

**New Hampshire Department of Revenue Administration  
109 Pleasant Street, Concord, NH 03301**

**TECHNICAL INFORMATION RELEASE  
TIR 2010-009 Date August 3, 2010**

A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.). Questions should be directed to Central Taxpayer Services at (603) 271-2191.

**Special Rule for Certain IRC §1031 Like-Kind Exchanges**

The Legislature passed and the Governor signed Senate Bill 483 (Chapter 286, Laws of 2010), which amends the New Hampshire Business Profits Tax, RSA Chapter 77-A, to create a special rule for certain exchanges of like-kind property. The special rule allows a business organization engaged in an Internal Revenue Code §1031 Like-Kind Exchange to utilize a single member limited liability company, revocable trust or other entity disregarded for federal tax purposes as the recipient entity. See RSA 77-A:4-b, I. Under the special rule, the recipient entity takes the basis of the relinquished property as held by the parent organization as computed for federal income tax purposes. The new law specifically recognizes New Hampshire's separate entity taxation and clarifies that the special rule shall not apply to other taxes or transactions subject to taxation under the New Hampshire Business Profits Tax. See RSA 77-A:4-b, II.

The application of this new law is retroactive to January 1, 2004. Therefore, the Audit Division will be revising any tax notices already issued to reflect the change in the law. Likewise, this will no longer be an issue in any current audit. Any taxpayer who is entitled to a refund as a result of the passage of Senate Bill 483 may request a refund by writing to the New Hampshire Department of Revenue Administration, stating the specific grounds upon which the request is made. See RSA 21-J:28-a. The request for refund must be made within three (3) years from the due date of the tax or within two (2) years from the date the tax was paid, whichever is later. See RSA 21-J:29, I (b). Please indicate the names of the entities involved in the transaction and their FEIN, SSN or DIN.

Send refund requests to: N.H. Department of Revenue Administration, Audit Division,  
P.O. Box 457, Concord, NH 03302-0457.

***Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the N.H. Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301 or by contacting them at (603) 271-2191.***