

# New Hampshire Department of Revenue Administration

## Fiscal Note Quick Guide

17-0816

**SB 77-FN-A**, *relative to expense deductions under the business profits tax.*

Senate Ways & Means

This proposed bill repeals the New Hampshire limitation of \$100,000 for the Internal Revenue Code (IRC) Section 179 deduction. As a result, taxpayers would be permitted to use the current IRC Section 179 maximum deduction of \$500,000 for property placed in service on or after July 1, 2017.

The DRA is unable to estimate the potential decrease in state revenues that could result were the proposed bill enacted. However, the DRA has estimated what the potential fiscal impact of the proposed legislation would have been had it been implemented in a prior tax year. In this case, the DRA used all business taxpayer records that have been filed for Tax Year (TY) 2014 as of January 9, 2017 to determine the impact of the proposed legislation had it been in place for TY 2014.

New Hampshire's limitation to the IRC Section 179 deduction is reported as an "add back" or addition to gross business profits, on the taxpayer's NH return. Therefore, an increase in the allowable IRC Section 179 deduction will be reflected as a decrease to the amount of add back reported by the taxpayer. A taxpayer only makes an entry to the IRC Section 179 deduction line if their federal deduction exceeds the NH allowable deduction.

Therefore, to complete this analysis, the Department took the IRC Section 179 add back reported by each taxpayer for TY 2014, at which time, the allowable NH IRC Section 179 deduction was \$25,000. Currently, the allowable Section 179 deduction is \$100,000. Therefore, only taxpayers reporting a Section 179 Deduction in excess of \$100,000 were analyzed. The IRC Section 179 add back was then multiplied by the taxpayer's NH apportionment percentage and then multiplied by the TY 2017 tax rate of 8.2% to calculate a fiscal impact of \$9,738,669.

This figure represents the fiscal impact of increasing the allowable IRC Section 179 deduction in isolation for TY 2014, without taking into consideration the offset of deductions or credits taken by taxpayers in the year analyzed. Additionally, any portion of the taxpayer's federal IRC Section 179 deduction that is disallowed on the NH return may be deducted as regular depreciation over several years under the relevant IRC depreciation provision. However, there is no way for the Department to isolate the depreciated amount over the years compared to the initial add back of the IRC Section 179 expense. In theory the IRC Section 179 expense add back 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 NH's treatment of the IRC Section 179 deduction is simply a timing issue.

The proposed legislation lists an applicability date of July 1, 2017. As a result, the proposed legislation would require taxpayers to use different Section 179 deductions for property placed in service at different times of the year. The Department would recommend an applicability date of "property placed in service on or after January 1, 2018," which would result in the change applying to the entire tax year for the vast majority of taxpayers.