

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

**TECHNICAL INFORMATION RELEASE
TIR 2019-005 Date: August 27, 2019**

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 Taxpayer Services at (603) 230-5920.

2019 Legislative Session in Review

The purpose of this Technical Information Release (TIR) is to provide taxpayers and tax practitioners with a convenient reference guide of relevant statutory changes made during the 2019 Legislative Session by the New Hampshire General Court impacting various taxes administered by the New Hampshire Department of Revenue Administration (DRA). 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 a 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

SB 270 (Chapter 247) establishes a tax credit against the Business Profits Tax (BPT) for qualifying charitable donations to career and technical education (CTE) centers, administered by the New Hampshire Department of Education. The maximum amount of tax credits issued to all donors for any state fiscal year will be \$500,000. A taxpayer may only use the credit in the tax year during which it made the donation, and only in an amount up to 25% of the taxpayer's BPT due before credits. The program is scheduled to be repealed after fiscal year 2022.

Statute Added: RSA 188-E:9-a

Statute Amended: RSA 77-A:5

Effective Date: July 1, 2019

MEALS AND ROOMS (RENTALS) TAX

SB 134 (Chapter 304) simplifies, clarifies, and modernizes the Meals and Rooms (Rentals) (M&R) Tax Law as it relates to meals. The changes are primarily editorial in nature to make the law easier to read and understand. There are relatively few substantive changes which address regular compliance issues, including: (1) modifications to meals-related definitions, particularly the definitions of "meal" and "restaurant," as well as "taxable meal," along with new definitions, to clarify the taxability of food generally and meals provided by nonprofit organizations; (2) a penalty provision (after a warning, a license revocation, suspension, or denial) for violating the requirement that a license "shall be conspicuously posted in a public area upon the premises"; (3)

the DRA may require a surety bond or cash from an operator without an initial hearing, in order to protect state revenues; and (4) the deadline for an operator to appeal a license revocation, suspension, or denial to the Board of Tax and Land Appeals or Superior Court will be extended from 10 days to 15 days. This bill does not affect the taxability of meals.

Statute Amended: RSA 78-A

Effective Date: January 1, 2020

REAL ESTATE TRANSFER TAX

HB 600 (Chapter 136) adds an exception to the Real Estate Transfer Tax (RETT) for transfers of interests in certain low-income housing projects subject to federal, state, or local land use restriction and rental housing affordability covenants which limit allowable rents charged to individuals or families, provided that the RETT was paid when the real property title was acquired.

Statute Amended: RSA 78-B:2

Effective Date: July 1, 2019

TIMBER TAX

SB 21 (Chapter 84) clarifies that public notice of an intent to cut timber is required only when the intent to cut will be signed by the assessing officials outside a public meeting. The notice must be posted before the intent to cut is signed for at least 24 hours, excluding Sundays and holidays.

Statute Amended: RSA 79:10, I(b)

Effective Date: August 17, 2019

TOBACCO TAX

HB 595 (Chapter 178) simplifies, clarifies, and modernizes the Tobacco Tax law. The changes are primarily editorial in nature to make the law easier to read and understand. There are relatively few substantive changes which address regular compliance issues, including: (1) the wholesaler required to collect and pay the Tobacco Tax will be the wholesaler who ships or transports the tobacco products to a retailer in this state; (2) every wholesaler will be required to keep a sufficient number of recently purchased stamps on hand to pay the Tobacco Tax due on all cigarettes present at any premises in this state, and to file a monthly accounting of cigarettes and little cigars sold in packages of other than 20 or 25 and other tobacco products transferred to and from any premises in this state; and (3) the DRA may suspend or revoke licenses to retailers, and may assess an administrative fine in addition to or instead of a period of suspension. This bill does not affect the taxability of tobacco products.

Statute Amended: RSA 78

Effective Date: January 1, 2020

MUNICIPAL AND PROPERTY

HB 128 (Chapter 76) establishes a committee to study the use of property tax credits and exemptions to recognize the service of New Hampshire veterans. The committee will review the eligibility criteria for each property tax credit or exemption available to veterans in New Hampshire, the amount of the credit or exemption, the cost to each municipality of adopting or granting the credit or exemption, and the number of veterans who benefit.

Statute Amended: N/A

Effective Date: June 18, 2019

HB 464 (Chapter 327) changes the definitions of “solar energy system” and “wind-powered energy systems” for purposes of the local option property tax exemptions for solar or wind-powered energy systems, in a municipality that adopts or re-adopts the exemption on or after January 1, 2020. This bill also enables a city or town to adopt a property tax exemption for electric energy storage systems.

Statutes Added: RSA 72:84-86

Statutes Amended: RSA 21-J:3, XIII; RSA 72:27-a, I; RSA 72:36, I; RSA 72:61; and RSA 72:65

Effective Date: October 15, 2019

HB 540 (Chapter 32) authorizes county commissioners to establish a redevelopment district in an unincorporated place and, with the approval of a majority of the county convention present and voting, to issue bonds by the county, the source for repayment of which will be limited to the assessment revenues generated by the redevelopment district. The incremental increase in value of any project located in a redevelopment district will not be considered in the apportionment of county taxes to the unincorporated place, for so long as any bonds issued remain outstanding.

Statute Added: RSA 33:20

Effective Date: May 15, 2019

HB 635 (Chapter 266) authorizes the governing body of a municipality to enter into a voluntary agreement with a combined heat and power agricultural facility to make a payment in lieu of taxes, after a public hearing. A combined heat and power agricultural facility is a facility that engages in commercial agricultural production and uses an on-site combined heat and power system.

