

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.)

The purpose of this information release is to provide an overview of RSA 83-F, the Utility Property Tax, effective April 1, 1999. If you have questions regarding the Utility Property Tax, please contact the Department of Revenue Administration, Property Appraisal Division at (603) 271-2687 or 45 Chenell Drive, P.O. Box 457, Concord, NH 03302-0457.

Utility Property Tax

Copies of the actual legislation may be obtained from:
Web: www.state.nh.us/gencourt/bills/99bills/hb0117.html
State Library: Reference Desk 271-2144.

Highlights of the law :

The new state utility property tax, RSA 83-F, was adopted by the legislature on April 29, 1999, and is effective for the April 1, 1999 property tax year. The state utility property tax shall be assessed by the state at the rate of \$6.60 per \$1000 of assessed value, upon each utility owning or possessing utility property.

WHAT IS TAXABLE

RSA 83-F: 1, V defines utility property as "All real estate, buildings and structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines located within New Hampshire employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, water, or sewage, subject to tax under RSA 72:6, 72:7 and 72:8; provided that no electric power fixtures which would otherwise be taxed under this chapter shall be taxed under this chapter if they are employed solely as an emergency source of electric power."

WHAT IS NOT TAXABLE

Utility property shall not include water and air pollution control facilities exempt from local taxation under RSA 72:12-a, and any other utility property which is not subject to local taxation. Small scale power facilities exempt from taxation under RSA 362-A:6 and whose owner has an agreement with the municipality for payments in lieu of taxes, are not subject to the state utility property tax until such time as the agreement expires.

EXEMPTION FROM STATE EDUCATION PROPERTY TAX

Municipalities will still collect the municipal, county and local school portion of the property taxes based on their local assessments. However, property subject to the utility property tax at the state level is exempt from any state education property tax at the local level. For the fiscal year beginning July 1, 1999, municipalities may assess all property on their tax rolls, and then abate the state education property tax if assessed with respect to utility property.

ESTIMATED PAYMENTS FIRST YEAR

The state utility tax will be paid directly to the Department of Revenue Administration. For the first year, estimated payments of 1/3 of the estimated tax are due July 1, September 15, and December 15, 1999. The 1999 values have not yet been established, therefore the July 1, 1999 estimated payment will be based on the value of the utility established by the Department for the 1998 equalization study. Form DP-255-ES, the Utility Property Tax Estimate, will be sent by June 10, 1999 to each utility with notice of the April 1, 1998 values. The April 1, 1999 values will be provided to the utilities by September 1, 1999, and the September 15, 1999 and December 15, 1999 estimates may be based on either value.

For taxable periods ending after March 1, 2000, declarations and payments of 1/4 of the estimated tax, based on the tax for the preceding year, are due on April 15, June 15, September 15, and December 15.

APPRAISAL OF UTILITY PROPERTY

Appraisals of public utility property, resulting in a value as of April 1, 1999 will be conducted over the next few months. Utility companies will be notified of their new assessed values once the appraisal process is complete, prior to September 1st. Allocated values will also be available for use by the municipalities at this time. Utility property taxpayers aggrieved may appeal their valuation within 30 days of notification of value to the board of tax and land appeals or to the superior court in the county in which the property is located.

TAX RETURNS

The Utility Property Tax Return, Form DP-255, is due on or before January 15. If any additional amount is due, above what has already been paid as estimates, it must be paid at the time the return is filed. If such return shows an overpayment of the tax due, a credit against a subsequent payment or payments due, to the extent of the overpayment, shall be allowed, provided that any amount due pursuant to RSA 21-J is deducted prior to applying the credit.

WATER AND SEWER UTILITIES

For the 1999 tax year, the utility property tax for non-municipal water and sewer companies will be assessed by using the local equalized assessment. Municipalities whose 1998 Inventory of Valuation (MS-1) indicated that a public water company is being assessed have been sent a questionnaire requesting the name, address and 1998 local assessment of water companies located within the municipality. In

subsequent years, the Department will perform its own appraisals of public water and sewer utility properties. Privately owned public water and sewer utility companies remain subject to taxation at the local level for the municipal, county and local school tax.

REPEAL OF NUCLEAR STATION PROPERTY TAX

RSA 83-D, the tax on nuclear station property has been repealed effective April 1, 1999. Taxpayers who have paid a nuclear station property tax estimate April 15, 1999, have the option of applying their estimated payment to the utility property tax or may request a refund.

Questions regarding refunds, credits or estimate payments, can be directed to the Department of Revenue Administration, Document Processing Division, 45 Chenell Drive, PO Box 637, Concord, NH 03302-0637 or (603) 271-2186