

CHAPTER Rev 1500 RAILROAD AND PRIVATE RAIL CAR COMPANY TAXATION

Statutory Authority: RSA 82

Readopt Rev 1501, effective 8-27-14 (Document #10662), to read as follows:

PART Rev 1501 DEFINITIONS

Rev 1501.01 “Arm’s length transaction” means a market related transaction between unrelated parties each acting knowledgeably and in their own best interest assuming neither party is under duress.

Rev 1501.02 “Commissioner” means the commissioner of the New Hampshire department of revenue administration or the commissioner’s designee.

Rev 1501.03 “Common equity” means the aggregate value of a firm’s common stock.

Rev 1501.04 “Current liabilities” means a company’s short term debt, accounts payable, accrued liabilities, other debts or obligations, that are due within one year, and appear on the company’s balance sheet.

Rev 1501.05 “Department” means the New Hampshire department of revenue administration, Governor Hugh J. Gallen Office Park South, 109 Pleasant Street, Concord, NH.

Rev 1501.06 “Expenses everywhere” means the expenses associated with the operation of the railroad incurred inside and outside of New Hampshire including, but not limited to:

- (a) Operating and maintenance, excluding property taxes and interest expense;
- (b) Depreciation;
- (c) Amortization;
- (d) Interest expense;
- (e) Property taxes;
- (f) Income taxes; and
- (g) Other expenses.

Rev 1501.07 “Gross railroad revenues everywhere” means gross railroad revenues received inside and outside of New Hampshire including, but not limited to:

- (a) Freight;
- (b) Passenger;
- (c) Tourist;
- (d) Repair;

(e) Rental; and

(f) Other sources.

Rev 1501.08 “Lessor” means the entity who conveys the rights of occupancy and use to others under a lease agreement.

Rev 1501.09 “Long term debt” means loans and obligations, usually with interest payments, with a maturity of longer than 1 year.

Rev 1501.10 “Municipality” means a city, town, or unincorporated place.

Rev 1501.11 “Preferred stock” means a class of stock ownership in a corporation that has a higher claim on the assets and earnings than common stock, has a dividend that must be paid out before common stock dividends, and typically does not have voting rights.

Rev 1501.12 "Private rail car company" means a corporation, company association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, owning any private rail cars operated for profit utilizing any railroad trackage in New Hampshire in the course of its regional commerce. The term does not include a railroad company owning assets in New Hampshire.

Rev 1501.13 "Railroad company" means every corporation, company association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, owning railroad company assets in New Hampshire, or operating any railroad for common carriage of passengers or freight or carrying on a public express business for compensation over the line of any railroad.

Rev 1501.14 "Railroad company assets" means tangible and intangible assets that are owned, leased, or used, such as, but not limited to:

(a) Land, buildings, improvements, all bridges, and other structures;

(b) Equipment, rail cars, and locomotives;

(c) Leasehold improvements;

(d) Railroad right of way;

(e) Track, track appurtenances, ties, ballast, construction work in progress, materials, and supplies;
and

(f) All other railroad assets.

Rev 1501.15 "Road" means the railroad right of way and everything constructed on it.

Rev 1501.16 “Tax year” means the period beginning April 1 of any year and ending March 31 of the next year, inclusive.

Rev 1501.17 “Taxpayer identification number” means:

(a) Social Security number;

- (b) Federal employer identification number;
- (c) Individual taxpayer identification number;
- (d) Preparer tax identification number; or
- (e) Department identification number.

Rev 1501.18 "Total capital structure" means the specific mixture of long term debt and equity that a company uses to finance its operations that directly affects the risk and value of the business such as, but not limited to;

- (a) Long-term debt;
- (b) Preferred stock;
- (c) Common equity;
- (d) Current liabilities; and
- (e) Total capital.

Rev 1501.19 "Total net book value everywhere" means the total original cost less depreciation and amortization, including tangible and intangible assets located inside and outside of New Hampshire. The term does not include non-railroad assets.

Rev 1501.20 "Total net book value in New Hampshire" means the total original cost less depreciation and amortization, including tangible and intangible assets located exclusively inside of New Hampshire. The term does not include non-railroad assets.

Rev 1501.21 "Total original cost everywhere" means the accounting basis for cost of acquisition of property and all tangible and intangible railroad assets by its present owner, plus the cost of any additions and betterments made by such owner, located inside and outside of New Hampshire whether or not such costs represent prudent investments.

