STATE OF NEW HAMPSHIRE

2007 Tax Expenditure Report

Prepared By

The Department of Revenue Administration

January 31, 2008
In accordance with RSA 77-A:5-a

For

The New Hampshire General Court

- and -

His Excellency, Governor John Lynch
Governor of New Hampshire

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TAX EXPENDITURE REPORT

I. INTRODUCTION

This is the seventeenth year of publication of The Report on New Hampshire Tax Expenditures, required pursuant RSA 77-A:5-a. The legislature "expends" funds in two ways; (1) via actual appropriations (expenditures), and (2) by foregoing the collection of taxes that it has the statutory authority to collect. Tax expenditures have been characterized by the New Hampshire Supreme Court as " . . . *all exemptions from taxation are practically equivalent to a direct appropriation*." Canaan v. District, 74 N.H. 517, 537 (1908). This document details tax expenditures. Tax expenditures may be either tax credits or tax exemptions.

This seventeenth report is based on tax returns filed in calendar year 2007. The calendar year closely approximates the way most taxpayers file and it is only by the filing of a return that the actual utilization of credits and deductions is quantified. This format also provides the most current information and, thus, gives some insight into the next fiscal year.

This report is a compilation of data contained on the Department of Revenue Administration's Tax Information Management System (TIMS), a computer system in operation since January 1, 1991. The numbers have been rounded to the nearest thousand dollars to enhance visual clarity. The information presented is not a statistical sample but rather a summary of the information reported on returns filed within the period. The purpose of this report is not to single out any group of taxpayers, nor to comment on the correctness or appropriateness of any credit, but rather, to provide decision makers with the verifiable facts as to the "cost" of the various credits. I encourage readers of this report to provide comments and suggestions for future reports.

II. DEFINITION OF TERMS

The following terms used in this report have the meaning ascribed below:

A. Business profits tax liability or tax liability means the amount of tax shown to be due prior to the application of any payments or credits.

B. CDFA means the Community Development Finance Authority.

C. Credit available for use means the total amount of credit that could have been used except for a statutory limit. Statutory credit limits are:

1. RSA 77-A:5 limits the sum of all credits to the amount of the business profits tax liability, before the application of any credit; and

2. Credits and other expenditures not used expire unless specifically allowed to be carried forward. Credits and expenditures that do not expire are noted in the report.

D. Department means the NH Department of Revenue Administration.

E. Tax returns filed with the Department in 2007 means all tax returns filed with the Department from January 1, 2007 through December 31, 2007 without regard to the tax period for which the returns were filed. Amended returns and audit adjustments are not included in this report unless the original return was filed in calendar year 2007. Therefore, this report spans part of two state fiscal years as graphed below:

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           Jan 1, 2007                     Dec 31, 2007
                  |Basis of tax expenditure report|
Jul 1, 2006               Jun 30, 2007               Jun 30, 2008
      |  State Fiscal Year 2007  |  State Fiscal Year 2008 |
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F. TIMS means the Tax Information Management System, a computerized database, currently operated by the Department of Revenue Administration.

III. GENERAL INFORMATION

The first part of this report covers three Business Profits Tax credits, provided under RSA 77-A:5. These credits may be categorized into two groups as follows:

Group A Credits provided for other New Hampshire taxes paid:

1. Insurance Tax, RSA 400-A;

Group B Credits provided for economic activities:

2. Investment Tax Credit - New Hampshire Community Development Finance Authority, RSA 162-L:8; and

3. Community Reinvestment and Opportunity Zones Credit, RSA 162-N:7.

4. Research and Development Tax Credit, RSA 77-A:5, XIII

Additional Appendices cover the following areas:

1. Net Operating Losses.

2. Apportionment weighting of factors.

3. Business Enterprise Tax Credit.

IV. EXECUTIVE SUMMARY OF TAX EXPENDITURES

The following table gives a general view of the business profits tax expenditures reported on tax returns filed during calendar year 2007.

