

New Hampshire Department of Revenue Administration
109 Pleasant Street, Concord, NH 03301
TECHNICAL INFORMATION RELEASE
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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.

New Hampshire Department of Revenue Administration
Tax Year 2010 Clarifications

The New Hampshire Department of Revenue Administration is providing the following clarification in response to feedback obtained from both tax preparers and tax forms software developers in preparation of the 2010 Tax Year filing.

Personal Compensation Deduction for Tax Year 2010

House Bill 1607 (Chapter 324, Laws of 2010 – effective July 20, 2010) amended the personal compensation deduction statute, RSA 77-A:4, III. The amendments bring the compensation deduction for services of owners of proprietorships and partnerships into closer alignment with the standard for corporations under the Internal Revenue Code § 162(a)(1), See DRA Technical Information Release 2010-011.

NOTE: Neither the \$50,000 record-keeping safe harbor, nor the \$6,000 minimum deduction allowance is available for tax year 2010.

Form NH-BPT-RCD - Allocation Schedule for Personal Compensation Deduction

For taxable periods beginning on or after January 1, 2010, RSA 77-A:4, III (e) *requires* a schedule (NH BPT-RCD Allocation Schedule) to be attached to the tax return of any partnership or proprietorship claiming a personal compensation deduction. Therefore, any taxpayer who claims a compensation deduction for tax year 2010 must file the NH BPT-RCD with their New Hampshire business tax return. If the form is not attached, or is incomplete, the return is not complete or timely filed.

Decoupling Estimated Business Tax Payments

Every entity required to file a Business Enterprise Tax (BET) return or a Business Profits Tax (BPT) return must also make separate quarterly estimated tax payments for each tax unless the annual estimated tax for the subsequent taxable period is less than \$200 for each tax. In the past, the BET and BPT estimate tax payments were submitted on one estimate form. Beginning with the first estimate payment due for tax year 2011, taxpayers must separate their estimated BET payment from their estimated BPT payment by submitting two separate forms each quarter using the new forms NH-BET-ES and NH-BPT-ES.

Application of Estimated Tax Payments

Please note, when not otherwise specified by a taxpayer or tax preparer in writing, any estimated business tax payments received by the Department will first be applied to the BET and then to the BPT.

Underpayment of Estimated Tax Penalty

As we transition to separate BET and BPT estimate tax filings and payments, in this first year the Department will not assess a Penalty for Underpayment of Estimated Tax (UPE) if 100% of the total BET and/or BPT due for 2011 is timely paid.

NH BT-Summary

Filers are also reminded that the NH BT-Summary is still required for tax year 2010. Therefore, business taxpayers should be including the NH BT-Summary with their 2010 tax return that is due April 18, 2011 for calendar year filers. The 2010 tax year will be the last tax period that the NH BT-Summary will be required.

Tax Preparation Software Programs

The Department recognizes and appreciates the value and convenience that automated tax preparation software provides to its customers. But, the Department cautions taxpayers and tax preparers not to rely entirely on the software, or its underlying form logic, without independent verification. Inaccurate software calculations may result in incomplete or unsubstantiated results. It is imperative that any and all amounts reported on a taxpayer's return be substantiated, regardless of the tax preparation software program calculations. Since programming specifications and computer-generated instructions are not submitted to the Department nor certified for accuracy, independent verification is strongly advised.

Preparer Penalties

New computer systems recently implemented in the Department will allow the Department to better review tax returns submitted by tax preparers to identify systemic omissions and/or errors. Please be reminded of RSA 21-J:33-b, Understatement of Taxpayer's Liability by Taxpayer, and RSA 21-J:33-c, Penalties for Aiding and Abetting Understatement of Tax Liability when completing tax returns in the future.

Visit the Department's web site at www.nh.gov/revenue/forms to obtain forms and information or call our forms line at (603) 271-2192. Questions regarding any new tax form may be directed to the following email: formscmte@rev.state.nh.us.

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.