

(Repealed in Part and Superceded by [TIR 2002-005](#))

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for 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 (ie., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.)

The purpose of this information release is to advise municipalities about the new Sand and Gravel Tax law, RSA 72-B, enacted by CH 219, Laws of 1997. If you have any questions about this law change, please feel free to call the Property Appraisal Division at (603) 271-2687.

TAXATION OF SAND, GRAVEL AND OTHER SIMILAR MATERIALS

RSA 72-B, effective January 1, 1998, Repealed in Part, and Superceded by TIR 2002-005

Sand, gravel and other similar materials will no longer be subject to local real estate taxation under RSA 72:13. As explained below, two new taxes replace the old method of taxing these products.

NOTE: RSA 72:13 is currently suspended. (Chapter 90:3, Laws of 1995, as amended by Chapter 133:3, Laws of 1996). The suspension will automatically be lifted on April 1, 1998 at which time RSA 72:13 will apply to mines and ores not included in the definition of sand, gravel, rock, soil or construction aggregate.

New "Sand and Gravel" Taxes:

Two new taxes replace the local real estate tax that would have been imposed under RSA 72:13. Both are incorporated into a single new chapter, RSA 72-B, entitled, Excavation Tax and Excavation Activity Tax. The new taxes apply to the "earth" excavated and to the "pit area" from which the "earth" is taken. The new statute defines "earth" by reference to the definition in RSA 155-E:1, I, which includes "sand, gravel, rock, soil or construction aggregate." The definition of "pit area" also refers to RSA 155-E and " ... means the land area of any excavation ... from which the topsoil or other overburden material has at any time been removed, and which has not been brought into compliance with the reclamation standards of RSA 155-E:5, ... "

Excavation Tax - RSA 72-B:1 through 11 and 13 through 17

This tax imposes a \$.02 per cubic yard of material charge on earth taken from a "taxable excavation." It will be administered much like the Timber Tax. The owner will file a "Notice of Intent to Excavate" with the municipal assessing officials, who will notify the tax collector and forward the appropriate copies of the "intent" to the Department of Revenue Administration. The department will then issue a certificate to be posted at the excavation site. After the operation is complete or no later than

April 15 of each tax year, a "Report of Excavated Material" must be filed with both the municipality and the Department of Revenue Administration.

Exemptions

All earth, as defined in RSA 155-E:1, will be taxable, except when:

! The earth excavated is used on the parcel of land on which the excavation occurred;

! It is used exclusively for agricultural or forest management activities of the excavation owner; or

! Federal, state, municipal or other political subdivisions remove earth from lands owned by them, within their own jurisdiction and for their own use.

Administration and Enforcement Fee - RSA 72-B:16

When an "intent" is filed with the municipality, there is a fee of \$100 to be paid by the owner, as provided in RSA 72-B:2, V. The fee shall be forwarded by the municipality to the Department of Revenue Administration, along with the department's copy of the "intent." Revenue from the fee will be used by the department for administration and enforcement of the excavation tax.

Excavation Activity Tax - RSA 72-B:1, 2, 12 and 13-17

An "excavation activity tax" is imposed on the pit area, which is the area from which earth has been excavated. The owner is responsible for annually providing local assessing officials with the information they need to calculate the size of the pit area. This entire value of the area is exempt from the property tax and is instead subject to the "excavation activity tax." Per RSA 72-B:12, II, the activity tax is "...determined by the local assessing officials by considering a hypothetical owner of land, located in the vicinity of the excavation, but which was devoted to an intense commercial or industrial use, ... exclusive of any tax amount attributable to buildings or other structures ...". RSA 72-B:12, III provides that the amount of the activity tax is to be billed to the owner on the same schedule as the local real estate taxes.

How To Learn More About These New Taxes?

RSA 72-B:15 gives the Department of Revenue Administration the responsibility to instruct municipal officials regarding this chapter. An individual has been hired who will be presenting seminars around the state this fall for town officials, pit owners and operators. This individual will remain on staff after January 1, 1998 to continue assisting communities in the same manner as the Timber Appraiser. We hope this new process will be a smooth one. If you have questions, please feel free to contact the department at the above number.