New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

16-2982

SB 552-FN, *relative to expense deductions under the business profits tax.*

Senate Ways & Means

This proposed bill amends RSA 77-A:3-a by removing the $25,000 maximum Internal Revenue Code (IRC) Section 179 expense deduction allowed under NH's business tax. It allows taxpayers to use the current effective IRC section 179 maximum deduction, which is currently $500,000. As a result, taxpayers would be entitled to a larger Section 179 deduction on their NH business tax return.

This bill could be administered by the Department of Revenue Administration (DRA) without any additional cost that could not be absorbed within our current budget.

The DRA estimates that this bill would reduce the General and Education Trust Fund by an indeterminable amount from Fiscal Year 2017 going forward.

The DRA is unable to estimate the potential loss of state revenues that could result were the proposed bill enacted. However, the DRA can estimate what the fiscal impact of the proposed legislation would have been had it been in place in a prior tax year. In this case, the DRA used all business taxpayer records that have been filed for Tax Year 2013 as of January 19, 2016 to determine the impact of the proposed legislation had it been in place for TY 2013. The amount of each taxpayer's federal IRC Section 179 deduction was multiplied by the taxpayer's apportionment percentage and then multiplied by the tax rate of 8.5% to calculate a maximum fiscal impact of $13,851,940.

This figure represents the fiscal impact of increasing the allowable IRC Section 179 deduction in isolation for TY 2013, without taking into consideration the offset of deductions or credits taken by taxpayers in the year analyzed. Additionally, any portion of the taxpayer's federal IRC Section 179 deduction that is disallowed on the NH return may be deducted as regular depreciation over several years under the relevant IRC depreciation provision. However, there is no way for the Department to isolate the depreciated amount over the years compared to the initial add back of the IRC Section 179 expense. In theory the IRC Section 179 expense add back is a timing issue because any deduction disallowed by NH in the year of acquisition would be deducted as depreciation in later years. However, because businesses move, go out of business, or their NH apportionment changes, it cannot be said with any certainty that NH's limitation of the IRC Section 179 deduction is simply a timing issue.

The proposed bill is effective upon passage and does not contain an applicability date. If the bill is intended to apply to a particular tax year, as is customary with legislation impacting tax laws, an applicability date should be added.