

SECTION .1100 – LICENSE OR LEASE OF INTANGIBLE PROPERTY

17 NCAC 05G .1101 IN GENERAL

(a) The receipts from the license of intangible property shall be assigned to North Carolina to the extent the intangible is used in North Carolina. The term "use" shall refer to the location of the taxpayer's market for the use of the intangible property that is being licensed and shall not refer to the location of the property or payroll of the taxpayer. This Section sets forth the rules to determine the location of the use of intangible property for several specific types of licensing transactions.

(b) A license of intangible property that conveys all substantial rights in that property shall be treated as a sale of intangible property for purposes of these rules. For purposes of Sections .1100 and .1200, a sale or exchange of intangible property shall be treated as a license of that property where the receipts from the sale or exchange derive from payments that are contingent on the productivity, use, or disposition of the property.

(c) Intangible property licensed as part of the sale or lease of tangible property shall be treated under these rules as the sale or lease of tangible property.

(d) Nothing in this Section shall be construed to allow or require inclusion of sales in the sales factor that are not included in the definition of "sales" pursuant to G.S. 105-130.4, or that are excluded from the numerator and the denominator of the sales factor pursuant to G.S. 105-130.4(1)(6). To the extent that the transfer of either a security or business "goodwill" or similar intangible value, including "going concern value" or "workforce in place," is characterized as a license or lease of intangible property, receipts from such transaction shall be excluded from the numerator and the denominator of the taxpayer's sales factor.

History Note: Authority G.S. 105-130.4; S.L. 2016-94;
Eff. January 1, 2020 (See S.L. 2019-246, s. 3).