

**Senate House Ways Means Joint Economic Briefing
Impact of Federal Tax Reform**

A		B	C		D	E				F	G	H
Issue		Background	Pre-Tax Reform			Federal Tax Reform						
			Federal	NH	Federal	NH						
						No Conformity	Conformity	Conformity Revenue Impact				
1	Foreign Dividends	Dividends paid from a foreign subsidiary to a US parent company.	Taxation of the income of foreign subsidiaries was deferred until the foreign subsidiary paid a dividend to the U.S. parent except for certain passive income of the foreign subsidiary treated as a deemed dividend and taxable to the U.S. parent and taxed as "subpart F income."	Taxation of the income of foreign subsidiaries is deferred until the foreign subsidiary paid a dividend to the U.S. parent except for certain passive income of the foreign subsidiary treated as a deemed dividend and taxable to the U.S. parent and taxed as "subpart F income."	The TCJA broadened the class of foreign subsidiary income treated as a deemed dividend taxable to the U.S. parent. Foreign dividends will now be exempt from taxation through a 100% dividend received deduction.	NH would continue to tax dividends received from foreign subsidiaries. NH would also continue to tax deemed dividends and other types of subpart F income.	NH would continue to tax dividends received from foreign subsidiaries. NH would also continue to tax deemed dividends and other types of subpart F income.	No direct impact on revenue, however NH could see an increase in revenue because the federal deductibility of foreign dividends is expected to incentivize the payment of dividends.				
2	One-time Repatriation	Definition of subpart F income is expanded to include earnings and profits of foreign subs that are undistributed from taxable years beginning after 12/31/86 through either 11/2/17 or 12/31/17 (whichever is greater).	N/A	N/A	To effectuate the transition from the worldwide system of taxation to the territorial system, the TCJA effectuates a one-time deemed repatriation of certain pre-2018 foreign income reported as subpart F income.	NH would not capture this one-time deemed repatriation of foreign earnings.	NH would capture this one-time deemed repatriation of foreign earnings. However, there is an added level of complexity due to the timing of the deemed repatriation federally because repatriation is deemed to have occurred in tax year 2017.	One-time revenue increase. Extent of revenue depends upon applicability date and ability to amend the law applicable to completed taxable periods.				
3	Foreign Base Erosion Tax	Business expenses paid to a foreign related party are generally deductible as ordinary and necessary business expenses.	Ordinary and necessary business expenses were fully deductible even if paid to a foreign related party.	Ordinary and necessary business expenses were fully deductible even if paid to a foreign related party.	The payment of certain expenses (insurance premiums, interest, and certain property purchases) will be subject to a "base erosion minimum tax" that is completely distinct from the corporate income tax.	NH will continue to allow ordinary and necessary business expenses to be fully deducted on the NH return.	No impact in NH because the "base erosion minimum tax" would likely be reported after the line on the federal return where NH picks up federally reported income for the BPT.	No impact.				
4	Global Intangible Low-Tax Income (GILTI)	Foreign income that is otherwise not taxable in the U.S. will be subject to tax	N/A	N/A	A U.S. shareholder is required to include in income the global intangible low taxed income (GILTI) of its controlled foreign corporations (CFCs) in a manner similar to subpart F income. The full amount of GILTI would be includable in the U.S. shareholder's income, but reduced by a 50% deduction.	NH would not include this GILTI in income.	NH would include this GILTI in income; however, NH's continued taxation of foreign dividends may require an adjustment for GILTI to ensure there is no double taxation of income.	Indeterminable.				
5	Business Interest Deduction Limitation	Business interest was generally considered to be deductible as an ordinary and necessary business expense.	Interest paid by a business was generally fully deductible as an ordinary and necessary business expense.	The business may generally deduct all ordinary and necessary interest paid as a business expense when calculating taxable income for NH purposes.	Business interest deduction will generally be limited to the business's interest income plus 30% of the business's "adjusted taxable income." Limitation does not apply to certain "small businesses."	NH will continue to allow ordinary and necessary business interest expense to be fully deducted on the NH return.	NH would limit the deduction of interest expense to the business's interest income plus 30% of the business's "adjusted taxable income."	Ongoing revenue increase.				

