

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

**TECHNICAL INFORMATION RELEASE  
TIR 2016-006 Date August 5, 2016**

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 Central Tax Services at (603) 230-5920.

**New Hampshire 2016 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 2016 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 statute and rules to determine how this information applies to specific persons or situations.

**BUSINESS TAX**

**Senate Bill 239 (Chapter 295, Laws of 2016)** amends RSA 77-A:1, XX to provide that for taxable periods beginning on or after January 1, 2017, the Business Profits Tax (BPT) will reference the Internal Revenue Code (IRC) in effect on December 31, 2015. RSA 77-A:3-b is adopted to provide that the BPT shall decouple from IRC §§ 168(k) (bonus depreciation), 199 (domestic production activities) and 181 (movie production expenses). RSA 77-A:3-a is repealed and reenacted to increase the allowable IRC § 179 deduction from \$25,000 to \$100,000. RSA 21-J:3 is amended to add new paragraph XXXIII, requiring the Commissioner to inform the House and Senate Ways and Means Committees of any changes to the IRC, Treasury Regulations, and administrative rulings that would impact the BPT made in the prior calendar year. For additional information on Senate Bill 239, please reference [TIR 2016-003](#).

*Effective: June 21, 2016 and applicable to taxable periods beginning on or after January 1, 2017*  
*Amends: RSA 77-A and RSA 21-J:3*

**Senate Bill 342 (Chapter 300, Laws of 2016)** repeals and reenacts RSA 77-A:4, XIV to eliminate the requirement that a business organization make an addition to gross business profits when an interest or beneficial interest in the business organization is sold or exchanged in an amount equal to the net increase in the basis of all underlying assets. Any portion of the annual depreciation or amortization attributable to the increase in basis federally from the sale of an ownership interest shall be added back to the gross business profits of the business organization and the gain or loss on the sale or disposition of the asset shall be calculated without regard to the basis increase recognized

federally. The business organization may make an irrevocable election to recognize the basis increase for any particular sale or exchange and if made, the business organization shall make an addition to gross business profits in an amount equal to the net increase in the basis of its assets in the tax period when the sale or exchange of the ownership interest occurs. The business organization may then deduct against gross business profits any annual depreciation or amortization attributable to the increased basis and take into consideration the basis increase upon the sale or disposition of the asset. For additional information on Senate Bill 342, please reference [TIR 2016-003](#).

*Effective: June 21, 2016 applicable to sales or exchanges occurring on or after January 1, 2016*  
*Amends: RSA 77-A:4, XIV*

**Senate Bill 343 (Chapter 153, Laws of 2016)** establishes a commission to study the apportionment of gross business profits under the BPT.

*Effective: May 27, 2016*  
*Amends: RSA 77-A*

**Senate Bill 344 (Chapter 119, Laws of 2016)** amends RSA 277-B:17-a to explicitly specify which tax credits the election in RSA 77-E:13-a may be applied to. RSA 77-E:13-a permits an employee leasing company and client company to make an election to make the client company solely responsible for paying the Business Enterprise Tax (BET) on leased employees, in which case the client company may also receive the benefit of certain tax credits that are based on employment.

*Effective: May 20, 2016 and applicable to wages paid beginning on or after January 1, 2016*  
*Amends: RSA 277-B:17-a*

**House Bill 1290 (Chapter 66, Laws of 2016)** amends RSA 77-A:6, I of the BPT and RSA 77-E:5, I of the BET, to provide that partnerships shall file their Business Tax returns on or before the 15th day of the third month following the expiration of the taxable period and that all other business organizations, including corporations, shall file their Business Tax returns on or before the 15th day of the fourth month following the expiration of the taxable period in order to make New Hampshire's Business Tax due dates consistent with recent changes to the federal due dates for partnership and corporate tax returns. For additional information on House Bill 1290, please reference [TIR 2016-003](#).

