. 105-154.1.

# NC PTE Tax

## Section 179 and Bonus Depreciation





# Bonus Depreciation

## North Carolina Decoupling Adjustments



- Except as specifically excluded by statute, the adjustments provided in G.S. 105-153.5 and 105-153.6 are included in the calculation of the tax imposed on Taxed PTEs.
- The required North Carolina adjustments, even when included in the amount of tax calculated for the Taxed PTE, must also be passed-through and reported on the Owners' NC Tax returns.

# Bonus Depreciation



## Bonus Depreciation Addition

- The addition for bonus depreciation pursuant to G.S. 105-153.6 must be included in the calculation of the Taxed Pass-Through Entity's (Taxed PTE's) NC taxable income.
- Note: a deduction is included in the calculation of the Taxed PTE's North Carolina taxable income to the extent the deduction is included in the Taxed PTE's calculation of total income (loss). See federal Form 1065, Schedule K, Lines 1-11

# Bonus Depreciation



## Bonus Depreciation Deduction

- Generally, the deduction for bonus depreciation allowed under G.S. 105-153.6 can be included in the calculation of the Taxed PTE's taxable income.
- Importantly, the Taxed PTE can only deduct bonus depreciation for partners who were partners in the partnership in the year the bonus depreciation addback was allocated to the partners and who are still partners in the partnership in the year of the deduction.

# Bonus Depreciation

## Bonus Depreciation Deduction



- A general principle behind North Carolina's SALT workaround is that the State is still taxing the total income only once. Without the SALT workaround, the PTE income is taxed only at the individual level. With the SALT workaround, that same income is being taxed once through a combination of tax imposed at the individual and entity level.
- The net effect, in terms of both income and tax due, should be approximately neutral in most cases.
- Note: The following examples have been simplified for illustration purposes and use the 2022 NC tax rate.

# Bonus Depreciation

## Example: No NC Decoupling Adjustments



<b><u>Taxed PTE</u></b>	
Partner A Income	\$ 50,000.00
Partner A Additions	\$ -
Partner A Deductions	\$ -
NC Taxable Income	\$ 50,000.00
NC Tax	\$ 2,495.00
<b><u>Partner A</u></b>	
PTE Income	\$ 50,000.00
Other Income	\$ -
AGI	\$ 50,000.00
NC Additions	\$ -
NC PTE Deduction	\$ 50,000.00
Other Deductions*	\$ -
NC Taxable Income	\$ -
NC Tax	\$ -
* For illustration purposes, excluding standard/itemized/child/164/etc.	

# Bonus Depreciation

## Example: Bonus Depreciation Addition



<b><u>Taxed PTE</u></b>	
Partner A Income	\$ 50,000.00
Partner A Additions	\$ 25,000.00
Partner A Deductions	\$ -
NC Taxable Income	\$ 75,000.00
NC Tax	\$ 3,742.50
<b><u>Partner A</u></b>	
PTE Income	\$ 50,000.00
Other Income	\$ -
AGI	\$ 50,000.00
NC Additions	\$ 25,000.00
NC PTE Deduction	\$ 75,000.00
Other Deductions*	\$ -
NC Taxable Income	\$ -
NC Tax	\$ -



# Bonus Depreciation

## Example: Bonus Depreciation Deduction



<b><u>Taxed PTE</u></b>	
Partner A Income	\$ 50,000.00
Partner A Additions	\$ -
Partner A Deductions	\$ 30,000.00
NC Taxable Income	\$ 20,000.00
NC Tax	\$ 998.00
<b><u>Partner A</u></b>	
PTE Income	\$ 50,000.00
Other Income	\$ -
AGI	\$ 50,000.00
NC Additions	\$ -
NC PTE Deduction	\$ 20,000.00
Other Deductions*	\$ 30,000.00
NC Taxable Income	\$ -
NC Tax	\$ -