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6	Section 179 Deduction	When a capital asset is purchased, the general rule is that the cost of the capital asset is deducted ratably over the useful life of the item. Section 179 allows a taxpayer to deduct a larger amount of the cost to acquire a capital asset in the year the property was placed in service.		Taxpayers could elect to treat up to \$500,000 of the cost to acquire depreciable property as a deductible business expense in the year the property was placed in service. The ability to immediately expense otherwise depreciable property was limited to the extent total capital expenditures exceeded \$2 million.		NH "decouples" from the federal Section 179 deduction. Prior to January 1, 2017, NH allowed an immediate deduction of only \$25,000 of the cost to acquire a depreciable asset. In 2017, NH allowed the immediate deduction of \$100,000 of the cost to acquire a depreciable asset. Starting on January 1, 2018, up to \$500,000 of the cost to acquire a depreciable asset can be immediately deducted.		Taxpayers may elect to treat up to \$1 million of the cost to acquire depreciable property as a deductible business expense for property placed in service on or after January 1, 2018. The ability to immediately expense otherwise depreciable property will be limited to the extent total capital expenditures exceeds \$2.5 million.		NH will continue to allow taxpayers to immediately expense up to \$500,000 of the cost to acquire depreciable capital assets.		NH could conform to the federal Section 179 deduction and thereby increase the amount of the cost to acquire depreciable property that may be deducted immediately from \$500,000 to \$1 million. However, updating NH's reference to the Internal Revenue Code will not alone accomplish conformity. Additionally, RSA 77-A:3-a, which decouples NH from the Section 179 deduction, would need to be repealed.		Revenue decrease. In theory the IRC Section 179 deduction is a timing issue because any deduction disallowed by NH in the year of acquisition would be deducted as depreciation in later years. However, because of the time value of money, businesses moving, going out of business, or their NH apportionment changing, it cannot be said with any certainty that there is long-term revenue neutrality.			
7	Bonus Depreciation	Section 168 accelerates the depreciation deduction (termed "bonus depreciation") depending on the type of capital asset being depreciated.		Generally, business property is depreciable over the useful life of the property as defined by the IRC. However, the standard depreciation deduction is accelerated (termed "bonus depreciation") depending on the type of capital asset being depreciated.		NH "decouples" from "bonus depreciation" and thereby allows a taxpayer to take only the standard depreciation deduction on the NH BPT return.		Taxpayers are now permitted to immediately deduct 100% of the cost to acquire certain tangible depreciable business assets in the year the property is placed in service from September 27, 2017 through December 31, 2022, at which point the permissible percentage deduction is reduced by 20% in each calendar year until such time as "bonus depreciation" is phased out entirely.		NH will continue to disallow "bonus depreciation" and thereby allow only the standard depreciation deduction.		NH could conform to federal "bonus depreciation" and thereby increase the amount of the cost to acquire depreciable property that may be immediately deducted until such time as "bonus depreciation" is phased out federally. However, updating NH's reference to the IRC will not alone accomplish conformity. Additionally, RSA 77-A:3-b, 1, which decouples NH from federal "bonus depreciation," would need to be repealed.		Revenue decrease. In theory bonus depreciation is a timing issue because any deduction disallowed by NH in the year of acquisition would be deducted as depreciation in later years. However, because of the time value of money, businesses moving, going out of business, or their NH apportionment changing, it cannot be said with any certainty that there is long-term revenue neutrality.			
8	Research & Experimental Expenditures	The deduction of research and experimental expenditures generally depends on whether the expenditures qualify as immediately deductible ordinary and necessary business expenses or capital expenditures requiring amortization or depreciation.		Certain reasonable research and experimental expenditures may be immediately deducted in the year paid or incurred.		Certain reasonable research and experimental expenditures can generally be deducted in the year paid or incurred.		Beginning January 1, 2022, research and experimental expenditures will now generally be amortized and deducted over a 5-year period.		NH will continue to allow the immediate deduction of certain reasonable research and experimental expenditures in the year paid or incurred.		NH could conform to the federal treatment of research and experimental expenditures and thus require taxpayers to amortize and deduct research and experimental expenditures over a 5-year period.		Revenue increase. This change is essentially a timing issue, with what was once an immediate deduction being instead taken ratably over a 5-year period. However, because of the time value of money, businesses moving, going out of business, or their NH apportionment changing, it cannot be said with any certainty that there is long-term revenue neutrality.			

