

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 technical information release is to advise municipal officials of the Rockingham County Superior Court's decision regarding the State Property Tax. Questions should be directed to the NH Department of Revenue Administration, Property Appraisal Division, PO Box 457, Concord, NH, 03301 or by telephone at (603) 271-2687

SUPERIOR COURT RULING ON CONSTITUTIONALITY OF 2002 STATE PROPERTY TAX

On October 20, 2005, the Rockingham County Superior Court issued a ruling in the case of *Worth Development Corporation v. City of Portsmouth and State of New Hampshire* and three other cases. In the case, the Court ruled that the state property tax for the tax year 2002 was unconstitutional because the tax assessments were disproportional both within municipalities and between the municipalities in the State. The Court stated in its decision that it anticipated an appeal of the ruling to the Supreme Court and that further proceedings in the case would be stayed. Attorney General Kelly Ayotte has stated that the ruling will be appealed to the New Hampshire Supreme Court.

In light of the Court's ruling and the anticipated appeal by the State, the Department offers the following recommendations to municipal officials responsible for administering the State Property Tax:

- Municipal officials should advise taxpayers that the Court's decision was limited to the 2002 tax year. The Court did not rule on the constitutionality of the state property taxes assessed for the tax years beginning April 1, 2003, 2004 or 2005.
- Municipal officials should advise taxpayers that the decision is being appealed and, in accordance with New Hampshire law, should not be considered final until the New Hampshire Supreme Court has ruled on the appeal.
- Taxpayers remain responsible for paying their property tax bills, including the state property tax portion of their bills. Taxpayers who do not pay their taxes when due will be liable for interest at the rate of 12% per year on taxes not paid within 30 days after the bills are mailed.
- Municipal officials should advise taxpayers seeking a reduction in their assessments to use the normal abatement process.

The Department will advise municipal officials in the event of further rulings by the Court.

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 Department, 45 Chenell Drive, Concord, NH 03301 or by contacting them at (603) 271-2318.