

§ 105-153.3. Definitions.

The following definitions apply in this Part:

- (1) Adjusted gross income. - Defined in section 62 of the Code.
- (2) Code. - Defined in G.S. 105-228.90.
- (3) Department. - The Department of Revenue.
- (4) Educational institution. - An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.
- (5) Fiscal year. - Defined in section 441(e) of the Code.
- (6) Gross income. - Defined in section 61 of the Code.
- (6a) Guaranteed payments. - Defined in section 707(c) of the Code.
- (7) Head of household. - Defined in section 2(b) of the Code.
- (7a) **(Effective for taxable years beginning on or after January 1, 2023.)** Income attributable to the State. - Either of the following:
 - a. With respect to a partnership, all items of income, loss, deduction, or credit of the partnership apportioned and allocated to this State pursuant to G.S. 105-130.4.
 - b. With respect to an S Corporation, as defined in G.S. 105-131(b)(4).
- (7b) **(Effective for taxable years beginning on or after January 1, 2023.)** Income not attributable to the State. - Either of the following:
 - a. With respect to a partnership, all items of income, loss, deduction, or credit of the partnership other than income attributable to the State.
 - b. With respect to an S Corporation, as defined in G.S. 105-131(b)(5).
- (8) Individual. - A human being.
- (9) Limited liability company. - Either a domestic limited liability company organized under Chapter 57D of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability

company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

- (10) Married individual. - An individual who is married and is considered married as provided in section 7703 of the Code.
- (11) Nonresident individual. - An individual who is not a resident of this State.
- (12) North Carolina taxable income. - Defined in G.S. 105-153.4.
- (13) Partnership. - A domestic partnership, a foreign partnership, or a limited liability company.
- (14) Person. - Defined in G.S. 105-228.90.
- (15) Resident. - An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the State for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.
- (16) S Corporation. - Defined in G.S. 105-131(b).
- (17) Secretary. - The Secretary of Revenue.
- (17a) Surviving spouse. - Defined in section 2(a) of the Code.
- (18) Taxable year. - Defined in section 441(b) of the Code.
- (18a) **(Effective for taxable years beginning on or after January 1, 2022)** Taxed partnership. - A partnership for which a valid election under G.S. 105-154.1 is in effect.

- (18b) **(Effective for taxable years beginning on or after January 1, 2022)** Taxed pass-through entity. - A taxed S Corporation or a taxed partnership.
- (18c) **(Effective for taxable years beginning on or after January 1, 2022)** Taxed S Corporation. - Defined in G.S. 105-131(b).
- (19) Taxpayer. - An individual subject to the tax imposed by this Part.
- (20) This State. - The State of North Carolina. (1989, c. 728, s. 1.4; c. 792, s. 1.2; 1989 (Reg. Sess., 1990), c. 814, s. 15; c. 981, s. 5; 1991, c. 689, s. 252; 1991 (Reg. Sess., 1992), c. 922, s. 6; 1993, c. 12, s. 7; c. 354, s. 13; 1996, 2nd Ex. Sess., c. 13, s. 8.2; 1998-98, ss. 9, 69; 2011-145, s. 31A.1(a); 2011-330, s. 12(a); 2013-157, s. 28; 2013-316, s. 1.1(a), (c); 2013-414, s. 58(c); 2015-6, s. 2.20(a); 2017-204, s. 1.9(a), (b); 2021-180, s. 42.5(f); 2024-28, s. 1.2(a).)