

**New Hampshire Department of Revenue Administration
109 Pleasant Street, Concord, NH 03301**

**TECHNICAL INFORMATION RELEASE
TIR 2021-004 Date: September 7, 2021**

A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.). Questions should be directed to Taxpayer Services at (603) 230-5920.

2021 Legislative Session in Review

The purpose of this Technical Information Release (TIR) is to provide taxpayers and tax practitioners with a convenient reference guide of relevant statutory changes made during the 2021 Legislative Session by the New Hampshire General Court impacting various taxes administered by the New Hampshire Department of Revenue Administration (DRA). This TIR is for informational purposes only and is intended to provide a summary or synopsis of enacted legislation. It is not intended to be relied upon as a full and complete text or as a substitute for the actual state law. Please refer to the applicable statutes and rules to determine how this information applies to specific persons or situations.

BUSINESS TAX

SB 3 (Chapter 74) excludes forgiven Paycheck Protection Program (PPP) loans from gross business income under the Business Profits Tax (BPT).

*Statute Enacted: RSA 77-A:3-c
Effective Date: June 10, 2021*

SB 101 (Chapter 199) increases the minimum gross business income required for filing a BPT return from in excess of \$50,000 to in excess of \$92,000 for taxable periods ending on or after December 31, 2022 and requires the DRA to adjust the threshold biennially based on inflation.

*Statute Amended: RSA 77-A:6
Effective Date: July 1, 2021 (applicable to taxable periods ending on or after December 31, 2022)*

HB 2 (Chapter 91, Section 106-108) increases the gross business receipts threshold for the Business Enterprise Tax (BET) from \$220,000 to \$250,000 and the enterprise value threshold for the BET from \$111,000 to \$250,000 for taxable periods ending on or after December 31, 2022.

*Statute Amended: RSA 77-E:5, I
Effective Date: Effective January 1, 2022 (applicable to taxable periods ending on or after December 31, 2022)*

HB 2 (Chapter 91, Section 109-111) reduces the BET rate from 0.6% to 0.55% and the BPT rate from 7.7% to 7.6% for taxable periods ending on or after December 31, 2022.

Statutes Amended: RSA 77-E:2; RSA 77-A:2

Effective Date: June 25, 2021 (applicable to taxable periods ending on or after December 31, 2022)

HB 2 (Chapter 91, Sections 115-119) amends the BPT and the BET to limit the amount of any overpayment that a taxpayer may claim as a credit to 500% of the total tax liability for the taxable period for taxable periods ending on or after December 31, 2022; 250% of the total tax liability for the taxable period for taxable periods ending on or after December 31, 2025; and 100% of the total tax liability for the taxable period for taxable periods ending on or after December 31, 2027. The remainder of any overpayment shall be refunded to the taxpayer. Also establishes a commission to study limiting the BPT and BET credit carryover amount.

Statutes Amended: RSA 77-A:7, I(b); RSA 77-E:6, II

Statute Enacted: RSA 77-A:7-b (repealed effective November 1, 2021)

Effective Date: June 25, 2021 (applicable to the taxable periods indicated above)

HB 2 (Chapter 91, Section 469) creates a BET credit of 50% of premiums paid by a sponsoring employer for family medical leave insurance for employees pursuant to RSA 21-I:100.

Statute Enacted: RSA 77-E:3-e

Effective Date: July 1, 2021

HB 324 (Chapter 24, Section 5-6) clarifies the due date of the BPT and BET return for non-profit corporations as consistent with the due date under the Internal Revenue Code.

Statutes Amended: RSA 77-A:6, I; RSA 77-E:5, I

Effective Date: May 6, 2021

INTEREST & DIVIDENDS TAX

HB 2 (Chapter 91, Section 89- 102) phases out the Interest and Dividends (I&D) Tax starting at 4% for taxable periods ending on or after December 31, 2023, 3% for taxable periods ending on or after December 31, 2024, 2% for taxable periods ending on or after December 31, 2025 and 1% for taxable periods ending on or after December 31, 2026. The I&D Tax is then repealed for taxable periods beginning after December 31, 2026.

Statutes Amended: RSA 77; RSA 14-B:8, III(q); RSA 15-A:5, I(d)(17); RSA 21-J:31; RSA 21-J:33-a; RSA 21-J:46, III; RSA 71-C:4; RSA 77-G; RSA 369-B:5, VI

Statutes Repealed: RSA 21-J:45, I(c); RSA 77; RSA 77-A:4-c, II(c); RSA 77-A:4, I; RSA 195-H:10; RSA 195-K:4; RSA 261:52-a; RSA 391:3

Effective Date: Section 89 effective January 1, 2022 (applicable to the taxable periods noted above); Sections 90-100 effective January 1, 2027 (applicable to the taxable periods noted above)

MEALS & RENTALS TAX

HB 2 (Chapter 91, Section 103-105) reduces the Meals & Rentals (M&R) Tax rate under RSA 78-A from 9% to 8.5% for taxable periods beginning on or after October 1, 2021.

