

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for 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.)

The purpose of this information release is to advise municipalities of the Supreme Courts decision regarding the state education property tax. Questions should be directed to Municipal Services Division at (603) 271-3397.

State Education Property Tax Ruled Unconstitutional

In a decision issued today, the New Hampshire Supreme Court ruled that the "phase-in" provision of the state education property tax enacted under Chapter 17, Laws of 1999, is unconstitutional. The court further ruled that since the phase-in provision is not severable from the state education property tax, then the entire state education property tax provision is also unconstitutional. The court's decision only effects the state education property tax and does not invalidate municipal, county or local education property taxes.

At this time, the Department offers the following guidance to municipalities concerning the assessment and collection of the 1999 property tax:

- Tax rate reviews currently being conducted with Municipal Services staff will continue as scheduled.
- Municipalities who have received certified tax rates, but have not yet mailed tax bills, are advised to delay such mailing. Municipalities who have already issued tax bills are advised to take no action at this time. Further guidance will be provided next week once the department determines the most efficient process to revise and reissue tax rates.

The department recognizes the urgency surrounding the issuance of property tax bills. We are working with the Governor's Office, the Attorney General's Office, and the legislative leadership and will provide further guidance as soon as possible.

A copy of the court's decision may be obtained at:

<http://webster.state.nh.us/courts/supreme/opinions/9910/clarprac.htm>