

**§ 105-163.41. Underpayment.**

(a) Except as provided in subsection (d), if the amount of estimated tax paid by a corporation during the taxable year is less than the amount of tax imposed upon the corporation under Article 4 of this Chapter for the taxable year, the corporation must be assessed interest in an amount determined by multiplying the amount of the underpayment as determined under subsection (b), for the period of the underpayment as determined under subsection (c), by the percentage established as the rate of interest on assessments under G.S. 105-241.21 that is in effect for the period of the underpayment. For the purpose of this section, the amount of tax imposed under Article 4 of this Chapter is the net amount after subtracting the credits against the tax allowed by this Chapter other than the credit allowed by this Article.

(b) The amount of the underpayment shall be the difference between:

- (1) The amount of the installment the corporation would have been required to pay if the corporation's estimated tax equalled ninety percent (90%) of the tax imposed under Article 4 for the taxable year, assuming the same schedule of installments, or ninety percent (90%) of the tax imposed for the taxable year if the corporation made no installment payments; and
- (2) The amount, if any, of the corresponding installment timely paid by the corporation.

(c) The period of the underpayment runs from the date the installment was required to be paid to the earlier of:

- (1) The 15th day of the fourth month following the close of the taxable year, or
- (2) With respect to any portion of the underpayment, the date on which the portion is paid. An installment payment of estimated tax is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision (1) of subsection (b) for that installment date.

(d) Except as provided in subdivision (5) of this subsection, the interest for underpayment imposed by this section shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installments equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax was equal to the least of:

- (1) The tax shown on the return of the corporation for the preceding taxable year, if the corporation filed a return for the preceding taxable year and the preceding year was a taxable year of 12 months;
- (2) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year; or
- (3) An amount equal to ninety percent (90%) of the tax for the taxable year computed by placing on an annualized basis the taxable income:
  - a. For the first three months of the taxable year, in the case of the installment required to be paid in the 4th month;
  - b. For the first three months or for the first five months of the taxable year, in the case of the installment required to be paid in the 6th month;
  - c. For the first six months or for the first eight months of the taxable year, in the case of the installment required to be paid in the 9th month; and

- d. For the first nine months or for the first 11 months of the taxable year, in the case of the installment required to be paid in the 12th month of the taxable year.
- (4) For purposes of this subdivision, the taxable income shall be placed on an annualized basis by multiplying by 12 the taxable income referred to in the preceding sentence, and dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11 as the case may be) referred to in that sentence.
- (5) In the case of a large corporation, as defined in section 6655 of the Code, subdivisions (1) and (2) of this subsection shall not apply. (1959, c. 1259, s. 1A; 1973, c. 476, s. 193; 1977, c. 1114, s. 9; 1983, c. 713, s. 86; 1987 (Reg. Sess., 1988), c. 994, ss. 2, 3; 2001-414, s. 13; 2005-276, s. 6.37(m); 2007-491, s. 44(1)a; 2013-414, s. 3.)