Statute Amended: RSA 78-A:6

Effective Date: Effective June 25, 2021 (applicable to taxable periods beginning on or after October 1, 2021)

HB 15 (Chapter 160) specifies that an “operator” within the meaning of the M&R Tax statute, includes a room facilitator and motor vehicle rental facilitator and that for each occupancy or motor vehicle rental being facilitated by a room or motor vehicle rental facilitator, the facilitator must collect and remit the tax based on the full charge the consumer pays for the room or car rental, including any amounts designated as a fee, service, or other charge.

Statute Amended: RSA 78-A

Effective Date: October 1, 2021

HB 324 (Chapter 24, Section 2-3) clarifies the method of electronically filing the M&R Tax return to reflect the existing methods of electronic filing.

Statute Amended: RSA 78-A:8, I

Statute Repealed: RSA 78-A:3, III

Effective Date: May 6, 2021

MUNICIPAL AND PROPERTY

SB 48 (Chapter 102) provides that the formula used by the DRA and Current Use Board to determine Current Use tax rates shall not be confidential and shall be available to the public.

Statute Amended: RSA 21-J:14, IV

Effective Date: August 30, 2021

SB 52 (Chapter 88) requires city charter exclusions and ordinances that have the effect of overriding a tax cap to require a supermajority vote.

Statutes Amended: RSA 49-B:13, II-a; RSA 49-C:33, I(d); RSA 49-D:3, I(e)

Effective Date: August 20, 2021

SB 87 (Chapter 105, PART III) provides that capital reserve funds may be established and used to make payments under a lease/purchase agreement.

Statute Amended: RSA 35:15, III

Effective Date: August 30, 2021

SB 102 (Chapter 200) PART I expands the Community Revitalization Tax Relief Incentive program to include the construction of one or two family homes or attached multi-family homes with not more than four units in designated residential property revitalization zones. PART II permits cities and towns to adopt a property tax exemption for certain renewable generation and energy storage systems.

Statutes Amended: RSA 21-J:3, XIII; RSA 79-E; RSA 72

Effective Date: October 9, 2021

HB 2 (Chapter 91, Section 322-324) provides that for the fiscal year ending June 30, 2023, the Commissioner of DRA shall set the education tax rate at a level sufficient to generate \$263 million effective for taxable periods beginning on or after April 1, 2022. Further provides that to the extent that this reduction to the education tax rate results in a reduction to any municipality's total education grant pursuant to RSA 198:41 (including all statewide education property tax raised and retained locally), such reduction shall be paid to the municipality by the state and the Governor is authorized to draw a warrant from the education trust fund for such purpose.

Statute Amended: N/A

Effective Date: July 1, 2021 (applicable to the taxable period and fiscal year noted above)

HB 2 (Chapter 91, Section 332) provides that funds received by municipalities from the American Rescue Plan Act of 2021 may be considered unanticipated revenue under RSA 31:95-b and may be accepted and expended pursuant to RSA 31:95-b, II-IV whether or not a municipality has adopted the provisions of RSA 31:95-b.

Statute Amended: N/A

Effective Date: July 1, 2021

HB 2 (Chapter 91, Section 434-436) modifies the operation and funding of the Woodsville Fire District and directs that appropriations to the Woodsville Fire District be appropriated by warrant articles duly voted at each annual Haverhill town meeting. Directs the Woodsville Fire District to complete and submit yearly audit results to the DRA and authorizes the DRA to levy a fine of \$250 for each day of non-compliance beginning June 25, 2022.

Statute Amended: N/A

Effective Date: June 25, 2021

HB 64 (Chapter 31) clarifies that a renewable generation facility's payments in lieu of taxes shall be excluded from a municipality's tax base for purposes of calculating the statewide education property tax.

Statute Amended: RSA 72:74, II

Effective Date: July 1, 2021 (applicable to statewide education property taxes assessed on or after April 1, 2022)

HB 101 (Chapter 162) requires counties to close their books 90 days following the end of the fiscal year unless granted an extension by the Commissioner of the DRA. The Commissioner of the DRA may grant one or more 45-day extensions for cause, and shall notify the chairperson of the county convention of each extension and the reasons for granting the extension.