Statute Added: RSA 72:74-a

Statutes Amended: RSA 21-J:3, XIII and RSA 75:1

Effective Date: April 1, 2019

HB 700 (Chapter 117) establishes a uniform methodology for the valuation for local property tax purposes of utility company distribution assets. The methodology does not apply to generation or transmission assets. For electric and gas utility company distribution assets, excluding land rights, the value is a weighted average of 70 percent of each asset’s original cost and 30 percent of each asset’s net book cost. For water utility company distribution assets, it is 25 percent of each asset’s original cost and 75 percent of each asset’s net book cost. For the use of public rights of way and private easements, the value is increased by 3 percent. Every utility company will be required to

report by May 1 of each year (beginning May 1, 2020) to both the municipality and DRA, the original cost and net book value of each category of assets located within the municipality. The methodology will be phased in over a 5-year period. The value in the first year (the tax year effective April 1, 2020) will be a weighted average of 80 percent of the final locally assessed value for the 2018 tax year and 20 percent of the value determined using the methodology. The value determined using the methodology will be weighted an additional 20 percent in each subsequent year until the methodology is fully implemented in the fifth year. The methodology does not affect the determination of value in any litigation pending on the effective date of this bill.

Statutes Added: RSA 72:8-d and RSA 72:8-e

Statutes Amended: RSA 75:1 and RSA 79-C:3, II

Effective Date: August 20, 2019

SB 22 (Chapter 221) modifies the local option property tax exemption for new commercial or industrial construction. This bill provides that, once adopted by the legislative body, the percentage rate and duration of the exemption will be granted by the governing body on a case-by-case basis (rather than uniformly to all projects), based on the public benefit to be generated by the commercial or industrial project. As part of the adoption of the exemption, the legislative body must define “public benefit” and specify whether the exemption will be made available to all properties within the municipality or to a specific group of parcels.

Statutes Amended: RSA 72:81 and RSA 72:82, I

Effective Date: July 12, 2019

SB 101 (Chapter 191) clarifies the procedures for county audits and rearranges provisions concerning the powers of the county convention to conduct performance or forensic audits.

Statutes Added: RSA 28:3-b and RSA 28:3-c

Statutes Amended: RSA 24:13, II and II-a; and RSA 28:3-a

Statute Repealed: RSA 24:26

Effective Date: September 8, 2019

SB 104 (Chapter 192) clarifies the procedures for a moderator to postpone the deliberative or business session or the official ballot voting day of a town meeting. The moderator may postpone any session if the National Weather Service has issued a weather event warning applicable to the town on the date of the session which the moderator reasonably believes may cause the roads to be hazardous or unsafe, or if an accident, fire, natural disaster, or other emergency occurs which the moderator reasonably believes may render use of the meeting location unsafe. To the extent practical, prior to making a decision to postpone, the moderator must consult with the governing body, the clerk, and certain other town officials as appropriate for the circumstances. If the official ballot voting day is postponed, it must be rescheduled to the Tuesday 2 weeks after the original date of the session. In instances when a ballot to be used at an election contains questions that will be voted on simultaneously by more than one town, the election may be postponed only if a majority of the moderators vote to postpone. The postponement process for town elections also applies to city elections.

Statutes Added: RSA 652:16-e; RSA 652:16-f; RSA 652:16-g; RSA 669:1-a; RSA 670:1-a; and RSA 671:22-a

Statutes Amended: RSA 40:4, II; RSA 40:13, VII; RSA 44:11; RSA 657:1, I; RSA 657:1, II(a)-(c); and RSA 669:1

Effective Date: July 10, 2019

SB 154 (Chapter 237) establishes a committee to study and make recommendations for legislation to create tax incentives for promoting development of dense workforce housing in community centers.

Statute Amended: N/A

Effective Date: July 12, 2019

ADMINISTRATIVE

SB 242 (Chapter 280) addresses concerns relating to the issues raised in the United States Supreme Court's decision in *South Dakota v. Wayfair, Inc.* In the wake of *Wayfair*, it is possible that states, or localities within those states, with sales and use taxes, will require New Hampshire businesses that do not have a physical presence but remotely sell goods in those states or localities to collect and remit their sales and use taxes. This bill requires a state or locality that seeks to determine or impose a sales or use tax liability or collection obligation on a New Hampshire business to first provide written notice to the New Hampshire Department of Justice (DOJ) at least 45 days before taking any action; encourages New Hampshire businesses to notify the DOJ whenever a state or locality requests information for use in determining a sales or use tax liability or collection obligation; requires the DOJ to develop a system providing for voluntary information sharing and collaboration with New Hampshire businesses, including by transmitting periodic bulletins in collaboration with the DRA; and establishes a commission to monitor actions concerning the imposition of collection obligations on New Hampshire businesses. The members of the commission include the commissioner of the DRA, or designee.

Statute Added: RSA 78-E

Effective Date: July 19, 2019

MISCELLANEOUS

SB 29 (Chapter 138) establishes a commission to study acts of violence by the public against New Hampshire state employees and to recommend processes and policies to reduce future incidents of violence in the workplace. The members of the commission include the commissioner of the DRA, or designee.

Statute Added: RSA 273:28-a

Effective Date: June 25, 2019

SB 98 (Chapter 230, Sections 5-10) establishes a committee to study the effects of past New Hampshire trust code legislation. The committee's duties include investigating whether past New Hampshire trust legislation is having its desired effect; and whether there is a state revenue

opportunity to be generated from the assets which reside within New Hampshire chartered trust companies to offset the cost of administration by the state of New Hampshire.

Statute Amended: N/A

Effective Date: July 12, 2019

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) 230-5920.