(A) Who must file Form D-407 - A fiduciary must file Form North Carolina D-407 for the calendar year, if it is required to file a federal income tax return for estates and trusts and (1) the estate or trust derives income from North Carolina sources or (2) the estate or trust derives any income which is for the benefit of a resident of North Carolina. **Exception:** With respect to grantor trust returns, the Department of Revenue has access to the federal information contained in its federal grantor trust returns. Therefore, a State grantor trust return is not required to be filed when the entire trust is treated as a grantor trust for federal tax purposes.

(B) Other returns to be filed by fiduciaries:

(1) Returns for decedents - A personal representative must file an individual income tax return for the decedent if the return is required. If the return is due by April 15 without a valid extension, the return must be filed by April 15 without an extension. If the return is due by October 15, the return must be filed by October 15 without an extension. The return must be signed by the decedent and his wife, if married, or by the personal representative of the estate. In the event that the decedent did not file a Federal Form 1040, the personal representative must file an estate tax return. If the decedent did not file a Federal Form 1040, the return must be filed by April 15 without an extension. The return must be signed by the personal representative of the estate.

(2) Returns for other individuals - A fiduciary, including the guardian of a minor (who has not filed a return) and the guardian of a mentally incompetent individual (who has not filed a return), must file a return on Form D-400 if a return is required for such an individual.

(C) Period to be covered by the return - Returns shall be filed for the calendar year 2015 or fiscal year beginning in 2015. If the return is filed for other than a calendar year, fill in the beginning and ending dates of the taxable year in the boxes 5 percent of the total tax due. If the 90 percent rule is met, any remaining balance due must be paid with the estate or trust return on or before the expiration of the extension period to avoid the penalty. A fiduciary may file the return at any time within the extension period but it must be filed on or before the end of the extension period to avoid the late filing penalty.

(F) Signature - The fiduciary or authorized representative must sign Form D-407. The return must also be signed by the person or in the name of the firm or corporation that prepared the return.

(G) When and to whom the tax must be paid - The tax must be paid to the Department of Revenue. The tax may be paid by check, credit card, debit card, or electronic funds transfer.

(H) Penalties and interest - For failure to file a timely estate or trust return, the penalty is 5 percent of the tax per month with a 25 percent maximum. Returns filed after April 15 without a valid extension are subject to a late payment penalty of 10 percent of the unpaid tax. In addition, penalties are provided for, for willful failure to file on time, and for willful attempt to evade or defeat the tax. Taxes also bear interest from the due date until the date paid.

(I) Copy of governing instrument - A copy of the decedent's will or the trust instrument is not required unless the Department of Revenue requests it. If the Department requests it, a copy (including any amendments) with the following:

(1) A signed statement under affirmation that the copy of the will is true and complete.

(2) A statement listing the provisions of the will or the trust instrument that divide the income among the estate or trust and the beneficiaries.

(J) Specific Instructions for Form NC K-1 - Schedule NC K-1 for Form D-407 is used by an estate or trust to report each beneficiary’s share of income, adjustments, tax credits, etc. Prepare and give a Schedule NC K-1 to each person who was a beneficiary of the estate or trust at any time during the year. Schedule NC K-1 must be provided to each beneficiary on or before the day on which the estate or trust return is required to be filed.
In taxing estates and trusts, all income is taxable to the fiduciary or to the beneficiaries. The conduit rule for taxing estates and trusts is applicable for North Carolina income tax purposes. Under the conduit rules regardless of who is taxed, the income retains its same character as when received by the estate or trust. The additions and deductions to federal taxable income of an estate or trust must be apportioned between the estate or trust and the beneficiaries based on the distributions of income made during the taxable year. If the trust instrument or the state or federal estate or trust tax law requires the apportionment of certain classes of income to different beneficiaries, the apportionment of additions and deductions to the beneficiaries is determined on the basis that each beneficiary’s share of the estate’s or trust’s “total income,” the sum of lines 1 through 8 on the beneficiary’s Schedule K-1, Federal Form 1041, relates to “total income” from line 17 of Federal Form 1041. If the trust instrument or will specifically provides for the distribution of certain classes of income to different beneficiaries, additions and deductions allocable to the class of income must be apportioned to the beneficiaries to which that class of income is distributed. In apportioning the adjustments, the total income on Federal Schedule K-1 must be adjusted for distributions to the beneficiaries that are not reflected in the total income. The adjusted total income on Line 7 of Schedule B is (1) to exclude classes of income that are not part of the distribution to the beneficiary; (2) to include classes of income that are a part of the distribution to the beneficiary but are not included on Line 17; and (3) by any deduction treated differently for State and federal tax purposes that affects federal taxable income (see additions and deductions, Line 11 through 1 of Schedule A). The fiduciary may elect to apportion the federal deduction for State income tax to the estate or trust except in cases where the beneficiary’s total distribution from the estate or trust has not been included in his federal taxable income because it exceeded the estate’s or trust’s federal distributable net income. In such cases, the addition for State income tax must be apportioned to the beneficiary to the extent of the amount of income allocable to that class of income because of the State income tax deduction. After apportioning the additions and deductions to the beneficiaries, the balance is apportioned to the fiduciary. Line 3, Net N.C. Source Income, should reflect the sum of lines 6 and 7, minus line 8 from D-407 NC-K 1.

Form D-407TC - Estates and Trusts Tax Credit Summary

The tax credit for income tax paid to another state or country must be allocated between the fiduciary and the beneficiaries. The fiduciary and each beneficiary’s share of the gross income on which tax has been paid to another state or country and the amount of tax paid on the income must be allocated to the beneficiary and the fiduciary or the beneficiaries. Each beneficiary should be furnished a Schedule NC-K 1 showing the applicable additions, deductions, tax credits, etc., to be reported on the beneficiary’s North Carolina income tax return. A nonresident individual taxpayer who pays tax in the same manner as a state taxpayer must compute the percentage of taxable income subject to North Carolina tax on the individual income tax return. After dividing the beneficial share of the income from North Carolina sources only by the additions and deductions attributable to the North Carolina income tax, the fiduciary’s portion of income tax credits should be reported on Lines 2 and 4, respectively, on Page 1 of Form D-407.

Effect on Future Installments and Carryforwards - Effective for tax year 2014, various tax credits have been repealed. Taxpayers that qualified for these tax credits may continue to take any remaining installments and carryforwards of those tax credits after the sunset date if the taxpayer continues to meet the statutory eligibility requirements for each particular tax credit. For example, the Article 3J credit for creating jobs is repealed for business activities that occurred on or after January 1, 2015. However, the jobs credit for business activities that occurred before January 1, 2015, will be carried forward and such tax credits will remain available to the taxpayer for the succeeding five years. The nonresident individual that met all of the statutory eligibility requirements set out in N.C. Gen. Stat. § 105-129.83 and satisfied the threshold requirement for job creation, creates jobs in this State, the taxpayer claimed the jobs credit by filing Form NC-478A (the applicable NC-478 series for a nonresident individual) and such tax credits must be allocated in the succeeding five years. Any unused amount of such tax credits before the first installment on the 2015 return is carried forward for the succeeding years. The taxpayer is allowed to continue to take remaining installments as long as the taxpayer continues to meet the requirements of N.C. Gen. Stat. § 105-129.83 and N.C. Gen. Stat. § 105-129.87. If the taxpayer fails to maintain eligibility requirements, remaining installments are forfeited and only the carryforward amount of a previously accrued installment may be taken, subject to the carryforward provisions of N.C. Gen. Stat. § 105-129.84.