

17 NCAC 06C .0204 AMOUNTS WITHHELD ARE HELD IN TRUST FOR SECRETARY OF REVENUE

(a) A withholding agent who fails to withhold or pay the amount required to be withheld is personally and individually liable for the tax, including any penalties and interest due. If a withholding agent has failed to withhold or to pay over income tax withheld or required to have been withheld, the unpaid principal amount of tax may be asserted against the responsible persons of the withholding agent when the taxes that have become collectible under G.S. 105-241.22 are not paid by the withholding agent. More than one person may be liable as a responsible person; however, the amount of the income tax withheld or required to have been withheld shall be collected only once, whether from the withholding agent or one or more responsible persons. The term "responsible person" is defined in G.S. 105-242.2(a)(2). Any responsible person who fails to pay the tax withheld or required to be withheld by the Secretary of Revenue shall be personally and individually liable for this failure, regardless of the person's reasons or knowledge of the failure. A finding of willfulness shall not be required.

(b) When the Department of Revenue determines that collection of the tax from an employer is in jeopardy, the employer may be required to report and pay the tax at any time after payment of the wages, compensation, or pension payments.

History Note: *Authority G.S. 105-163.8; 105-241.23; 105-242.2; 105-262;*
Eff. June 1, 1990;
Amended Eff. September 1, 2008; April 1, 2001; June 1, 1993; February 1, 1991;
Readopted Eff. May 1, 2016.