

## New Hampshire Department of Revenue Administration

### Fiscal Note Quick Guide

16-2082

**HB 1207-FN**, *exempting wine sample fees from the meals and rooms tax.*

House Commerce and Consumer Affairs Committee

This bill proposes to exempt samples of wine provided for a fee on the premises of a wine manufacturer from the RSA 78-A tax on meals and rooms (M&R Tax).

The proposed exemption treats operators differently based on the product they sell and thus may be found unconstitutional if challenged in a court of law. Under this bill, a wine manufacturer may sell a 2 ounce sample of wine and that sale would not be subject to the M&R Tax. However, another M&R operator, who is not a wine manufacturer, may sell a similar product sample and that transaction would be subject to the M&R Tax.

The DRA does not have data reflecting the amount of M&R Tax collected in the past that is attributable to the sale of wine samples. However, to the extent that a new exemption to the M&R Tax is being created, an indeterminable decrease in M&R Revenue would occur.

RSA 78-A:26, I establishes a formula for the distribution of M&R Tax revenue to cities and towns as a percentage of total revenues collected after certain deductions. For FY16 (and historically over the past several years), the NH Legislature has legislatively superseded the RSA 78-A:26, I distribution formula and set the total distribution to cities and towns at a specific dollar amount. For FY16, the total distribution shall not exceed the distribution made in FY15, which was \$63,805,057. Because the FY16 total distribution amount is capped at a dollar amount that is almost certain to be achieved based on prior years' revenues, a loss in M&R Tax revenue due to the proposed bill is unlikely to impact FY16 distributions to cities and towns. However, to the extent the NH Legislature allows the M&R distribution to return to the formula provided in RSA 78-A:26, I in future years, there is a potential loss in local revenues because the statutory formula provides a distribution to cities and towns as a percentage of total revenue collection.