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9	Qualified Opportunity Zones	N/A		N/A		N/A		Payment of tax on capital gains can be deferred if the capital gains are reinvested in “qualified opportunity zones.” The gain will be recognized when the taxpayer sells their investment in the qualified opportunity zone, unless the investment is held for 10 years or more, in which case the gain is no longer subject to tax.		Capital gains will be fully taxable under the BPT even if reinvested in qualified opportunity zones.		Inclusion of capital gain income in gross business profits under the BPT could be deferred if a taxpayer reinvests the gain in a “qualified opportunity zone” and avoided altogether if that investment is held for 10 years or more.		Revenue decrease.			
10	Net Operating Loss (NOL) Deduction	When a business experiences a loss, that loss can be used to offset income in future (and sometimes past) years.		NOLs could be carried back 2 years and forward 20 years and were available to reduce taxable income to zero. Taxpayers in the insurance industry adhered to a specific NOL deduction convention of a 3-year carry back and a 15-year carry forward.		NH does not adhere to federal NOL limitations. RSA 77-A:4, XIII permits only a 10-year carryforward of NOLs, limited to \$10,000,000 in any tax year.		NOLs can no longer be carried back and can now be carried forward indefinitely. The NOL deduction taken in any year will be capped at 80% of taxable income. Taxpayers in the insurance industry will be entitled to the same NOL deductions as other types of taxpayers.		NH will continue to depart from the federal NOL limitations and instead permit a 10-year carryforward of NOLs, limited to \$10,000,000 in any tax year.		Conformity to the most recent IRC will not automatically synch NH to the federal treatment of NOLs because NH does not adhere to federal NOL limitations. RSA 77-A:4, XIII permits only a 10-year carryforward of NOLs, limited to \$10,000,000 in any tax year.		No impact.			
11	Like-Kind Exchanges	When a capital asset is disposed of, the taxpayer generally recognizes either a capital gain or loss at the time of the disposition.		Capital gain from the sale of real property and some types of personal property could be deferred if the consideration received by the taxpayer is “like-kind,” or similar property.		NH permits the deferral of capital gains from the sale of real property and some types of personal property for business tax purposes if the consideration received by the taxpayer is like-kind property.		The deferral of capital gain will still be permitted through the use of like-kind exchanges; however, this treatment will now only be available for real estate (and no longer available for personal property).		NH will continue to allow deferral of capital gains through the use of like-kind exchanges for both real estate and certain qualifying personal property.		NH would limit deferral of capital gains through the use of like-kind exchanges to real estate exchanges.		Revenue increase.			
12	Fringe Benefit Deduction	The deductibility of fringe benefits depends on whether the expenditure is an ordinary and necessary business expense.		Employers could deduct up to 50% of meal and entertainment expenses that were sufficiently business related. Certain meals provided on the employer’s premises could be fully deducted as “de minimis” fringe benefits.		Employers may deduct up to 50% of meal and entertainment expenses that are sufficiently business related. Certain meals provided on the employer’s premises may be fully deducted as “de minimis” fringe benefits.		Employers may no longer deduct 50% of entertainment expenses, even if business related. Meal expenses continue to be deductible, up to 50%. Meals provided on the employer’s premises are now also subject to this 50% limitation.		NH will continue to allow the more generous meal and entertainment expense deduction of 50% of meal and entertainment expenses that are business related and 100% of certain meals provided on the employer’s premises.		Business related entertainment expenses would no longer be deductible and would now be subject to the 50% limitation. This could result in increased revenue in NH.		Revenue increase.			

