

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

**TECHNICAL INFORMATION RELEASE
TIR 2016-003 Date June 23, 2016**

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 Tax Services at (603) 230-5920.

2016 Business Tax Law Changes

The purpose of this Technical Information Release (TIR) is to provide taxpayers and tax practitioners with a convenient reference guide to several of the major Business Profits Tax (BPT) and Business Enterprise Tax (BET) (collectively “Business Tax”) law changes that were made during the 2016 Legislative Session by the New Hampshire General Court. This TIR is for informational purposes only and is intended to provide a summary or synopsis of enacted legislation. It is not intended to be relied upon as full and complete text or as a substitute for the actual state law. Please refer to the applicable statute and rules to determine how this information applies to specific persons or situations.

BUSINESS TAX RETURN DUE DATES

House Bill 1290 (Chapter 66, Laws of 2016) amends RSA 77-A:6, I of the BPT and RSA 77-E:5, I of the BET, to provide that partnerships shall file their return on or before the 15th day of the third month following the expiration of the taxable period and that all other business organizations, including corporations, shall file their return on or before the 15th day of the fourth month following the expiration of the taxable period.

In July of 2015, the President signed into law Public Law 114-41, which alters the federal due dates for partnership and corporate tax returns. House Bill 1290 makes the New Hampshire Business Tax due dates consistent with those recent changes to the federal due dates for partnership and corporate tax returns and is applicable to taxable periods beginning after December 31, 2015.

For taxable periods beginning on or before December 31, 2015, RSA 77-A:6, I and RSA 77-E:5, I provide that corporations must file their Business Tax returns on or before the fifteenth day of the third month following expiration of the taxable period and all other business organizations must file their Business Tax returns on or before the fifteenth day of the fourth month following expiration of the taxable period.

The due dates for all other BPT and BET filings, such as payments of estimated tax, remain unchanged.

INTERNAL REVENUE CODE CONFORMITY

Senate Bill 239 (Chapter 295, Laws of 2016) amends RSA 77-A:1, XX to conform the BPT to the Internal Revenue Code (IRC) of 1986 in effect on December 31, 2015 for taxable periods beginning on or after January 1, 2017, while decoupling from IRC §§ 168(k) (bonus depreciation), 199 (domestic production activities), and 181 (movie production expenses). For taxable periods beginning prior to January 1, 2017, the BPT references the IRC of 1986 in effect on December 31, 2000.

Additionally, SB 239 amends RSA 77-A:3-a to provide that a taxpayer may calculate expense deductions pursuant to IRC § 179 not to exceed \$100,000 for property placed in service on or after January 1, 2017. For property placed in service prior to January 1, 2017, the maximum IRC § 179 deduction is \$25,000.

Lastly, SB 239 enacts RSA 21-J:3, XXXIII, which requires the Commissioner of the Department of Revenue Administration to file a report by March 31 of each year informing the Senate and House Ways & Means Committees of any changes to the IRC, related Treasury Regulations, and administrative rulings during the prior calendar year which would impact New Hampshire. The first such report will be filed by the Commissioner not later than March 31, 2017.

SALE OR EXCHANGE OF A BUSINESS

Senate Bill 342 (Chapter 300, Laws of 2016) repeals and reenacts RSA 77-A:4, XIV relative to how a business organization treats the sale or exchange of an ownership interest which results in an increase in basis of assets under Federal law.

Under current law, when an interest or beneficial interest in a business organization is sold or exchanged, the business organization must make an addition to gross business profits of an amount equal to the net increase in the basis of all underlying assets transferred or sold.

SB 342 eliminates the requirement that a business organization make an addition to gross business profits when an interest or beneficial interest in the business organization is sold or exchanged in an amount equal to the net increase in the basis of all underlying assets. Accordingly, SB 342 amends RSA 77-A:4, XIV to require that any portion of the annual depreciation or amortization attributable to the increase in basis from the sale of an ownership interest federally shall be added back to the gross business profits of the business organization and that the gain or loss on the sale or disposition of the asset shall be calculated without regard to the basis increase recognized federally.

However, SB 342 amends RSA 77-A:4, XIV to provide that the business organization may make an irrevocable election to recognize the basis increase for any particular sale or exchange. If the irrevocable election is made, the business organization must make an addition to gross business profits in an amount equal to the net increase in the basis of its assets in the tax period when the sale or exchange of the ownership interest occurs. The business organization may then deduct against gross business profits any annual depreciation or amortization attributable to the increased basis. If this election is made, the gain or loss on the sale or disposition of an asset shall be calculated taking into consideration the basis increase.

Additional information about the BPT can be obtained by referencing RSA 77-A and N.H. Code of Admin. Rules, Rev 300 and additional information about the BET can be obtained by referencing RSA 77-E and N.H. Code of Admin. Rules, Rev 2400, which can both be accessed through the Department's [website](#).

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) 230-5000.