	Description of Credit	Credit Used
1.	RSA 400-A Insurance Taxes	$28,071,000
2.	RSA 162-L:8 NH Community Development Finance Authority Investment Tax Credit	$3,918,000
3.	RSA 162-N:7 NH Community Reinvestment and Opportunity Zones Tax Credit	$42,000
4.	RSA 77-A:5, XIII Research and Development Tax Credit	$0
	Total Credits Used	$32,031,000

TOTAL CREDIT USED
Comparison 2003 - 2007

2003	2004	2005	2006	2007
$9,420,000	$21,569,000	$28,437,000	$27,520,000	$32,031,000

ADDITIONAL INFORMATION PROVIDED IN THIS REPORT

Appendix 1 REVENUE LOSS DUE TO CLAIMED NET OPERATING LOSS DEDUCTIONS	$16,695,000

Appendix 2 REVENUE LOSS DUE TO WEIGHTING OF THE SALES APPORTIONMENT FACTOR	$6,660,000

Appendix 3 BUSINESS ENTERPRISE TAX CREDIT CLAIMED	$120,308,000

V. REPORT OF CREDIT UTILIZATION

1. Insurance Tax, RSA 400-A

Description: The insurance tax is a tax assessed on insurance companies that do business in New Hampshire as provided in RSA 400-A. The insurance tax is administered by the New Hampshire Insurance Department. A business profits tax credit for taxes paid pursuant to RSA 400-A is provided by RSA 77-A:5, III.

Methodology: The amount reported as insurance tax credit used, is the amount of credit actually used to offset a business profits tax liability on returns filed in 2007.

Tax returns filed in 2007:

Tax Credit Used Against Business Profits Tax................................$28,071,000

CREDIT FOR INSURANCE TAX
Comparison 2003 - 2007

2003	2004	2005	2006	2007
$6,715,000	$18,457,000	$24,112,000	$23,617,000	$28,071,000

2. Investment Tax Credit - New Hampshire Community Development Finance Authority RSA 162-L:8.

Description: An investment tax credit equal to 75% of the contributions made to the Community Development Finance Authority (CDFA) as provided in RSA 77-A:5, V. The 1998 legislature limited the tax credit for the New Hampshire Community Development Finance Authority to contributions made during the tax year from July 1, 1999 forward. This credit has carry forward provisions. The tax credit may now be applied to the business profits tax, the business enterprise tax or the insurance premium tax.

The CDFA credit is a "cascading" credit that may be used to reduce a BET liability and then used to reduce a BPT liability. The amount included in this report is the total reduction in revenue to the state whether applied against BPT, BET, or both tax liabilities. Care was taken to prevent double counting of the credit.

Methodology: Credit used is the amount actually reported and used to offset a tax liability on the New Hampshire business profits tax or business enterprise tax return. This report does not include any credit taken to offset N.H. Insurance taxes.

Tax returns filed in 2007:

Tax Credit Used... $3,918,000

INVESTMENT TAX CREDIT
Comparison 2003 - 2007

2003	2004	2005	2006	2007
$2,705,000	$3,112,000	$ 4,325,000	$3,897,000	$3,918,000

3. CROP Zone Tax Credit - New Hampshire Community Reinvestment and Opportunity Zones RSA 162-N:7.

Description: The authority to enter into CROP Zone Credit Agreements became effective July 1, 2003. The CROP zone tax credit shall be available to taxpayers only for tax liabilities arising during the 5 consecutive tax periods following the signing of the agreement. CROP zone tax credits shall be applied against tax due under RSA 77-E, the Business Enterprise Tax. For the purpose of the credit allowed under RSA 77-A:5, X, (the Business Profits Tax), the CROP zone credit shall be considered taxes paid under RSA 77-E. CROP zone tax credits shall not be transferable. This credit has carry forward provisions.

The CROP zone credit is a "cascading" credit that may be used to reduce a BET liability and the “taxes paid” under RSA 77-E may then be used to reduce a BPT liability. The amount included in this report is solely the reduction in revenue to the state when applied against a BET tax liability.

Methodology: Credit used is the amount actually reported and used to offset a tax liability on the New Hampshire business enterprise tax return.

Tax returns filed in 2007:

Tax Credit Used... $42,000

CROP ZONE TAX CREDIT
Comparison 2003 - 2007

2003	2004	2005	2006	2007
$0	$0	$0	$6,500	$42,000

4. RESEARCH and DEVELOPMENT TAX CREDIT RSA 77-A:5, XIII.

Description: Chapter 271, Laws of 2007 (Senate Bill 134) enacted the Research and Development Tax Credit. The maximum credit allowed for all taxpayers is $1,000,000 per fiscal year. The credit is based upon 10% of the excess of the qualified R&D expenses for the taxable year over the base amount. Wages for which a credit is taken shall not also be eligible under the CROP zone credit. Each taxpayer's share of the credit shall not exceed $50,00 per fiscal year. Taxpayers may apply up to June 30 following the tax year during which the R&D occurred and a determination will be made by the Commissioner no later than September 30. The unused portion of any R&D credit shall be available to apply to the Business Enterprise Tax. Any R&D credit used against either tax is included herein. The first credits will be awarded in September 2008. Thus there will not be any credits reported taken on returns filed in calendar year 2007.