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13	Domestic Production Activities	The income earned on domestic production activities is taxed at the same rate as earnings from other business activities. However, domestic (U.S.) production activities are subject to a preferential deduction not available to other industries.	A 9% deduction from income (with certain limitations tied to W-2 wages) was allowed for income attributable to a very broad class of production activities (mining, oil extraction, farming, construction, manufacturing, engineering, film production) taking place in the United States.	NH does not allow the federal deduction for domestic production activities.	The 9% deduction for domestic production activities is repealed.	NH already decouples from the federal deduction for domestic production activities.	Conformity to the current version of the IRC will have no impact in NH because NH already decouples from the federal deduction for domestic production activities.	No impact.			
14	Fines and Penalties	The deductibility of fines and penalties depends on whether the expenditure is an ordinary and necessary business expense.	The deduction of fines or penalties paid to a government for the violation of any law was prohibited.	The deduction of fines or penalties paid to a government for the violation of any law was prohibited.	The prohibition of the deduction of fines paid to a government for the violation of any law is expanded to prohibit the deduction of "any amount paid or incurred" in relation to the violation of any law or any investigation or inquiry into a potential violation, including amounts paid or incurred pursuant to a settlement agreement.	The prohibition on deduction will remain limited to fines or penalties paid to the government for the violation of any law.	NH would adopt the more expansive prohibition of any deduction of costs related to the violation of any law or any investigation or inquiry into a potential violation. This could result in increased revenue in NH.	Revenue increase.			
15	Sexual Harassment Settlements	The deductibility of settlement payments depends on whether the expenditure is an ordinary and necessary business expense.	Payments to settle sexual harassment or sexual abuse claims were deductible as ordinary and necessary business expenses.	Payments to settle sexual harassment or sexual abuse claims are deductible as ordinary and necessary business expenses.	Settlement payments to settle sexual harassment or sexual abuse claims (including attorney's fees) will no longer be deductible if such settlement or payment is subject to a nondisclosure agreement.	NH would continue to permit the deduction of payments to settle sexual harassment or sexual abuse claims as ordinary and necessary business expenses.	NH would prohibit the deduction of payments to settle sexual harassment and sexual abuse claims if such settlement or payment is subject to a nondisclosure agreement. This could result in increased revenue to NH.	Revenue increase.			
16	Lobbying Expenses	The deductibility of lobbying expenses depends on whether the expenditure is an ordinary and necessary business expense.	Federal lobbying expenses could not be deducted but local lobbying expense could.	Federal lobbying expenses could not be deducted but local lobbying expense could.	Local lobbying expenses will no longer be deductible.	NH will continue to allow the deduction of local lobbying expenses as an ordinary and necessary business expense.	Local lobbying expenses would no longer be deductible.	Revenue increase.			
17	Rollover of Publicly Traded Securities into SSBICs	When a capital asset is disposed of, the taxpayer generally recognizes either a capital gain or loss at the time of the disposition.	Corporations or individuals could defer the recognition of gain from the sale of publicly traded securities if reinvested into "specialized small business investment companies" (SSBICs).	NH adopts the federal deferral of the recognition of gain from the sale of publicly traded securities if reinvested into SSBICs.	The deferral of the recognition of gain from the sale of publicly traded securities if reinvested in SSBICs is repealed.	NH would continue to allow the deferral of the recognition of gain from the sale of publicly traded securities if reinvested into SSBICs.	NH would no longer allow the deferral of the recognition of gain from the sale of publicly traded securities if reinvested into SSBICs.	Revenue increase.			

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18	FDIC Premiums	The deductibility of FDIC premiums depends on whether the expenditure is an ordinary and necessary business expense.		FDIC premiums were generally 100% deductible as an ordinary and necessary business expense.		FDIC premiums are generally 100% deductible as an ordinary and necessary business expense.		The deduction of FDIC premiums will be limited for certain large banks (total consolidated assets in excess of \$10 billion).		Taxpayers would continue to be permitted to deduct 100% of FDIC premiums paid as an ordinary and necessary business expense.		The deduction of FDIC premiums would be limited for certain large banks.		Revenue increase.			
