

**New Hampshire Department of Revenue Administration
109 Pleasant Street, Concord, NH 03301**

**TECHNICAL INFORMATION RELEASE
TIR 2013-004 Date July 30, 2013**

A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or 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 should be directed to Central Tax Services at (603) 230-5920.

New Hampshire 2013 Legislative Session in Review

The purpose of this Technical Information Release (TIR) is to provide taxpayers and tax practitioners with a convenient reference guide of relevant statutory changes made during the 2013 Legislative Session by the New Hampshire General Court impacting various taxes administered by the New Hampshire Department of Revenue Administration. This TIR is for informational purposes only and is intended to provide a summary or synopsis of enacted legislation. It is not intended to be relied upon as full and complete text or as a substitute for the actual state law. Please refer to the applicable statute and rules to determine how this information applies to specific persons or situations.

BUSINESS TAX:

Senate Bill 1 (Chapter 5, Laws of 2013) increases the maximum aggregate amount of Research and Development (R&D) tax credit awarded each fiscal year from \$1,000,000 to \$2,000,000. The new law also repealed the prospective repeal of the R&D tax credit, which was established in 2007 and was prospectively set to be repealed on July 1, 2015. Therefore, the R&D tax credit will remain in effect indefinitely.

Effective: May 20, 2013

Amended: RSA 77-A:5, XIII(a)(1); RSA 162-P:1; and repealed Chps. 271:6 and 271:7, I, Laws of 2007, as amended by Chp. 116:1, Laws of 2011.

Senate Bill 30 (Chapter 90:3, Laws of 2013) amends the Business Profits Tax “Report of Change” provision under RSA 77-A:10 to require the Department to give notice to a taxpayer within 6 months of the taxpayer’s filing of a report of change that their return is being reviewed.

Effective: August 19, 2013

Amended: RSA 77-A:10

House Bill 2 (Chapter 144:124, Laws of 2013) amends the definition of “compensation” under RSA 77-E:1, V, the Business Enterprise Tax, to define compensation as all wages, salaries, fees, bonuses, commissions, or other payments paid directly or accrued by the business enterprise and explicitly excludes any tips required to be reported by the employee to the employer under Section 6053(a) of the United States Internal Revenue Code (“gratuitous tips”).

Effective: May 20, 2013 and applicable for taxable periods beginning on or after January 1, 2013.

Amended: RSA 77-E:1, V

House Bill 598 (Chapter 71, Laws of 2013) increases the deduction amount for the Business Profits Tax record-keeping safe harbor under RSA 77-A:4, III(c) from \$50,000 to \$75,000 as total compensation for the tax year, which may be taken in lieu of a deduction for the substantiated value of compensation.

Effective: July 1, 2013

Amended: RSA 77-A:4, III(c)

House Bill 676 (Chapter 73, Laws of 2013) extends the availability of the Coos County Job Creation tax credit to any tax period ending before December 31, 2018, which shall be renewable for 4 consecutive additional years, provided no additional Coos County Job tax credits are granted for any tax period after December 31, 2022.

Effective: July 1, 2013

Amended: RSA 77-E:3-c, II

TOBACCO TAX:

House Bill 488 (Chapter 35, Laws of 2013) changes the definition of “cigarette” under RSA 78:1, XVII, the Tobacco Tax, to conform with the definition of “cigarette” under RSA 541-C:2, IV, The Master Settlement Agreement. Under the definition, the term “cigarette” now includes “roll-your-own” (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of “cigarette,” 0.09 ounces of “roll-your-own” tobacco shall constitute one individual “cigarette.” Also, the definition of “cigarette” no longer contains a weight criterion. Therefore, certain tobacco products that did not previously meet the definition of a “cigarette” only because the product weighed more than 3 pounds per thousand, will now qualify as a “cigarette” under RSA 78:1, XVII and must be properly stamped as a cigarette. (See TIR#2013-002).

Effective: May 31, 2013

Amended: RSA 78:1, XVII

RSA CHAPTER 21-J ADMINISTRATIVE:

Senate Bill 30 (Chapter 90:1, :2 and :4, Laws of 2013) Section 1 of the bill amends the information sharing with federal agencies provision of RSA 21-J:14, V(b) to clarify the Department of Treasury as an allowable federal agency and adds the US Food and Drug Administration as an allowable federal agency.

