

GENERAL INSTRUCTIONS FOR FILING BUSINESS ENTERPRISE & BUSINESS PROFITS TAXES**NEW FOR 2010:**

Civil Unions Recognized as a Marriage. Effective January 1, 2010 the NH laws were modified to allow civil unions to be recognized as a marriage solemnized pursuant to RSA 457. Two persons who are parties to a civil union established pursuant to RSA 457-A that has not been dissolved or annulled by the parties or merged into a marriage by January 1, 2011 shall be deemed to be married under RSA 457 on January 1, 2011 and such civil union shall be merged into such marriage by operation of law on January 1, 2011.

NH Business Taxes Decoupled Effective for Tax Years 2011 and Forward.

For taxable periods beginning on or after January 1, 2011, Business Enterprise Tax and Business Profits Tax will no longer be combined. The separation of the quarterly estimates is the first step in the Department's modernization plan. This modernization plan includes expanded E-FILE and a redesign of the NH-1120-WE to allow unitary organizations with blended entities to file as a combined group. More information will be available soon.

Failure to Pay by Electronic Means. Effective August 13, 2010 the NH Legislature expanded RSA 21-J:33 by inserting section III. This new provision states that in the case of any failure to comply with the electronic payment requirements under RSA 21-J:3, XXI, a penalty shall be added to the amount of tax due equal to 5 percent of the amount of such tax not to exceed \$5,000. This penalty is in addition to any other penalty that may be applicable and shall be assessed, collected, and paid in the same manner as taxes. The penalty in this paragraph shall not apply if failure to pay was due to reasonable cause and not willful neglect of the taxpayer.

Check 21: When you provide a check as payment, you authorize the State of New Hampshire to either use the information from your check to make a one-time electronic fund transfer from your account, or to process the payment as a check. For inquiries, call (603) 271-2191.

WHO MUST FILE A BET RETURN

Every for-profit or non-profit enterprise or organization engaged in or carrying on any business activity inside New Hampshire which meets the following criteria, during the taxable period, must file a Business Enterprise Tax return:

A. If your total gross business receipts was in excess of **\$150,000**, then you are required to file a BET return, regardless of B below; or

B. If your total **gross business receipts** was **\$150,000** or less, use the following worksheet to determine if your enterprise value tax base is greater than **\$75,000**:

- | | |
|--|-------------|
| 1. Total dividends paid: | 1. \$ _____ |
| 2. Total compensation paid or accrued: | 2. \$ _____ |
| 3. Total interest paid or accrued: | 3. \$ _____ |
| 4. Sum of Lines 1, 2 and 3: | 4. \$ _____ |

If Line 4 is greater than **\$75,000**, you are required to file a BET return.

C. Section 501(c)(3) of the IRC non-profit organizations are not required to file unless they engage in an unrelated business activity under Section 513 of the IRC.

Form BT-Summary must be filed by all Business Organizations.**BET FORMS TO FILE**

BT-Summary is filed by all organizations that have either a BPT or BET filing requirement.

BET-WE is filed by organizations filing as a business profits tax combined group. Form BET is filed by all other organizations, including corporations, partnerships fiduciaries and non-profits.

WHO MUST FILE A BPT RETURN

All business organizations, including corporations, fiduciaries, partnerships, proprietorships, combined groups, and homeowners' associations must file a Business Profits Tax return provided they are carrying on business activity inside New Hampshire and their gross business income from everywhere is in excess of \$50,000.

"Gross business income" means all income for federal income tax purposes from whatever source derived including but not limited to: total sales, total rents, gross proceeds from the sale of assets, etc., before deducting

any costs or expenses. **Even if there is no profit, a return must be filed when the gross business income exceeds \$50,000.** Combined filers should see NH-1120-WE General Instructions for additional filing requirements to file a combined report.

Grantor Trusts: Income from Grantor Trusts (Section 671 of the US Internal Revenue Code) shall be included in the Business Profits Tax return of the owner(s).

INTERNAL REVENUE CODE (IRC) AND NEW HAMPSHIRE RECONCILIATION

The New Hampshire Legislature has not changed the current business tax laws to conform with the federal tax law changes. The Internal Revenue Code (IRC) reference remains the Code **in effect on December 31, 2000**. Therefore, if changes are used on your federal filing, business taxpayers must recalculate their New Hampshire gross business profits utilizing the NH Schedule R. Schedule R has been provided in this booklet to assist businesses in recalculating their New Hampshire Gross Business Profits. The completed Schedule R must be filed with the corresponding New Hampshire Business Tax return.