19	Commission and Performance-Based Employee Wages	Employee remuneration is generally deductible as an ordinary and necessary business expense.		Employee remuneration is generally deductible as an ordinary and necessary business expense. However, in the case of publicly held companies, employee remuneration in excess of \$1 million was not deductible unless it was commission or performance-based.		Employee remuneration is generally deductible as an ordinary and necessary business expense. However, employee remuneration in excess of \$1 million is not deductible by publicly held companies unless it is commission or performance-based.		Employee remuneration in excess of \$1 million that would have previously been deductible as "commission" or "performance-based" will now no longer be deductible.		NH will continue to permit the deduction of employee remuneration in excess of \$1 million if it is commission or performance-based.		NH would limit the deductibility of employee remuneration to the extent amounts paid exceed \$1 million regardless of the type of remuneration.		Revenue increase.			
20	Craft Beverage Provisions	Expenses associated with production of property are capitalized and amortized over the duration of the production period.		Interest costs associated with the production of beer, wine, and distilled spirits had to be capitalized over the duration of the production period, which included the aging process.		NH adheres to the capitalization of interest costs associated with the production of beer, wine, and distilled spirits over the production period, including the aging process.		Interest costs associated with the production of beer, wine, and distilled spirits will continue to be capitalized during the production period. However, the aging process will be excluded from the production period, thereby shortening the time period over which production costs must be capitalized (accelerates deductions).		NH would continue to include the aging process in the production period for producers of beer, wine, and distilled spirits thereby requiring interest costs to be capitalized over a longer period that includes the aging process.		NH would no longer include the aging process in the production period for producers of beer, wine, and distilled spirits, and therefore, the deduction of interest costs would be accelerated.		Revenue decrease. In theory this is a timing issue because any deduction that is accelerated would have otherwise been taken in later years. However, because of the time value of money, businesses moving, going out of business, or their NH apportionment changing, it cannot be said with any certainty that there is long-term revenue neutrality.			

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21	20% Pass Through Deduction	Federally, partnership income is passed through to the partners and reported on each partner's individual income tax return.		The income of a partnership or disregarded entity was not taxed federally. Instead, the partnership's or entity's income was passed through to the owners, reported on each owner's individual income tax return, and taxed at the individual income tax rates.		NH taxes the income of a partnership or a disregarded at the entity level. Therefore, the federal taxation of pass through income has no impact in NH.		The income of a partnership or a disregarded entity will continue to be passed through to the owners and reported on each owner's individual income tax return, and taxed at the individual income tax rates. However, to create parity with the now lower corporate income tax rates, up to 20% of certain qualified business income passed through to an owner's income tax return may be deducted from taxable income.		NH will continue to tax the income of a partnership or disregarded entity at the entity level. The 20% deduction of pass through income will not be applicable to the NH business tax return.		NH would continue to tax the income of a partnership or disregarded entity at the entity level. The 20% deduction of pass through income would not be applicable to the entity's NH tax return. Conformity does not result in NH's recognition of the 20% deduction of pass through income because NH's starting point for the calculation of taxable income occurs prior to the 20% deduction.		No impact.			
22	Sale of Partnership Interest	Federally, partnership income is passed through to the partners and reported on each partner's individual income tax return.		Partnership income passed through to a foreign individual or entity was subject to U.S. taxation if that income was "effectively connected" to the conduct of a trade or business in the U.S.		NH taxes the income of a partnership or a disregarded entity at the entity level. Therefore, the federal taxation of pass through income has no impact in NH.		Gain or loss on the sale of a partnership interest will be deemed to be "effectively connected" to the conduct of a trade or business in the U.S. if the sale of the underlying partnership assets would have been considered "effectively connected" to the conduct of a U.S. trade or business.		NH will continue to tax partnerships at the entity level and capture all partnership income for partnerships conducting business in NH, including for the sale of a partnership interest in accordance with the partnership's "step-up" election.		Because of NH's taxation of partnerships at the entity level, conformity to IRC provisions such as this, that impact the taxation of pass-through income at the partner level will not impact NH's taxation of partnerships.		No impact.			