Section 2 of the bill amends the violation section of RSA 21-J:14 for a disclosure. The revised statute mirrors the corresponding federal provision in that it shall be unlawful for any officer or employee of the state or an officer or employee of a vendor which has entered into a contractual

agreement with the Department under RSA 21-J:3, XX, or has entered into a contractual agreement with the State and is authorized by law to receive information made confidential and privileged by RSA 21-J:14, to willfully disclose to any person, except as authorized in RSA 21-J:14, any records or files of the Department. The term “willfully” has the same meaning as provided in RSA 626:2, IV, which states that a person acts willfully “. . .if the person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements appears.” Any violation of RSA 21-J:14 shall be a class A misdemeanor punishable upon conviction by a fine or imprisonment or both under RSA 651:2 and, in addition to any other punishment, the officer or employee shall be dismissed from office or discharged from employment upon conviction for such offense.

Section 4 of the bill provides that if any person tenders a check for the payment of any taxes levied by the tax collector and the check is drawn on a foreign bank, the person tendering such check shall be subject to all applicable foreign check bank fees.

Effective: August 19, 2013

Amended: RSA 21-J:14, V(b); RSA 21-J:14, VIII; and RSA 80:52-b.

House Bill 252 (Chapters 247, Laws of 2013) Sections 1 through 10 of the bill consolidate the functions and responsibilities of the NH Department of Revenue Administration’s Municipal Services Division and Property Appraisal Division into a single division, the “Municipal and Property Division,” under RSA 21-J:15. The Municipal and Property Division will be under the supervision of an unclassified director.

Sections 11 through 13 of the bill establish the position of an unclassified director of the Document Processing Division for the purpose of supervising the processing of all tax returns and payments filed with the NH Department of Revenue Administration.

Section 14 of the bill amends RSA 21-J:6-c, entitled “Central Tax Services Unit,” to remove references to an unclassified Taxpayer Advocate and taxpayer advocacy.

Effective: Sections 1-8 shall take effect upon the date when the abolition of position 14455, the transfer of funding and appropriations to the unclassified position established in Section 10 of this bill, and the initial appointment of the Director of the Municipal and Property Division have occurred, as certified by the Commissioner of the Department of Revenue Administration to the Director of Legislative Services and the Secretary of State.

The remainder shall take effect July 24, 2013.

Amended: RSA 21-J:15, RSA 21-J:14, IV(a), RSA 21-J:13, IX, RSA 149-M:22, IV, RSA 485-A:22, V-c(d), repealed RSA 21-J:9, RSA 21-J:2, II and III, RSA 94:1-a,I(b), RSA 21-J:12, and RSA 21-J:6-c.

MISCELLANEOUS ADMINISTRATIVE:

House Bill 2 (Chapter 144:53, :98 and :126, Laws of 2013) Section 53 of the bill creates the Medicaid Enhancement Tax Study Commission to review the current state and federal law relative to provider assessments and determine whether state law should be amended to ensure compliance with federal law on provider assessments; evaluate state provider assessment

programs in other states to obtain knowledge of various approaches utilized in other states; increase the predictability of future annual Medicaid Enhancement Tax revenues, taking into consideration the Medicaid Enhancement Tax revenue trends of recent years; simplify the Medicaid Enhancement Tax liability calculation; and obtain input on how the Medicaid Enhancement Tax statute should be amended to ensure accurate and consistent application of state and federal requirements.

The Commission is required to report its findings and any recommendations for proposed legislation to the Speaker of the House of Representatives, the President of the Senate, the House Clerk, the Senate Clerk, the Governor, and the State Library on or before November 1, 2013.

Section 98 of the bill requires the NH Department Revenue Administration to compile data on the sharing of the Mosaic Parcel GIS system with other state agencies that includes, but is not limited to, a listing of the agencies accessing the system, the amount of system time used by each agency, examples of cost allocation plans that could be applied to the use of the system, and any other information that would be necessary in determining the best approach to share costs associated with the system. The Department is required to provide a report of that data to the House Finance Committee by November 1, 2013.

Section 126 of the bill provides that \$250,000 in Fiscal Year 2015 shall be transferred from existing budgetary allocations of the Department of Justice to the Department of Revenue Administration for the purpose of funding the Flood Control payments under the Connecticut River Flood Control Compact as contained in RSA 484:1 and the Merrimack River Flood Control Compact as contained in RSA 484:7.

Effective: July 1, 2013

Amended: N/A

House Bill 581 (Chapter 155, Laws of 2013) urges the NH Attorney General to expedite the pursuit of the arrearages owed to New Hampshire by Massachusetts for mitigation of flooding as part of the 1953 and 1957 Interstate Compacts. Beginning on November 1, 2013, the NH Attorney General is required to make quarterly reports regarding its collection efforts to the Speaker of the House, President of the Senate and the Governor of New Hampshire.

Effective: June 28, 2013

Amended: N/A

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 N.H. Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301 or by contacting them at (603) 230-5000.