

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

22-0159

HB 121-FN, *relative to worldwide combined reporting for unitary business under the business profits tax.*

House Ways & Means

Worldwide Combined Reporting under BPT

The proposed legislation changes the water's edge method of taxation for unitary business groups under the Business Profits Tax (BPT) to worldwide combined reporting, effective July 1, 2023, for taxable periods beginning after December 31, 2023. A unitary business group under worldwide combined reporting shall include the business activities of its foreign affiliates on its BPT return.

Under current law the foreign affiliates would be subject to BPT separately from the combined group if that foreign affiliate by itself is engaged in business activity in New Hampshire.

Under current law BPT is also imposed on foreign dividends paid by foreign subsidiaries to United States parent companies, and for taxable periods beginning on or after January 1, 2020, on global intangible low-taxed income (GILTI).

The fiscal impact of the proposed legislation is indeterminable. The Department cannot estimate the BPT liability for a unitary business group under worldwide combined reporting because it does not know their combined net income, the additions and deductions provided in RSA 77-A:4 for members of the group, or the group's apportionment percentage as provided in RSA 77-A:3. There would be "winners and losers" depending on the proposed legislation's effects on the tax base and apportionment.

The Department anticipates practical administrative constraints, such as obtaining access to the books and records of foreign parent companies, converting foreign currency-denominated assets into their dollar equivalent, and determining taxable business profits without starting from federal taxable income.

Since the change would first apply to taxable periods beginning after December 31, 2023, the fiscal impact will begin occurring when calendar taxpayers make estimated payments in April and June of fiscal year 2024.