

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department and 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.). Questions specific to this Technical Information Release should be directed to the NH Dept. of Revenue Administration, Audit Division, 45 Chenell Drive, Concord, NH 03301 or (603) 271-3400.

### **Changes To Net Operating Loss Deduction**

Chapter 211 of the Laws of 2002 changes the Business Profits Tax net operating loss deduction [RSA 77-A:4, XIII] gradually over a 4 year period. The legislation became effective on July 1, 2002.

For purposes of this deduction, the business profits tax continues to use Section 172 of the United States Internal Revenue Code that was **in effect on December 31, 1996**. The result of this requirement is the federal operating loss must be carried back to the prior 3 taxable periods and offset by any income from such periods. The carry back does not result in a refund for New Hampshire Business Profits Tax purposes. The federal election to only carry forward net operating loss is not available under New Hampshire law.

Two of the changes made by the law become effective on July 1, 2002. A net operating loss will now be carried forward for a period of 10 years following the year of the loss. To be eligible for the extended carry forward period, the net operating loss must have been incurred in a taxable period ending on or after July 1, 1997.

The remaining changes to the provision relate to the amount the business organization may carry forward. The amount increases in 2003, 2004 and 2005. The effective date for these changes is based on a business organization's taxable period. The amounts and taxable periods they relate to are:

For a taxable period that ends **on or before June 30, 2003**, the carry forward amount may not exceed \$250,000;

For a taxable period that ends **on or after July 1, 2003 but before July 1, 2004**, the amount of the carry forward may not exceed \$500,000;

For a taxable period that ends **on or after July 1, 2004 but before July 1, 2005**, the amount of the carry forward may not exceed \$750,000; and

For any taxable period that ends **on or after July 1, 2005**, the amount of the carry forward may not exceed \$1,000,000.

For business organizations filing a water's edge combined return, the monetary limitations apply to the individual business organizations that have a taxable presence in New Hampshire.

**Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Audit Division, 45 Chenell Drive, Concord, NH 03301 or (603) 271-3400.**