Statute Amended: RSA 28:3-a

Effective Date: September 28, 2021

HB 152 (Chapter 80) permits the apportionment formula for a cooperative school district to be subject to review five years after an article to continue the current formula was passed.

Statutes Amended: RSA 195:8; RSA 195:18, III(i)

Effective Date: August 17, 2021

HB 154 (Chapter 81, Section 1-2) modifies the definition of “qualifying structure” under the Community Revitalization Property Tax Incentive program to enable municipalities to offer community revitalization property tax incentives for the construction of additional housing in designated housing opportunity zones.

Statute Amended: RSA 79-E

Effective Date: April 1, 2022

HB 243 (Chapter 134) requires that a town or district that uses sub-accounts to budget or track financial data make that data available at the sub-account level for public inspection and to publish statements of estimated expenditures and revenues for the next fiscal year in sub-account detail.

Statute Amended: RSA 32

Effective Date: September 21, 2021

HB 383 (Chapter 15) permits municipalities to apply to the DRA to obtain an adjusted property tax rate in the event of an increase of fifteen percent or more in the amount of property taxes to be raised for the current year as compared to the previous year.

Statutes Amended: RSA 76:15-a, III; RSA 76:15-aa, V(a)

Effective Date: April 1, 2022

HB 411 (Chapter 170) establishes a commission to study the equalization rate used for calculating a property tax abatement. The Commissioner or a designee shall serve on the commission.

Statute Enacted: RSA 76:20-a

Effective Date: July 30, 2021

HB 464 (Chapter 64) repeals the commission to study school funding.

Statute Repealed: RSA 193-E:2-e

Effective Date: June 4, 2021

HB 486 (Chapter 95) amends RSA 198:57 to increase the income limitations for the receipt of a Low & Moderate Income Property Tax Relief (L&M) award as well as the maximum amount of tax relief available to an awardee. The maximum household income that may qualify for an L&M award is increased to \$37,000 for single applicants, and to \$47,000 for married applicants or applicants that file as heads of household. For purposes of calculating the maximum award available, the maximum homestead value is increased to \$220,000. For purposes of calculating the total award each recipient receives, the income brackets for single applicants and married or head of household applicants are incrementally increased for each income bracket.

Statute Amended: RSA 198:57

Effective Date: August 30, 2021 (applicable to statewide education property taxes assessed on or after April 1, 2021)

MISCELLANEOUS

SB 103 (Chapter 201) enacts new RSA Chapter 319-D, State of Emergency Waivers for Out of State Businesses and Employees, which provides that an out-of-state business or an out-of-state employee who is present in the state or conducts operations in the state to perform disaster-related or emergency-related work during a disaster response period shall be deemed to have insufficient presence to require payment of taxes or fees or the submission of tax filings to the state, with the exception of transactional taxes.

Statute Enacted: RSA 319-D

Effective Date: October 9, 2021

SB 143 (Chapter 207, Part VI, Section 3) amends RSA 21-J:14 to permit the DRA to share taxpayer information with an officer or employee of the Insurance Department, pursuant to an agreement for the exchange of information for purposes of sharing information received by the DRA from insurance companies that claim a BET credit against the Insurance Premium Tax.

Statute Amended: RSA 21-J:14

Effective Date: October 9, 2021

HB 2 (Chapter 91, Section 295) modifies the DRA's annual Tax Expenditure Report to eliminate the requirement that the DRA report on the revenue impact of the transition to double weighting the sales apportionment factor and adds the requirement that the DRA report on the revenue impact of the regional career and technical education center tax credit.

Statute Amended: RSA 71-C:2

Effective Date: July 1, 2021

HB 126 (Chapter 33) extends the time for the notice of the execution of a municipal or state tax lien to be given to a mortgagee from 45 to 60 days.

Statute Amended: RSA 80:65

Effective Date: July 16, 2021

HB 306 (Chapter 93) directs the House Ways & Means Committee to consider revenue estimates for the state as frequently as the chair determines is required by changing economic and legislative changes.

Statute Amended: N/A

Effective Date: August 30, 2021

HB 324 (Chapter 24, Section 1 and 4) permits the DRA to suspend interest for up to 30 days following the issuance of a notice of assessment in instances where the notice of assessment is paid within that up to 30 day period. Modifies the DRA's annual Tax Expenditure Report to eliminate the requirement that the DRA report on the revenue impact of the transition to double weighting the sales apportionment factor.

Statutes Amended: RSA 21-J:28; RSA 71-C:2

Effective Date: May 6, 2021

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the N.H. Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301 or by contacting them at (603) 230-5920.