S-CORP FILERS

New Hampshire treats subchapter "S" corporations as if they were "C" corporations. All S-corporations are required to complete Form DP-120, Computation of "S" Corporation Gross Business Profits. Returns filed without a Form DP-120 will be incomplete and may be returned to the taxpayer.

SINGLE MEMBER LIMITED LIABILITY COMPANIES

For NH taxation purposes, an SMLLC is recognized as an entity separate from its member. An SMLLC is required to report and file NH taxable activities at the entity level. An SMLLC is required by law to file a NH tax return even though the SMLLC does not file a separate federal tax return.

An SMLLC that is not disregarded for federal purposes shall file the same tax classification as it does for federal taxation.

An SMLLC that is disregarded for purposes of federal taxation shall file its business tax return using:

- Form NH1120, "Corporate Business Profits Tax Return", if the member is a corporation;
- Form NH1040, "Proprietorship Business Profits Tax Return", if the member is an individual;
- Form NH1065, "Partnership Business Profits Tax Return", if the member is a partnership; and
- Form NH1041, "Fiduciary Business Profits Tax Return", if the member is a trust.

If the SMLLC does **not** have a Federal Employer Identification Number (FEIN); shares a taxpayer identification number with another entity; or is not required to obtain a FEIN, Social Security Number (SSN) or an individual taxpayer identification number issued by the Internal Revenue Service **THE SMLLC MUST USE A DEPARTMENT IDENTIFICATION NUMBER (DIN) WHEN FILING ALL TAX RELATED DOCUMENTS.** Form DP-200 shall be used to apply for a DIN.

Your DIN shall be used in place of the entity's FEIN. When filing all future documents, the DIN shall be entered wherever FEINs or SSNs are required.

REQUIRED NH FORMS AND ATTACHMENTS

- Schedule R for all returns requiring reconciling federal taxable income to arrive at NH gross business profits.
- Business organizations with a federal tax classification of S Corp must file a NH Form DP-120.
- All partnerships and sole proprietorships must attach the applicable compensation deduction work sheet if a compensation deduction for personal services is claimed.

GENERAL INSTRUCTIONS FOR FILING BUSINESS ENTERPRISE & BUSINESS PROFITS TAXES (continued)**REQUIRED FEDERAL FORMS AND SCHEDULES**

A complete and legible copy of the federal income tax return and applicable federal forms, consolidating schedules and supporting schedules, must accompany all Business Profits Tax (BPT) returns.

- Form NH-1120, Corporation BPT Return must have the federal Form 1120, pages 1-4 and all other applicable forms and supporting schedules. Corporations may submit the consolidating schedules ONLY using a Compact Disc (CD) in a PDF or PDF compatible format.
- Form NH-1040, Proprietorship BPT Return must have federal Form 1040 Schedules C, D, E, F, Form 4562, Form 4797, and Form 6252 if applicable.
- Form NH-1065, Partnership BPT Return must have federal Form 1065, pages 1-4 and all other applicable schedules.
- Form NH-1041, Fiduciary BPT Return must have federal Form 1041, pages 1-4 and all other applicable schedules.

Failure to attach all federal forms and schedules as required shall be deemed a failure to file a New Hampshire BPT Return and may subject the taxpayer to penalties.

OTHER REQUIRED FILINGS

S-corporations which have made actual or constructive distributions to its New Hampshire shareholders, partners, or members during the year must separately file Form DP-9.

SEPARATE FILING THRESHOLDS

There are different filing criteria for the Business Enterprise Tax (BET) and the BPT. You must determine whether or not you are required to file for each tax independent of your filing requirement for the other tax. **IF YOU ARE REQUIRED TO FILE EITHER TAX, THEN YOU MUST FILE A BUSINESS TAX SUMMARY. THE BUSINESS TAX SUMMARY VERIFIES AND UPDATES BOTH THE BET AND/OR THE BPT RETURNS. FAILURE TO FILE A BUSINESS TAX SUMMARY WILL CONSTITUTE AN INCOMPLETE FILING OF THE BUSINESS TAX RETURNS.**

WHEN TO FILE

Calendar Year: If the business organization files its federal return on a calendar year basis, then the BET return and/or the BPT return is/are due and must be postmarked NO LATER than the date indicated on the BPT return.