Rev 1501.22 "Total original cost in New Hampshire" means the accounting basis for cost of acquisition of property and all tangible and intangible railroad assets by its present owner, plus the cost of any additions and betterments made by such owner, located exclusively inside of New Hampshire whether or not such costs represent prudent investments.

PART Rev 1502 RAILROAD COMPANY REPORTING REQUIREMENTS

Readopt with amendment Rev 1502.01, effective 8-27-14 (Document #10662), to read as follows:

Rev 1502.01 Railroad Company Railroad Tax Reporting Requirements.

(a) Every railroad company shall complete and file a Form PA-22, "Railroad Company Property Tax Information Update (RSA 82)", with the department on or before May 1 of each year.

(b) Form PA-22 shall be submitted with the following documents:

- (1) The railroad company's annual fiscal or calendar year report of the year preceding the tax date of April 1; and
- (2) A list of private rail car companies traveling over the railroad company's tracks located in New Hampshire during the preceding tax year, including:
 - a. The address of each private rail car company; and
 - b. The number of miles traveled by cars owned by each private rail car company.
- (c) Form PA-22 shall contain the dated signature of an authorized individual of the railroad company to certify that the information provided in the form is correct and accurate to the best of the signatory's belief and knowledge and that the signatory is authorized to submit Form PA-22 on behalf of the railroad company.

Readopt Rev 1502.02 and Rev 1502.03, effective 8-27-14 (Document #10662), to read as follows:

Rev 1502.02 Reporting the Sale of the Railroad Company. The buyer of a railroad company's property or assets shall notify the department in writing, pursuant to RSA 82:10, IV, no later than 30 days subsequent to the sale or transfer of a railroad company's property or assets, and provide:

- (a) The name of the buyer and any parent company;
- (b) Buyer's taxpayer identification number;
- (c) Buyer's address information;
- (d) Buyer's contact information;
- (e) The transfer's information for the property or assets including:
 - (1) The registry of deeds book and page for the recorded deed;
 - (2) The registry of deeds date of recording; and
 - (3) The signature date of the recorded deed;
- (f) The percent and nature of property interest transferred; and
- (g) The terms of the transaction including but not limited to:
 - (1) Name of seller;
 - (2) Sale price;
 - (3) Financing details; and
 - (4) Description of the conditions of the sale including, but not limited to:
 - a. Marketing exposure;

b. Relationship of parties; and

c. Any special circumstances relating to the transfer that do not adhere to the definition of an arm's length transaction.

Rev 1502.03 Report of Stock Ownership. Every railroad company shall provide to the department on or before July 1 of each year a sworn statement reporting the status as of April 1 of:

(a) The ownership of the stock by the residence of the owner; and

(b) The percentage of the total outstanding shares owned by residents of each town in the state.

Readopt with amendment Rev 1502.04, effective 8-27-14 (Document #10662), to read as follows:

Rev 1502.04 Railroad Directors' Return. The directors of every railroad company shall provide to the department a Form PA-23, "Railroad Directors' Return" on or before July 1, 2017 and every fifth year thereafter reporting the share of the capital expended in New Hampshire municipalities for buildings and rights-of-way.

Readopt Rev 1502.05, effective 8-27-14 (Document #10662), to read as follows:

Rev 1502.05 Railroad Company Estimated Railroad Tax. Pursuant to RSA 82:20, III, railroad companies having an annual projected tax liability in excess of \$200 shall complete and file Form DP-110-ES, "Estimated Railroad Tax" quarterly and accompanied by the estimate payment.

Readopt Rev 1502.06, effective 11-15-22 (Document #13490), to read as follows:

Rev 1502.06 Railroad Company Railroad Tax Payment Form. All railroads shall, annually on or before 30 days from the date of the notice of valuation issued by the department, make payment of any remaining balance shown to be due on the notice using the payment voucher provided on the notice.

PART Rev 1503 PRIVATE RAIL CAR COMPANY REPORTING REQUIREMENTS

Readopt with amendment Rev 1503.01, effective 8-27-14 (Document #10662), to read as follows:

Rev 1503.01 Private Rail Car Company Railroad Tax Reporting Requirements.

