

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

19-0475

SB 270, *establishing a tax credit against the business profits tax for donations to career and technical education centers.*

Senate Ways & Means

The proposed legislation establishes a credit against the Business Profits Tax (BPT) for donations to regional career and technical education centers programs. The aggregate of tax credits for donations to regional career and technical education center programs issued to all donors shall not exceed \$500,000 in any state fiscal year. If the credits claimed exceed the maximum aggregate credit amount, they shall be granted in the donor's proportional share.

The tax credit allowed for a taxpayer against the BPT in any taxable period shall not exceed 25% of the taxpayer's BPT due before any credits under RSA 77-A:5 are taken into account.

The issuance of tax credits for qualifying charitable donations is administered by the NH Department of Education (DOE). The DOE shall compute the amount of tax credits available from the donations made during the prior state fiscal year by August 1 of each year, and issue them to donors with a written statement by September 1 of each year.

The DOE shall report all credits issued to the Department of Revenue Administration (DRA) by October 1 of each year. The proposed legislation shall take effect upon its passage and apply to taxable periods ending after April 1, 2019.

The DRA would need to update the BPT return and its information management systems as a result of the proposed legislation, but assumes it could do that without any additional costs that could not be absorbed into its operating budget.

The fiscal impact is indeterminable but would likely decrease revenues to the General and Education Trust Fund. The DRA has no way of knowing the amount of tax credits that would be claimed or issued in any state fiscal year, or the amount that would be allowed against the BPT (because of the 25% ceiling) and during which fiscal year. The maximum aggregate credit amount issued by the DOE in any state fiscal year is \$500,000. However, depending on the taxpayer's taxable period, it may be used against the BPT in the same fiscal year or the next fiscal year.

The DRA would like to note that the proposed legislation does not specifically address when a taxpayer may use the tax credit issued by the DOE, whether against the taxpayer's then-current tax year or subsequent tax year. It also does not address whether a taxpayer may carry forward any

unused portion of the tax credit issued by the DOE. The DRA takes this to mean that it must be used against the taxpayer's then-current tax year, and that it may not be carried forward.

Next, the proposed legislation would apply to taxable periods ending after April 1, 2019, which does not match up with any tax year. As a result, it may apply differently to fiscal year and calendar year taxpayers. For instance, it would apply to all fiscal year taxpayers with taxable periods ending after April 1, 2019 but before December 31, 2019 in tax year 2018, but to calendar year taxpayers in tax year 2019. There are also taxable periods ending after April 1, 2019 that may occur before the proposed legislation becomes law. If the intent of the proposed legislation is to first allow the credit against the BPT in tax year 2019, it should apply instead to "taxable periods ending on or after December 31, 2019." This would ensure that the change impacts all taxpayers in the same way, in the same tax year.

Lastly, the proposed legislation's effective date may occur at the end of the state fiscal year ending June 30, 2019. In that case, it would not allow sufficient time to notify taxpayers and design any necessary reports, forms, and statements. For instance, if the proposed legislation becomes effective say on May 31, 2019, then donors could make qualifying contributions from May 31, 2019 to June 30, 2019, and would expect to receive a tax credit by September 1, 2019.