Fiscal Year: If the business organization files its federal return on a fiscal year basis, then the business organization must file the BET return and/or the BPT return based on the same taxable period. The corporate returns are due and must be postmarked NO LATER than the 15th day of the third month following the close of the fiscal period. The proprietorship, partnership and fiduciary returns are due the 15th day of the 4th month following the close of the taxable period.

For Non-Profit Organizations: The returns are due and MUST be postmarked NO LATER than the 15th day of the fifth month following the close of the taxable period.

EXTENSION TO FILE

New Hampshire does not require a taxpayer to file an application for an automatic 7-month extension of time to file provided that the taxpayer has paid 100% of both the BET and the BPT determined to be due by the due date of the tax.

If you need to make an additional payment in order to have paid 100% of the taxes determined to be due, then you may file your payment on-line at www.nh.gov/revenue or file a payment and application for 7 month extension of time to file a business tax return, Form BT-EXT. The payment must be postmarked or received on or before the original due date of the return. Failure to pay 100% of the taxes determined to be due by the original due date may result in the assessment of penalties.

WHERE TO FILE (FORMS MAY NOT BE FILED BY FAX)

MAIL TO: NH DRA
PO BOX 637
CONCORD NH 03302-0637

NEED HELP?

Call the Central Taxpayer Services Office at (603) 271-2191, Monday through Friday, 8:00 am - 4:30 pm. All written correspondence to the Department should include the taxpayer name, Federal Employer Identification Number or Social Security Number, the name of a contact person and a daytime telephone number.

NEED FORMS?

To obtain additional forms or forms not contained in this booklet, you may access our web site at www.nh.gov/revenue or call the forms line at (603) 271-2192. Copies of the state tax forms may also be obtained from any of the 22 Depository Libraries located throughout the State.

ESTIMATED BPT & BET PAYMENTS

Every entity required to file a BPT return and/or a BET return must also make quarterly estimated tax payments for each individual tax for its subsequent taxable period, unless the **ANNUAL** estimated tax for the subsequent taxable period for each tax individually is less than \$200. However, if at the end of any quarter the estimated tax for the year exceeds \$200, an estimated tax payment must be filed. The quarterly estimates are 25% of the estimated tax liability. See the instructions with the Estimated Business Tax Form for exceptions and penalties for noncompliance.

REFERENCES TO FEDERAL FORMS

All references to federal tax forms and form lines are based on draft forms available at the time the state forms were printed. If the federal line number and description do not match, follow the line description or contact the Department at (603) 271-2191.

CONFIDENTIAL INFORMATION

Disclosure of Federal Employer Identification Numbers (FEIN) and Social Security Numbers (SSN) is mandatory under N.H. Code of Admin. Rules, Rev. 2903.02(c). This information is required for the purpose of administering the tax laws of this state and authorized by 42 U.S.C.S. § 405 (c) (2) (C) (i).

Tax information which is disclosed to the New Hampshire Department of Revenue Administration is held in strict confidence by law. The information may be disclosed to the United States Internal Revenue Service, agencies responsible for the administration of taxes in other states in accordance with compacts for the exchange of information, and as otherwise authorized by New Hampshire Revised Statutes Annotated 21-J:14.

The failure to provide FEINs and SSNs may result in the rejection of a return or application. The failure to timely file a return or application complete with SSNs may result in the imposition of civil or criminal penalties, the disallowance of claimed exemptions, exclusions, credits, deductions, or an adjustment that may result in increased tax liability.

AMENDED RETURNS

If you discover an error on your BET and/or BPT return(s) after filing, amended returns should be promptly filed by completing a corrected Form BT-SUMMARY and the appropriate BET and/or BPT returns. You should check the "AMENDED" block in STEP 2 on the Business Tax Summary. **AMENDED RETURNS MUST HAVE ALL APPLICABLE SCHEDULES AND FEDERAL PAGES ATTACHED TO BE DEEMED A COMPLETE AMENDED RETURN.** For changes made by the Internal Revenue Service for this year, see STEP 2 on the Business Tax Summary.

If you need to amend prior year BET and/or BPT return(s) and you need forms, you may access our web site at www.nh.gov/revenue or call the forms line at (603) 271-2192.

You may not file an amended return for New Hampshire Net Operating Loss (NOL) carryback provisions.

ROUNDING OFF

Money items on all BET and BPT forms may be rounded off to the nearest whole dollar.

FILING SEQUENCE

The upper right corner of the NH tax forms indicate the order forms must be placed when filing. Copies of the federal tax return and supporting schedules must follow the NH forms and schedules.