(a) Every private rail car company shall complete and file a Form PA-21, "Private Rail Car Property Tax Information Update (RSA 82)", with the department on or before May 1 of each year.

(b) Form PA-21 shall contain the dated signature of an authorized individual of the private rail car operator to certify that the information provided in the form is correct and accurate to the best of the signatory's belief and knowledge and that the signatory is authorized to submit Form PA-21 on behalf of the private rail car operator.

Readopt Rev 1503.02 and Rev 1503.03, effective 8-27-14 (Document #10662), to read as follows:

Rev 1503.02 Reporting the Sale of the Rail Car Company. The buyer of a rail car company's property or assets shall notify the department in writing, pursuant to RSA 82:10, IV, no later than 30 days subsequent to the sale or transfer of a rail car company's property or assets, and provide:

- (a) The name of the buyer and any parent company;
- (b) Buyer's taxpayer identification number;
- (c) Buyer's address information;
- (d) Buyer's contact information; and
- (e) The name of the seller.

Rev 1503.03 Private Rail Car Estimated Railroad Tax. Pursuant to RSA 82:20, III, a private rail car company having an annual projected tax liability in excess of \$200 shall complete and file quarterly Form DP-111-ES, "Estimated Private Rail Car Railroad Tax" accompanied by payment.

Readopt Rev 1503.04, effective 11-15-22 (Document #13490), to read as follows:

Rev 1503.04 Private Rail Car Company Railroad Tax Payment Form. All private rail car companies shall, annually on or before 30 days from the date of the notice of valuation issued by the department, make payment of any remaining balance shown to be due on the notice using the payment voucher provided on the notice.

Readopt Rev 1504, effective 8-27-14 (Document #10662), to read as follows:

PART Rev 1504 REQUEST FOR EXTENSION FOR RAILROAD TAX REPORTING

Rev 1504.01 Request For Reporting Extension.

(a) A railroad company or private rail car company may complete a Form PA-25, "Request for Extension to File Tax Information for Railroad and Private Rail Car" to request an extension of 30 days in which to file the railroad tax reporting form(s) on or before May 1.

(b) A railroad company or private rail car company may request a maximum of 2 extensions in a given tax year period.

(c) The extension shall not be valid unless confirmed in writing by the department.

(d) An extension shall be granted if:

- (1) The taxpayer was prevented by accident, mistake, or misfortune from filing;
- (2) Accounting records are incomplete; or
- (3) There was a transfer of ownership.

(e) An extension request shall be denied for:

- (1) Untimely filing of the request;
- (2) Exceeding the maximum number of extension requests allowed per tax year period;
- (3) An incomplete form; or
- (4) Not meeting the criteria in (d) above.

Readopt Rev 1505, effective 8-27-14 (Document #10662), to read as follows:

PART Rev 1505 EXCEPTIONS AND PENALTY FOR THE UNDERPAYMENT OF ESTIMATED TAX.

Rev 1505.01 Exceptions and Penalty for the Underpayment of Estimated Tax. A taxpayer, who has underpaid their estimated tax, shall complete and file Form DP-2210/2220, “Exceptions and Penalty for the Underpayment of Estimated Tax”, by providing the information as described in Rev 2905.02.

PART Rev 1506 FILING OF FORMS AND FORM AVAILABILITY

Readopt Rev 1506.01, effective 11-15-22 (Document #13490), to read as follows:

Rev 1506.01 Filing.

(a) Form DP-110-ES “Estimated Railroad Tax”, Form DP-111-ES, “Estimated Private Rail Car Railroad Tax,”, and “Form DP-2210/2220, “Exceptions and Penalty for the Underpayment of Estimated Tax” shall be:

- (1) Mailed to:

New Hampshire Department of Revenue Administration
Taxpayer Services Division
PO Box 637
109 Pleasant Street
Concord, NH 03302-0637; or

- (2) Filed electronically through the Granite Tax Connect web portal located at www.revenue.nh.gov/gtc.

(b) Form PA-21, “Private Rail Car Property Tax Information Update RSA 82”, Form PA-22, “Railroad Company Property Tax Information Update RSA 82”, Form PA-23, “Railroad Director’s Return”, Form PA-25, “Request for Extension to File Tax Information for Railroad and Private Rental Car”, and report of stock ownership shall be:

- (1) Mailed to:

New Hampshire Department of Revenue Administration
Municipal and Property Division Railroad Tax
PO Box 487
109 Pleasant Street

Concord, NH 03302-0487; or

(2) Filed electronically through the Granite Tax Connect web portal located at www.revenue.nh.gov/gtc.