Methodology: Credit used is the amount actually reported and used to offset a tax liability on the New Hampshire business profits tax return and the business enterprise tax return filed in 2007.

Tax returns filed in 2007:

Tax Credit Used... None

RESEARCH and DEVELOPMENT TAX CREDIT
Comparison 2003 - 2007

2003	2004	2005	2006	2007
N/A	N/A	N/A	N/A	N/A

VI. Appendix 1 NET OPERATING LOSSES

The department included in the first tax expenditure report, per request from the New Hampshire legislative leadership, information pertaining to taxpayer use of the Net Operating Loss deduction (NOL), RSA 77-A:5,XIII. The NOL carry forward provision has a result similar to a credit against the current year tax liability.

The NOL deduction is a provision of the business profits tax law added in 1988. The NOL provision was effective for losses incurred after January 1, 1989. ***On July 1, 2002 the law was revised so that NOLs may now be carried forward for 10 years following the loss year instead of 5 years. The amount of NOL generated each year per entity was $250,000. Now for taxable periods ending between July 1, 2003 and June 30, 2004, the NOL generated may not exceed $500,000. For taxable periods ending between July 1, 2004 and June 30, 2005, the NOL generated may not exceed $750,000. For taxable periods ending on or after July 1, 2005, the NOL generated may not exceed $1,000,000 and the requirement to carry-back losses is eliminated.**

In 2007, 6,046 business organizations used the net operating loss deduction. The following table details the results of this usage:

Total NOL Used (after apportionment) $196,417,000

Average NOL Used (after apportionment)......................................$32,487

Total tax decrease due to NOL..$16,695,000

Average Tax Benefit to each taxpayer $2,761

NET OPERATING LOSS (Reduction in BPT)
Comparison 2003 - 2007

2003	2004	2005	2006	2007
$12,518,000	$10,911,000	$12,681,000	$13,281,000	$16,695,000

VII. Appendix 2. EFFECTS OF THE CHANGE TO APPORTIONMENT OF INCOME

For all tax years ending on or after December 31, 1991 the sales factor of the New Hampshire 3 factor apportionment formula is modified. The sales factor is multiplied by 1.5 then combined with the payroll and property factors, the sum of which is divided by 3.5. Therefore, sales comprise 42.8% of the apportionment factor, while payroll and property comprise 28.6% each. It is important to note that this change has no effect on 100% New Hampshire business organizations.

Taxpayers with tax years ending on or after July 1, 1994 must double weight the sales factor of the apportionment formula. This change results in the sales factor comprising 50% of the apportionment factor, with payroll and property comprising 25% each.

METHODOLOGY: All business returns filed in 2007 were included in this study. Programs were developed to actually calculate the tax that would have been due using equally weighted factors. The results were compared to the actual tax liability and the difference computed. **Amended returns and audit adjustments from prior periods are not included in this report. Inclusion of amended returns and audit adjustments would significantly increase the revenue loss resulting from this provision.** Below are the results.

Businesses Impacted By This Provision

4,033 businesses with decreased liability paid $26,731,000 less in tax.
6,155 businesses with increased liability paid $20,071,000 more in tax.

The top 5 businesses paying less tax saved $9,514,000, with an average tax of $1,902,874.

Net Impact On Business Profits Tax Revenue

Revenue **loss** of $6,660,000

CHANGE TO APPORTIONMENT NET IMPACT (LOSS)
Comparison 2003 - 2007

2003	2004	2005	2006	2007
$716,000	$419,000	($1,829,000)	$ 8,733,000	$6,660,000

VIII. Appendix 3 BUSINESS ENTERPRISE TAX CREDIT

Taxes paid under the Business Enterprise Tax receive a dollar-for-dollar credit against Business Profits Taxes. This credit can be carried forward for up to 5 years. Total Business Enterprise Tax reported on returns filed in 2007 was $198,028,000.

Total Business Enterprise Credit Taken: $120,308,000

BUSINESS ENTERPRISE TAX CREDIT
Comparison 2003 - 2007

2003	2004	2005	2006	2007
$83,467,000	$83,135,000	$ 93,261,000	$105,117,000	$120,308,000

X. ACKNOWLEDGMENTS

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