

## New Hampshire Department of Revenue Administration

### Fiscal Note Quick Guide

24-2541.1

**HB 1533**, *relative to the safe harbor compensation amount under the business profits tax.*

Ways and Means

**This bill increases the amount of the safe harbor provision for compensation under the business profits tax and provides for a biennial increase in future years**

The proposed legislation amends the Business Profits tax RSA 77-A:4, III(c) by increasing the recordkeeping safe harbor compensation deduction from \$75,000 to \$100,000 and thereafter, for tax years beginning on or after January 1, 2025, requiring the DRA to adjust the deduction biennially rounding to the nearest \$1,000 based on the 2-year (24-month) percentage change in the Consumer Price Index (CPI) for All Urban Consumers, Northeast Region as published by the Bureau of Labor Statistics, United States Department of Labor using the amount published for the month of June in the year prior to the start of the tax year.

The proposed legislation is effective for taxable periods ending on or after December 31, 2024.

The DRA would be responsible for updating all necessary tax return forms and electronic management systems related to this proposed legislation, which would not result in any additional administrative costs that could not be absorbed in the DRA operating budget.

While the DRA is unable to determine if taxpayers have additional compensation expenses to claim as a result of this proposed amendment, any additional expenses claimed above the current \$75,000 limitation shall result in a decrease to the General Fund and Education Trust Fund starting in FY 2025.

Assuming those who claimed the recordkeeping safe harbor deduction of \$75,000 elect to increase that deduction to \$100,000, the DRA can estimate the fiscal impact. The DRA currently captures the safe harbor deduction that is allowed and based on the latest full year of tax data (TY 2021), that amount is \$8.8M when recalculated to the current BPT tax rate of 7.5%, effective for tax years ending on or after December 31, 2023.

Using the same full year tax data (TY 2021) and increasing the reasonable compensation recordkeeping safe harbor deduction to \$100,000, the DRA can estimate a tax liability of \$7.7M for tax years ending December 31, 2024.

The estimated decrease of \$1.1 million in BPT revenue to the General and Education Trust Funds does not include the apportionment methodology that transitioned to single sales factor (SSF) apportionment after TY2021 for taxable periods ending on or after December 31, 2022, and the net operating loss deduction moving to single apportionment (apportioned only in the year the loss was generated).

The estimated reductions per tax year resulting from this proposed legislation are then applied according to the timing of revenue in the chart below to calculate an estimated yearly impact. Historically, the split breaks down to 15% attributable to two prior years, 63% attributable to the prior year, and 22% attributable to the current year. This proposed legislation would apply to revenue attributable to TY 2024 and forward and assumes no change in taxpayer behavior and does not include any adjustments based on the 2-year (24-month) percentage change in the Consumer Price Index for All Urban Consumers, Northeast Region as published by the Bureau of Labor Statistics.

Because of the timing of when this proposed legislation may be passed, DRA does not expect that the first two TY 2024 estimated tax payments would reflect the increased deduction. Therefore, DRA does not expect a fiscal impact in FY 2024.

<b>Fiscal Year</b>	<b>Tax Year</b>	<b>% Applicable to Tax Year</b>	<b>Current Law Safe Harbor Comp. Deduct.</b>	<b>Proposed Law Safe Harbor Comp. Deduct.</b>
Fiscal Year 2025	Tax Year 2023	15%	\$75,000	\$75,000
	Tax Year 2024	63%	\$75,000	\$100,000
	Tax Year 2025	22%	\$75,000	\$100,000
Fiscal Year 2026 and forward	Tax Year 2024 and forward	100%	\$75,000	\$100,000

### **Fiscal Impact by Fiscal Year**

#### **Business Profits Tax- Static Analysis Using Tax Year 2021 Taxpayers Claiming \$75,000 Compensation Deduction**

<b>Fiscal Year</b>	<b>Current Law Revenue Using TY2021 Net Taxable Income</b>	<b>Estimated Revenue with Proposed Legislation</b>	<b>Estimated Fiscal Impact Per Year</b>	<b>Cumulative Fiscal Impact</b>
2025	\$7,500,000	\$6,500,000	\$1,000,000	\$1,000,000
2026 and forward	\$8,800,000	\$7,700,000	\$1,100,000	\$2,100,000