

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

22-2291

HB 1221-FN, *relative to the rates of the business profits tax and the business enterprise tax.*

House Ways & Means

Section 1 of this proposed legislation reduces the Business Profits Tax (BPT) rate from 7.6% to 7.5% for taxable periods ending on or after December 31, 2023. Section 2 of this proposed legislation reduces the Business Enterprise Tax (BET) rate from 0.55% to 0.50% for taxable periods ending on or after December 31, 2023.

To calculate FY 2023 thru FY 2025 revenues under current law as well as the proposed rate changes, the DRA used FY 2021 cash basis revenue, less the anomalous receivable revenue, reported by the Department of Administrative Services in the Revenue Focus, of \$982,527,377 for the starting point (BET revenue \$330,088,540 and BPT revenue \$652,438,837).

As reflected in the chart below, the current law tax rates for Tax Years 2019 – 2021 included in FY 2021 revenue are 7.7% for BPT and 0.60% for BET. The Laws of 2021, HB 2 (Chapter 91, Section 109-111) reduces the BET rate from 0.6% to 0.55% and the BPT rate from 7.7% to 7.6% for taxable periods ending on or after December 31, 2022.

The DRA did an analysis based on prior years to break out the split of tax year revenue to fiscal year revenue. The split breakdown used for FY 2021 and forward revenue was 15% attributable to tax year 2019, 63% attributable to tax year 2020, and 22% attributable to tax year 2021.

Using the cash basis revenue, less the anomalous receivable revenue, reported by the Department of Administrative Services in the Revenue Focus above, FY 2021 had a taxable base of \$55,014,756,648 for BET and \$8,473,231,647 for BPT with a total Business Tax base of \$63,487,988,295 to use for the starting point.

The BPT and BET rate changes contained in the Laws of 2021, HB 2 (Chapter 91, Section 109-111) are then applied to calculate an estimate of revenue under current law, as shown in the second columns of the tables below. The BPT and BET rate changes contained in this proposed legislation are then applied to calculate an estimated year-over-year and cumulative impact, as shown in the third columns of the tables below.

Current Law Rates and Split

Fiscal Year	Tax Year	% Applicable to		
		Tax Year	BET Rates	BPT Rates
Fiscal Year 2022	Tax Year 2020	15%	0.600%	7.7%
	Tax Year 2021	63%	0.600%	7.7%
	Tax Year 2022	22%	0.550%	7.6%
Fiscal Year 2023	Tax Year 2021	15%	0.600%	7.7%
	Tax Year 2022	63%	0.550%	7.6%
	Tax Year 2023	22%	0.550%	7.6%
Fiscal Year 2024 and forward	Tax Year 2022 and forward	100%	0.550%	7.6%

Proposed Legislation Rates and Split

The proposed legislation would affect Tax Year 2023 and forward as indicated in dark blue below during Fiscal Year 2023 and forward.

Fiscal Year	Tax Year	% Applicable to Tax		
		Year	BET Rates	BPT Rates
Fiscal Year 2021	Tax Year 2019	15%	0.600%	7.7%
	Tax Year 2020	63%	0.600%	7.7%
	Tax Year 2021	22%	0.600%	7.7%
Fiscal Year 2022	Tax Year 2020	15%	0.600%	7.7%
	Tax Year 2021	63%	0.600%	7.7%
	Tax Year 2022	22%	0.550%	7.6%
Fiscal Year 2023	Tax Year 2021	15%	0.600%	7.7%
	Tax Year 2022	63%	0.550%	7.6%
	Tax Year 2023	22%	0.500%	7.5%
Fiscal Year 2024	Tax Year 2022	15%	0.550%	7.6%
	Tax Year 2023	63%	0.500%	7.5%
	Tax Year 2024	22%	0.500%	7.5%
Fiscal Year 2025 and forward	Tax Year 2023 and forward	100%	0.500%	7.5%

Fiscal Impact of Rate Changes by Fiscal Year

Business Enterprise Tax - Static Analysis using FY 2021 Revenues			
Fiscal Year	FY 2021 Revenues with Current Law's Decreased TY22 Rates	FY 2021 Revenues with Proposed Legislation's Decreased TY23 Rates	Cumulative Fiscal Impact (Proposed Legislation Compared to Current Law)
2023	\$306,707,268	\$300,655,645	(\$6,051,623)
2024	\$302,581,162	\$279,199,890	(\$23,381,272)
2025	\$302,581,162	\$275,073,783	(\$27,507,379)

Business Profits Tax - Static Analysis using FY 2021 Revenues			
Fiscal Year	FY 2021 Revenues with Current Law's Decreased TY22 Rates	FY 2021 Revenues with Proposed Legislation's Decreased TY23 Rates	Cumulative Fiscal Impact (Proposed Legislation Compared to Current Law)
2023	\$645,236,590	\$643,372,479	(\$1,864,111)
2024	\$643,965,605	\$636,763,358	(\$7,202,247)
2025	\$643,965,605	\$635,492,374	(\$8,473,231)

Total Business Taxes - Static Analysis using FY 2021 Revenues			
Fiscal Year	FY 2021 Revenues with Current Law's Decreased TY22 Rates	FY 2021 Revenues with Proposed Legislation's Decreased TY23 Rates	Cumulative Fiscal Impact (Proposed Legislation Compared to Current Law)
2023	\$951,943,858	\$944,028,124	(\$7,915,734)
2024	\$946,546,767	\$915,963,248	(\$30,583,519)
2025	\$946,546,767	\$910,566,157	(\$35,980,610)

Reducing the BET rate will also reduce the BET credit available to offset the BPT, increasing BPT revenue. Not all taxpayers have a BPT liability to be offset by a BET credit and not all taxpayer's BET liability exceeds the BPT credit. In those situations, the BET loss in revenue is not offset by an increased BPT liability. However, if a taxpayer's BPT liability exceeds the BET liability, the estimated BPT loss will be reduced by the reduction to the BET credit.

The proposed legislation would not result in any additional administrative costs that could not be absorbed in the DRA operating budget.