*Effective: July 4, 2016 and applicable to taxable periods beginning after December 31, 2015*  
*Amends: RSA 77-A:6, I; RSA 77-E:5, I*

## **TOBACCO TAX**

**House Bill 1503 (Chapter 320, Laws of 2016)** amends RSA 78 to make technical and clarifying changes to the RSA 78 Tobacco Tax, including amending and adding definitions, removing references to "metering machines," clarifying activities constituting unauthorized sales, providing for consumer reporting and payment, and adding records of tobacco stamps sold and tobacco products distributed to required taxpayer records. Amends RSA 78:1, XXI, the definition of "premium cigar," to eliminate the criteria that the product wholesale for \$2 or more.

*Effective: July 1, 2016*  
*Amends: RSA 78*

### **MEALS AND ROOMS TAX**

**Senate Bill 482** (Chapter 271, Laws of 2016) establishes a committee to study the effect of short-term rentals on municipalities.

*Effective: June 16, 2016*

**House Bill 1590** (Chapter 323, Laws of 2016) adopts RSA 78-A:4-a requiring that advertisements for short-term rentals include the Meals and Rooms License (M&R License) number of the operator. Violation of this new provision may result in the M&R License being revoked, suspended, or denied. Amends RSA 78-A:3 to establish a definition of “short-term rental.” For additional information on House Bill 1590, please reference [TIR 2016-004](#).

*Effective: August 23, 2016*  
*Amends: RSA 78-A*

### **REAL ESTATE TRANSFER TAX**

**House Bill 1289** (Chapter 85, Laws of 2016) amends RSA 78-B:10, I(b) to eliminate the requirement that the Real Estate Transfer Tax (RETT) Declaration of Consideration (Forms CD-57) contain a witnessed signature.

*Effective: July 18, 2016*  
*Amends: RSA 78-B:10, I(b)*

**House Bill 1656** (Chapter 288, Laws of 2016) amends RSA 78-B:2 by codifying two new exemptions to the RETT. RSA 78-B:2, XXI exempts transfers that are coincidental to a change in the transferor’s form of organization, provided: (1) no consideration is exchanged; (2) the assets and liabilities of the transferor immediately preceding the transfer and the assets and liabilities of the transferee immediately following the transfer are the same; and (3) the owner(s) of the transferor and transferee and their respective ownership percentages remain the same. RSA 78-B:2, XXII exempts transfers from the owners of an entity to the entity, or from the entity to the owners of the entity, provided that: (1) no consideration is exchanged; (2) the assets and liabilities of the transferor and transferee remain the same except with respect to the transferred real estate; and (3) the owner(s) of the transferor and transferee and their respective ownership percentages remain the same. HB 1656 also amends RSA 78-B:1-a, IV, the definition of “price or consideration,” to provide that transfers made solely to obtain financing or refinancing, as required by the lending institution, shall not be sufficient consideration to make a transfer a contractual transfer. The definition of “price or consideration” is further amended to specify that the definition does not include the recitation of nominal consideration of \$10 or other valuable consideration for purposes of satisfying the statute of frauds. For additional information on House Bill 1656, please reference [TIR 2016-005](#).

*Effective: June 21, 2016 and applicable to transfers occurring on or after the effective date*  
*Amends: RSA 78-B*

### **NFOA/ICFOA**

**House Bill 1289** (Chapter 85, Laws of 2016) amends RSA 84-C:5, I to provide that the Department may adopt rules exempting Nursing Facilities from the requirement that they pay the Nursing Facility Quality Assessment by electronic funds transfer (EFT) when the Nursing Facility is unable to do so. Amends RSA 84-D:4 to make the Commissioner's rulemaking authority with respect to the Intermediate Care Facility Quality Assessment (ICFQA) permissive rather than mandatory.

*Effective: July 18, 2016*  
*Amends: RSA 84-C; RSA 84-D:4*

### **MUNICIPAL AND PROPERTY**

**Senate Bill 59** (Chapter 178, Laws of 2016) amends RSA 661:9 to provide that the county convention (instead of the superior court) may temporarily fill a county office position when the holder is temporarily absent or incapacitated and establishes the requirement that the holder receive notice of the intended removal and an opportunity to be heard. Amends RSA 24:16 to provide that violations of RSA 24:15, addressing county officers paying an amount or incurring a liability in excess of an appropriation, are sufficient to subject the official to removal from office.

