

§ 105-153.9. (Effective for taxable years beginning before January 1, 2023) Tax credits for income taxes paid to other states by individuals.

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

- (1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is considered a resident of this State under this Part is considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.
- (2) The fraction of the gross income, as modified as provided in G.S. 105-153.5 and G.S. 105-153.6, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.
- (3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.
- (4) **(Effective for taxable years beginning on or after January 1, 2022 and before January 1, 2023)** Shareholders of a taxed S Corporation shall not be allowed a credit under this section for taxes paid by the taxed S Corporation to another state or country on income that is taxed to the taxed S Corporation. For purposes of allowing the credit under this section for taxes paid to another state or country by a taxed S Corporation's shareholders, a shareholder's pro rata share of the income of the taxed S Corporation shall be treated as income taxed to the shareholder under this Part and a shareholder's pro rata share of the tax imposed on the taxed S Corporation under G.S. 105-131.1A shall be treated as tax imposed on the shareholder under this Part.
- (5) **(Effective for taxable years beginning on or after January 1, 2022 and before January 1, 2023)** Partners of a taxed partnership shall not be allowed a credit under this section for taxes paid by the taxed partnership to another state or country on income that is taxed to the taxed partnership. The taxed partnership as defined in G.S. 105-153.3(18a) is entitled to a credit under this section for all such taxes paid. For purposes of allowing the credit under this section for taxes paid to another state or country by a taxed partnership's partners, a partner's pro rata share of the income of the taxed partnership shall be treated as income taxed to the partner under this Part and a partner's pro rata share of the tax imposed on the taxed partnership under G.S. 105-154.1 shall be treated as tax imposed on the partner under this Part.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter.

(d) **(Effective for taxable years beginning on or after January 1, 2022)** Except as otherwise provided in subdivision (a)(5) of this section with respect to a taxed partnership, for purposes of this section and G.S. 105-160.4, each resident partner is considered to have paid a tax imposed on the partner in an amount equal to the partner's distributive share of any income tax paid by the partnership to a state or the District of Columbia where the partnership was subject to an entity-level tax levied on the aggregate distributive share of the partnership's income allocable to one or more of its partners. A partnership is taxable in another state or the District of Columbia if the partnership's business activity in that state or the District of Columbia subjects the partnership to a net income tax or a tax measured by net income.

(e) **(Effective for taxable years beginning on or after January 1, 2022)** Except as otherwise provided in subdivision (a)(4) of this section with respect to a taxed S Corporation, for purposes of this section and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any income tax paid by the S Corporation to a state or the District of Columbia where the S Corporation was subject to an entity-level tax levied on the aggregate pro rata share of the S Corporation's income allocable to one or more of its shareholders. An S Corporation is taxable in another state or the District of Columbia if the S Corporation's business activity in that state or the District of Columbia subjects the S Corporation to a net income tax or a tax measured by net income. A taxpayer that claims a credit under this subsection may not also claim a credit under G.S. 105-131.8 with respect to the same income tax paid by the S Corporation. (1939, c. 158, s. 325; 1941, c. 50, s. 5; c. 204, s. 1; 1943, c. 400, s. 4; 1957, c. 1340, s. 4; 1963, c. 1169, s. 2; 1967, c. 1110, s. 3; 1973, c. 476, s. 193; 1989, c. 728, s. 1.5; 1989 (Reg. Sess., 1990), c. 814, s. 17; 1998-98, s. 92; 2013-316, ss. 1.1(a), 1.3(d); 2013-414, s. 5(b); 2021-180, ss. 42.5(j), 42.13A(c); 2023-12, s. 1.5(d).)

§ 105-153.9. (Effective for taxable years beginning on or after January 1, 2023) Tax credits for income taxes paid to other states by individuals.

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

- (1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country and is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is considered a resident of this State under this Part is considered a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.
- (2) The fraction of the gross income, as modified as provided in G.S. 105-153.5 and G.S. 105-153.6, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.
- (3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

- (4) Repealed by Session Laws 2023-12, s. 1.6(a), effective for taxable years beginning on or after January 1, 2023.
- (5) Repealed by Session Laws 2023-12, s. 1.6(a), effective for taxable years beginning on or after January 1, 2023.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter.

(c) The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(d) For purposes of this section and G.S. 105-160.4, each resident partner is considered to have paid a tax imposed on the partner in an amount equal to the partner's distributive share of any income tax paid by the partnership to a state or the District of Columbia where the partnership was subject to an entity-level tax levied on the aggregate distributive share of the partnership's income allocable to one or more of its partners. A partnership is taxable in another state or the District of Columbia if the partnership's business activity in that state or the District of Columbia subjects the partnership to a net income tax or a tax measured by net income.

(e) For purposes of this section and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any income tax paid by the S Corporation to a state or the District of Columbia where the S Corporation was subject to an entity-level tax levied on the aggregate pro rata share of the S Corporation's income allocable to one or more of its shareholders. An S Corporation is taxable in another state or the District of Columbia if the S Corporation's business activity in that state or the District of Columbia subjects the S Corporation to a net income tax or a tax measured by net income. A taxpayer that claims a credit under this subsection may not also claim a credit under G.S. 105-131.8 with respect to the same income tax paid by the S Corporation.

(f) No credit is allowed under this section for taxes paid to another state or the District of Columbia on income eligible for the deduction provided in G.S. 105-153.5(c3). (1939, c. 158, s. 325; 1941, c. 50, s. 5; c. 204, s. 1; 1943, c. 400, s. 4; 1957, c. 1340, s. 4; 1963, c. 1169, s. 2; 1967, c. 1110, s. 3; 1973, c. 476, s. 193; 1989, c. 728, s. 1.5; 1989 (Reg. Sess., 1990), c. 814, s. 17; 1998-98, s. 92; 2013-316, ss. 1.1(a), 1.3(d); 2013-414, s. 5(b); 2021-180, ss. 42.5(j), 42.13A(c); 2023-12, ss. 1.4, 1.5(d); 1.6(a), (d).)