



1           "(5) Noncorporate limited liability company. – A limited liability company  
2           that does not elect to be taxed as a ~~C Corporation~~ corporation under the  
3           Code."

4           **SECTION 3.** G.S. 105-125(b) reads as rewritten:

5           "(b) Certain Investment Companies. – ~~A corporation doing business in North~~  
6           ~~Carolina that qualifies as a "regulated investment company" under section 851 of the~~  
7           ~~Code or as a "real estate investment trust" under section 856 of the Code and elects for~~  
8           ~~federal income tax purposes to be treated as a "regulated investment company" or as a~~  
9           ~~"real estate investment trust,"~~ A corporation doing business in North Carolina that meets  
10          one or more of the following conditions may, in determining its basis for franchise tax,  
11          deduct the aggregate market value of its investments in the stocks, bonds, debentures, or  
12          other securities or evidences of debt of other corporations, partnerships, individuals,  
13          municipalities, governmental agencies, or ~~governments~~ governments:

14          (1) A regulated investment company. – A regulated investment company  
15          is an entity that qualifies as a regulated investment company under  
16          section 851 of the Code.

17          (2) A REIT, unless the REIT is a captive REIT. – The terms 'REIT' and  
18          'captive REIT' have the same meanings as defined in  
19          G.S. 105-130.12."

20          **SECTION 4.** G.S. 105-154 reads as rewritten:

21          "**§ 105-154. Information at the source returns.**

22          (a) Repealed by Session Laws 1993, c. 354, s. 14.

23          (b) Information Returns of Payers. – A person who is a resident of this State, has  
24          a place of business in this State, or has an employee, an agent, or another representative  
25          in any capacity in this State shall file an information return as required by the Secretary  
26          if the person directly or indirectly pays or controls the payment of any income to any  
27          taxpayer. The return shall contain all information required by the Secretary. The filing  
28          of any return in compliance with this section by a foreign corporation is not evidence  
29          that the corporation is doing business in this State.

30          (c) Information Returns of Partnerships. – A partnership doing business in this  
31          State and required to file a return under the Code shall file an information return with  
32          the Secretary. A partnership that the Secretary believes to be doing business in this State  
33          and to be required to file a return under the Code shall file an information return when  
34          requested to do so by the Secretary. The information return shall contain all information  
35          required by the Secretary. It shall state specifically the items of the partnership's gross  
36          income, the deductions allowed under the Code, and the adjustments required by this  
37          Part. The information return shall also include the name and address of each person who  
38          would be entitled to share in the partnership's net income, if distributable, and the  
39          amount each person's distributive share would be. The information return shall specify  
40          the part of each person's distributive share of the net income that represents corporation  
41          dividends. The information return shall be signed by one of the partners under  
42          affirmation in the form required by the Secretary.

43          A partnership that files an information return under this subsection shall furnish to  
44          each person who would be entitled to share in the partnership's net income, if

1 distributable, any information necessary for that person to properly file a State income  
2 tax return. The information shall be in the form prescribed by the Secretary and must be  
3 furnished on or before the due date of the information return.

4 (d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business  
5 conducted in this State is owned by a nonresident individual or by a partnership having  
6 one or more nonresident members, the manager of the business shall report the earnings  
7 of the business in this State, the distributive share of the income of each nonresident  
8 owner or partner, and any other information required by the Secretary. The manager of  
9 the business shall pay with the return the tax on each nonresident owner or partner's  
10 share of the income computed at the rate levied on individuals under  
11 G.S. 105-134.2(a)(3). The business may deduct the payment for each nonresident owner  
12 or partner from the owner or partner's distributive share of the profits of the business in  
13 this State. If the nonresident partner is not an individual and the partner has executed an  
14 affirmation that the partner will pay the tax with its corporate, partnership, trust, or  
15 estate income tax return, the manager of the business is not required to pay the tax on  
16 the partner's share. In this case, the manager shall include a copy of the affirmation with  
17 the report required by this subsection.

18 (e) Publicly Traded Partnership. – The information return and payment  
19 requirements under this section are modified as follows for a partnership that qualifies  
20 as a publicly traded partnership under section 7704(c) of the Code:

21 (1) The information return required under subsection (c) of this section is  
22 limited to partners whose distributive share of the partnership's net  
23 income during the tax year was more than five hundred dollars  
24 (\$500.00).

25 (2) The payment requirements under subsection (d) of this section do not  
26 apply."

27 **SECTION 5.** Sections 1 through 3 of this act are effective for taxable years  
28 beginning on or after January 1, 2009. Section 4 of this act is effective for taxable years  
29 beginning on or after January 1, 2008. The remainder of this act is effective when it  
30 becomes law.