Readopt Rev 1506.02, effective 8-27-14 (Document #10662), to read as follows:

Rev 1506.02 Form Availability. All forms shall be available by:

- (a) Accessing them on the department's web site at <http://www.revenue.nh.gov/>;
- (b) Calling the department's forms line at (603) 230-5950;
- (c) Writing to the department at:

New Hampshire Department of Revenue Administration
Municipal and Property Division
PO Box 487
Concord, NH 03302-0487; or

- (d) Requesting them in person at:

New Hampshire Department of Revenue Administration
Governor Hugh Gallen State Office Park
109 Pleasant Street
Concord, NH 03301

Readopt Rev 1507, effective 8-27-14 (Document #10662), to read as follows:

PART Rev 1507 APPEALS OF RAILROAD TAX VALUATION

Rev 1507.01 Appeal of Railroad Tax.

(a) Pursuant to RSA 82:16-a, and RSA 21-J:28-b I, any railroad company or private rail car company against whom the department has assessed a railroad tax, may petition the department for reconsideration of such assessment within 60 days after notice of the assessment.

(b) A petition for reconsideration of the railroad tax assessed shall be filed pursuant to Rev 200 with:

New Hampshire Department of Revenue Administration
Hearings Bureau
PO Box 1467
Concord, NH 03302-1467.

(c) After receipt of the presiding officer's and the commissioner's notice of final decision, a petitioner may, within 15 days of service of the final decision, file a motion for reconsideration.

(d) Within 30 days after the notice of final decision or notice of reconsideration of final decision, a petitioner may appeal in writing to the New Hampshire board of tax and land appeals or superior court.

APPENDIX

Rule	Specific State Statute the Rule Implements
Rev 1501.01	RSA 82:10, IV
Rev 1501.02	RSA 21-J:13, I
Rev 1501.03	RSA 82:10, I(a); RSA 82:10-a
Rev 1501.04	RSA 82:10, I(a)
Rev 1501.05	RSA 21-J:13, I
Rev 1501.06	RSA 82:10, I(a)
Rev 1501.07	RSA 82:10, I(a)
Rev 1501.08	RSA 82:10, I(a)
Rev 1501.09	RSA 82:10, I(a)
Rev 1501.10	RSA 21-J:13, I
Rev 1501.11	RSA 82:10, I(a)
Rev 1501.12	RSA 82:10, I(a); RSA 82:10, IV
Rev 1501.13	RSA 82:10, I(a); RSA 82:10, IV; RSA 82:10-a; RSA 82:32
Rev 1501.14	RSA 82:10, I(a); RSA 82:10, IV
Rev 1501.15	RSA 82:10, I(a)
Rev 1501.16	RSA 82:2; RSA 82:10; RSA 82:10-a
Rev 1501.17	RSA 21-J:13, I; RSA 21-J:1, II(a)
Rev 1501.18	RSA 82:10, I(a)
Rev 1501.19	RSA 82:10, I(a)
Rev 1501.20	RSA 82:10, I(a)
Rev 1501.21	RSA 82:10, I(a)
Rev 1501.22	RSA 82:10, I(a)
Rev 1502.01	RSA 82:10, I(a)
Rev 1502.02	RSA 82:10, IV
Rev 1502.03	RSA 82:10-a
Rev 1502.04	RSA 82:32
Rev 1502.05	RSA 82:10, II; RSA 82:20
Rev 1502.06	RSA 82:20
Rev 1503.01	RSA 82:10, I(a)
Rev 1503.02	RSA 82:10, IV
Rev 1503.03	RSA 82:10, II; RSA 82:20
Rev 1503.04	RSA 82:20
Rev 1504.01	RSA 82:10, I(b)
Rev 1505.01	RSA 82:10, II; RSA 82:20
Rev 1506.01	RSA 21-J:13, I; RSA 82:10, I(a); RSA 82:10-a; RSA 82:32
Rev 1506.02	RSA 21-J:13, I
Rev 1507.01	RSA 21-J:28-b, I; RSA 82:16-a; RSA 82:17; RSA 83:16-a