# Bonus Depreciation

## Example: Bonus Depreciation Deduction – Other Income (2022)



<b><u>Taxed PTE</u></b>	
Partner A Income	\$ 50,000.00
Partner A Additions	\$ -
Partner A Deductions	\$ 30,000.00
NC Taxable Income	\$ 20,000.00
NC Tax	\$ 998.00
<b><u>Partner A</u></b>	
PTE Income	\$ 50,000.00
Other Income	\$ 26,000.00
AGI	\$ 76,000.00
NC Additions	\$ -
NC PTE Deduction	\$ 20,000.00
Other Deductions*	\$ 30,000.00
NC Taxable Income	\$ 26,000.00
NC Tax	\$ 1,297.40

# Section 179



## Section 179

- Section 179 expense deduction is not included in the calculation of the Taxed PTE's total income (loss). See Form 1065, Schedule K, Line 12.
- Because the section 179 expense deduction is not included in the Taxed PTE's calculation of income (loss), no adjustment under G.S. 105-153.6(c) is required.

# Section 179



- Note: If the Taxed PTE has allocated a Code section 179 expense to its owners for federal income tax purposes, the Taxed PTE must provide a statement on each North Carolina K-1 that notifies the owner that North Carolina's dollar and investment limitations are different than the federal limitations and an addition may be required on the owner's North Carolina income tax return.
- The individual partner may choose to file a North Carolina income tax return and deduct the section 179 expense on their North Carolina income tax return.

# Section 179



- Review the Department's Important Notice from 2014:
- [Important Notice: Income Tax Adjustments For Code Section 179 Expenses](#)
- Note the section and examples beginning on page 5, *Code section 179 Investments and Pass-through Entities*

# NC PTE Tax

## Tax Credits





# Tax Credits



- The SALT Workaround statute has a number of provisions addressing tax credits.
- We will first address tax credits generally, and then move to the credit for taxes paid to another state

# Tax Credits



- A Taxed PTE that qualifies to claim an income tax credit may apply each Owner's share of the tax credit against the Owner's share of the Taxed PTE's income tax.
- A Taxed PTE cannot pass a North Carolina income tax credit to its Owners. In addition, a PTE cannot pass to its Owners any carryforward of an unused portion of a tax credit that was claimed by the Taxed PTE on the Taxed PTE's North Carolina Tax Return.

# Tax Credits



- A Taxed PTE must pass through to its Owners any income tax credit required to be taken in installments if the first installment of the tax credit was claimed by the Owner of the Taxed PTE.
- A Taxed PTE must pass through to its Owners any carryforward of an unused income tax credit required to be taken in installments if the first installment of the tax credit was claimed by the Owner of the Taxed PTE.

# Tax Credits



- A Taxed PTE cannot pass through to its Owners any income tax credit required to be taken in installment if the first installment of the tax credit was claimed by the Taxed PTE.
- A Taxed PTE cannot pass through to its Owners any carryforward of an unused income tax credit required to be taken in installments if the first installment of the tax credit was claimed by the Taxed PTE.

# Tax Credits – Other States



## Background

- SL 2023-12 greatly simplified the issue of the tax credit for taxes paid to other states in the Taxed PTE context.
- In 2022, a Taxed PTE was allowed a tax credit against the income taxes levied against it by North Carolina so long as the Taxed PTE was subject to and paid income tax to another state or country on the same income that North Carolina taxed with respect to resident owners.
- In addition, a resident owner of a Taxed PTE was not allowed a tax credit on the owner's NC Tax Return for taxes paid by the Taxed PTE to another state or country on income that is taxed to the Taxed PTE.

# Tax Credits – 2023

## *S.L. 2023-12 Updates*



- Beginning with tax year 2023, the tax credit for taxes paid to another state has been simplified
- Because Taxed PTEs are no longer paying tax on the non-North Carolina income of North Carolina resident owners, this tax credit was repealed for PTEs beginning in 2023
- PTE owners now receive a deduction for income taxed at the PTE level in other states, and so no longer qualify for a credit in many circumstances.
- G.S. 105-153.9(d) and (e) now provide consistent language for S Corporations and partnerships.



# Resources



- Personal Taxes Bulletins
- Important Notices and Directives
- Instructions

# Contact Information

Register for e-alerts at [www.ncdor.gov](http://www.ncdor.gov)

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Have Other Questions? Contact NCDOR at  
**1-877-252-3052**

