

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

16-2806

SB 479-FN, *establishing a credit against business taxes for implementing employee profit sharing.*

Senate Ways & Means Committee

This proposed bill amends RSA 77-A:5, creating a Profit Sharing Tax (PST) Credit to be applied to the Business Profits Tax (BPT). It also amends RSA 77-E and adds a new section allowing any unused portion of the PST Credit to be applied against the Business Enterprise Tax (BET). There shall be a PST Credit for each qualified tax credit employee equal to up to 15% of the compensation paid as profits that employees share.

Shared profits eligible for the credit shall be capped at 10% of the employee's wages. The tax credit is only available for two years. Unused portions of the credit shall be carried forward up to five years and shall be applied before any other available carry forward credits. The PST Credit shall be considered taxes paid under RSA 77-E.

The use of this PST Credit would decrease the Business Tax revenue by an indeterminable amount. Currently employers do not report to NH the amount of profit sharing that occurs within a company. Without the ability to obtain that information, the DRA has no way to determine the amount of PST Credit available for taxpayers to use against their Business Tax liability.

The Commissioner of the Department of Resource and Economic Development (DRED) in consultation with the Commissioner of the NH Department of Revenue Administration (DRA) shall develop application forms which taxpayers may use to apply for the PST Credit. The Commissioner of DRED shall approve or deny the applications and certify the amount of PST Credit to the Commissioner of DRA.

This bill shall be applicable to any tax periods ending after July 1, 2016. The first returns claiming the PST Credit would be filed September 15, 2016. This does not allow enough time for the DRA to change forms, instructions and systems. It also does not allow enough time for the Commissioner of DRA to develop an application form with the Commissioner of DRED.

To fully administer the 5 year carry forward provision of the proposed bill, the BET Credit associated with the PST Credit would need to be isolated and track in order to drop that portion of the credit after five years and allow the remaining BET Credit not associated with the PST Credit to carry forward for an additional five years. This could be administratively burdensome.

The bill states that the PST Credit shall be applied before any other available carry-forward credits, the same provision that is written into the Coos County Job Creation Tax Credit.