

## New Hampshire Department of Revenue Administration Fiscal Note Quick Guide

16-2194

**HB 1254-FN-LOCAL**, *providing an exemption from the business profits tax and the business enterprise tax for certain manufacturing businesses.*

House Way & Means Committee

This proposed bill provides a 15 year exemption from the Business Profits Tax (BPT) and the Business Enterprise Tax (BET) to qualifying manufacturing business organizations that start up business activity in Coos, Grafton, Carroll, Sullivan or Cheshire County.

To qualify for the exemption the business organization must be registered with the Secretary of State, be a newly formed or organized business in the named counties and employ and maintain at minimum 15 manufacturing employees for which it pays unemployment tax to the NH.

A business organization may also qualify if the business organization was formerly domiciled in the State of NH and has since relocated back to NH and has not been subject to NH Business Taxes for a period of three years. A NH business entity that creates a new branch with a different sector than its other entities and does not reduce staffing to its original entities due to the newly established business would also qualify for the exemption to the business taxes.

The effective date of this bill is January 1, 2017.

There is no way for the Department of Revenue Administration to determine the fiscal impact of this bill. The Department has no way of estimating the number of qualified business organizations that would move to the specified counties or the amount of business taxes they would be exempted from paying if this bill went into effect.

Under this bill a qualified start up manufacturing organization conducting business activity in the specified counties would get a 15 year exemption from the BPT and BET. Non-qualified manufacturing start up business organizations or manufacturing organizations not located in the specific county would not qualify for the exemption, despite being otherwise similarly situated. If the proposed exemption is found to improperly treat taxpayers differently, it may be subject to constitutional challenge. See *Opinion of the Justices, 131 N.H. at 642, 557 A.2d at 275.*

This bill does not define what a “newly formed or organized business” is or when the qualified manufacturing business organization needs to start up to qualify for the exemption. If a qualified manufacturing business organization is already operating within the specified counties for less than 15 years would they qualify for the exemption for the remaining years?

The proposed bill provides that the exemption shall begin with the quarter in which the number of manufacturing employees reaches 15 but does not outline how a taxpayer will report business taxes to the DRA in a year in which they do not qualify for the exemption for all four quarters.