*Effective: August 2, 2016*  
*Amends: RSA 24; RSA 661:9*

**Senate Bill 442** (Chapter 157, Laws of 2016) establishes a commission to study the taxability of lease interests in public property.

*Effective: May 27, 2016*  
*Amends: RSA 72*

**House Bill 377** (Chapter 73, Laws of 2016) establishes a state geographic information system (GIS) committee while replacing the current ad hoc GIS Advisory Committee, ensuring a more formal role for participants in the formation of future plans for GIS.

*Effective: May 19, 2016*  
*Amends: RSA 4*

**House Bill 430** (Chapter 217, Laws of 2016) adopts RSA 72:28-b allowing cities and towns by local option to extend the current Veterans' Property Tax credit to all honorably discharged veterans regardless of dates of service in relation to declared war-time periods.

*Effective: August 8, 2016*  
*Amends: RSA 72*

**House Bill 1164 (Chapter 79, Laws of 2016)** adopts RSA 31:103-a and RSA 44:1-b allowing cities and towns to voluntarily contribute funds, services, property, or other resources toward any county or state project, program, or plan.

*Effective: July 18, 2016*

*Amends: RSA 31; RSA 44*

**House Bill 1198 (Chapter 208, Laws of 2016)** enacts RSA 72:8-c, establishing a valuation formula for telecommunications poles and conduits for purposes of assessing the property tax pursuant to RSA 72. The valuation formula shall be Replacement Cost New (RCN) of the telecommunications pole or conduit, less depreciation calculated on a straight-line basis for a period of 40 years with a residual value of 20%. The Department shall provide a schedule of telecommunications pole and conduit RCN using national published telecommunications standard cost data guides no later than July 1 of the tax year and shall adopt rules relative to the establishment of RCN, including a process for receiving public input. Also enacts RSA 74:19, providing that each owner of telecommunications poles and conduits shall annually file, not later than July 1, an inventory of telecommunications poles and conduits with the Department and with the municipality where the property is located. For additional information on House Bill 1198, please reference [TIR 2016-002](#).

*Effective: September 1, 2016*

*Amends: RSA 72; RSA 74*

**House Bill 1219 (Chapter 37, Laws of 2016)** amends RSA 80:90, I(f) by reducing the penalty paid from 15% to 10% of the assessed value of the property when a former owner repurchases tax-deeded property. Amends RSA 80:89, II to provide that the penalty referenced above shall not be assessed when the property being repurchased was the former owner's principal residence. RSA 80:89, II is also amended to provide that the former owner has 30 days (instead of the current 15) to pay all monies owed after providing the municipality notice of the intent to repurchase tax-deeded property.

*Effective: July 2, 2016*

*Amends: RSA 80*

**House Bill 1289 (Chapter 85, Laws of 2016)** amends RSA 79-E:12 to make the Commissioner's rulemaking authority relative to the Community Revitalization Tax Relief Incentive permissive rather than mandatory. Amends RSA 82:20, IV to provide that the taxpayer has 30 days (instead of the current 15) to pay the Railroad Tax determined to be owed following the Commissioner's determination of value and issuance of notification. Amends RSA 83-F:5 to indicate that the form that accompanies payment of the Utility Property Tax is a "payment form" instead of a "return."

*Effective: July 18, 2016*

*Amends: RSA 79-E:12; RSA 82:20, IV; RSA 83-F:5*

**House Bill 1303 (Chapter 225, Laws of 2016)** establishes a commission to study issues relating to pre-existing districts withdrawing from a cooperative school district.

*Effective: June 9, 2016*

*Amends: RSA 195*

**House Bill 1587 (Chapter 114, Laws of 2016)** amends RSA 35:8 to increase the amount that a county may raise and appropriate to the capital reserve fund from 1/100 to 1/50 of one percent of the last base valuation for debt limit computed pursuant to RSA 33:4.

*Effective: July 19, 2016*

*Amends: RSA 35:8*

***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) 230-5000.***