

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number	Rule Number	Rev 202.01; Rev 303.06; Rev 304.10; Rev 400 various; and Rev 2703.02
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<p>1. Agency Name & Address:</p> <p style="text-align: center;">Department of Revenue Administration P.O. Box 457 Concord, NH 03302-0457</p>	<p>2. RSA Authority: RSA 21-J:13, I; RSA 77-A:14, II; RSA 72:36; RSA 84-C:9, I.</p> <hr/> <p>3. Federal Authority: N/A</p> <hr/> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u> X </u></p> <p style="padding-left: 20px;">Repeal <u> X </u></p> <p style="padding-left: 20px;">Readoption <u> </u></p> <p style="padding-left: 20px;">Readoption w/amendment <u> X </u></p>
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5. Short Title: **Procedural Rules: Form, Appearance, and Number of Documents, and Business Profits Tax, Property Tax Credits, Exemptions and Deferrals, and Nursing Facility Quality Assessment Amendments.**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

Rev 202.01.

The Department of Revenue Administration (Department) is proposing to readopt with amendments Rev 202.01, pertaining to forms appearance, and number of documents to be submitted to the Department under Chapter Rev 200, to implement the ability to submit an appeal to the Department electronically via the Department’s Granite Tax Connect Portal.

Chapter Rev 200 defines the procedural terms, outlines the procedural rules for general and specific adjudicative proceedings before the Department’s Hearings Bureau, provides procedures for Department rulemaking and public comment and provides the procedures to petition the Department for a declaratory ruling. Part Rev 202 pertains to forms and service of documents.

Rev 303.06; Rev 304.10; Rev 400 various; and Rev 2703.02.

The Department of Revenue Administration (Department) is proposing to adopt, repeal, or readopt with amendments, as described below for various rules in Chapters Rev 300, Rev 400, and Rev 2700 to implement the legislative changes to the RSAs passed in 2019, 2022, and 2023, to update the cross-referencing revenue sections that were previously renumbered, and to clarify existing rules.

Chapter Rev 300 sets out rules for the administration of the business profits tax. Part Rev 303 pertains to additions and deductions made to gross business profits and Part Rev 304 pertains to apportionment of adjusted gross business profits. Changes made are summarized below:

- a) Rev 303.06, deduction under IRC 163(j), is being adopted to implement Chapter 169 of the Laws of 2023 for fiscal year tax filers.
- b) Rev 304.10, adjustments required to apportionment factors for financial institutions, is being amended for subparagraph (e)(10) to update the sales factor numerator for special industry apportionment for financial institutions to reflect the market-based sourcing apportionment methodology previously adopted through Chapter 346:426 of the Laws of 2019.

Chapter Rev 400 sets out rules for the administration of property tax credits, exemptions, and deferrals. Part Rev 401 provides definitions to the terms used, Part Rev 402 provides general information relative to property tax credits, exemptions, and deferrals, Part Rev 403 addresses veterans' tax credit, Part Rev 404 addresses the all veterans' tax credit, Part Rev 407 addresses surviving spouse tax credit, Part Rev 408 addresses certain disabled veterans' exemption, Part Rev 409 addresses elderly exemption, Part Rev 410 addresses exemption for improvements to assist persons with disabilities, Part Rev 411 addresses exemption for the disabled, Part Rev 412 addresses exemption for deaf or severely hearing impaired persons, Part Rev 413 addresses net income and net asset requirements for elderly, disabled, and deaf exemptions, and Part Rev 414 addresses exemption for the blind. Changes made are summarized below:

- a) Rev 402.03, "ownership requirements", Rev 407.04, "additional eligibility requirements" for the surviving spouse tax credit, Rev 409.03, "additional eligibility requirements" for an elderly exemption, Rev 410.03, "additional eligibility requirements" for the exemption for improvements to assist persons with disabilities, Rev 411.03, "additional eligibility requirements" for the exemption for the disabled, Rev 412.04, "additional eligibility requirements of exemption for deaf or severely hearing impaired persons", Rev 412.05, "exemption for improvements to assist deaf or severely hearing impaired persons", Rev 412.07, "additional eligibility requirements for exemption for improvements to assist deaf or severely hearing impaired persons", Rev 413.01, "net income requirements", Rev 413.03, "net asset requirements", and Rev 414.03 "additional eligibility requirements" for the exemption for the blind, are being amended to update the cross-referencing made to other rule sections that were previously renumbered.
- b) Rev 401.04, defining "armed forces", is being amended to clarify the definition of "armed forces" to mean the definition in RSA 21:50, II.
- c) Rev 401.28, defining "solar energy system", is being amended to clarify the definition of "solar energy system" to mean the definition in RSA 72:61.
- d) Rev 401.34, defining "wind-powered energy system", is being amended to clarify the definition of "wind-powered energy system" to mean the definition in RSA 72:65.
- e) Rev 402.01, listing the types of mandatory property tax credits, exemptions, and deferrals, and Rev 402.02, listing types of optional property tax credits and exemptions, are being amended to clarify that the exemption for the blind is a mandatory exemption, as provided in RSA 72:37.
- f) Rev 402.06, documentation used to establish veteran status, is being adopted to clarify that the Leave and Earnings Statement may be used by veterans to establish veteran status in claiming the veterans' tax credit and all veterans' tax credit, relative to changes adopted in Chapter 121 of the Laws of 2022.
- g) Rev 403.04, setting out the additional eligibility requirements for the veterans' tax credit and Rev 404.03, setting out the additional eligibility requirements for the all veterans' tax credit, are being amended to reflect the changes adopted in Chapter 121 of the Laws of 2022 for the veterans' tax credit and all veterans' tax credit claim.
- h) Rev 408.03, setting out the additional eligibility requirements for certain disabled veterans' exemption, is being amended to clarify the conditions that are considered total and permanent service-connected disability.
- i) Rev 409.01, "elderly exemption", Rev 411.01, "exemption for the disabled", Rev 412.02, "exemption for the deaf or severely hearing impaired persons", and Rev 414.01, "exemption

for the blind”, are being amended to reflect the proration requirement under RSA 72:41 for property tax exemption for the elderly, disabled, deaf or severely hearing impaired, and blind as adopted in Chapter 119 of the Laws of 2023.

Chapter Rev 2700 sets out the rules for the administration of the nursing facility quality assessment. Part Rev 2703 addresses the administration of this assessment. Rev 2703.02, relative to the examination of records and information for the nursing facility quality assessment, is being repealed to reflect the changes adopted in Chapter 145 of the Laws of 2023 that removes the requirement for nursing facilities to submit a copy of the return for the nursing facility quality assessment to the Commissioner of the Department of Health and Human Services.

6. (b) Brief description of the groups affected:

Rev 202.01.

The groups affected are any New Hampshire tax filers submitting an appeal to the Department.

Rev 303.06; Rev 304.10; Rev 400 various; and Rev 2703.02.

The groups affected are property owners who are subject to the property tax, municipalities assessing property tax, and nursing facilities subject to the nursing facility quality assessment.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rev 202.01.

Rule	Specific State Statute the Rule Implements
Rev 202.01	RSA 21-J:13; RSA 21-J:3, V; RSA 21-J:3, XVIII; RSA 21-J:28-b, I

Rev 303.06; Rev 304.10; Rev 400 various; and Rev 2703.02.

Rule	Specific State Statute the Rule Implements
Rev 303.06	RSA 77-A:4, XX
Rev 304.10	RSA 77-A:3
Rev 401.04	RSA 72:28; RSA 72:28-b; RSA 72:28-c; RSA 72:29-a; RSA 72:32
Rev 401.28	RSA 72:61; RSA 72:62
Rev 401.34	RSA 72:65; RSA 72:66
Rev 402.01	RSA 72:28; RSA 72:29-a; RSA 72:35; RSA 72:36-a; RSA 72:37; RSA 72:37-a; RSA 72:38-a; RSA 72:39-a; RSA 72:39-b
Rev 402.02	RSA 72:28; RSA 72:28-b; RSA 72:28-c; RSA 72:29-a; RSA 72:35; RSA 72:37-b; RSA 72:38-b; RSA 72:62; RSA 72:66; RSA 72:70
Rev 402.03	RSA 72:33
Rev 402.06	RSA 72:28; RSA 72:28-b
Rev 403.04	RSA 72:28; RSA 72:29-a; RSA 72:31; RSA 72:32
Rev 404.03	RSA 72:28-b; RSA 72:31; RSA 72:32

Rev 407.04	RSA 72:28; RSA 72:29-a; RSA 72:33
Rev 408.03	RSA 72:36-a
Rev 409.01	RSA 72:39-a; RSA 72:39-b; RSA 72:41
Rev 409.03	RSA 72:39-a; RSA 72:39-b
Rev 410.03	RSA 72:37-a
Rev 411.01	RSA 72:41; RSA 72:37-b
Rev 411.03	RSA 72:37-b
Rev 412.02	RSA 72:38-b; RSA 72:41
Rev 412.04	RSA 72:38-b
Rev 412.05	RSA 72:37-a
Rev 412.07	RSA 72:37-a
Rev 413.01	RSA 72:37-b; RSA 72:38-b; RSA 72:39-a; RSA 72:39-b
Rev 413.03	RSA 72:37-b; RSA 72:38-b; RSA 72:39-a; RSA 73:39-b
Rev 414.01	RSA 72:37; RSA 72:41
Rev 414.03	RSA 72:37
Rev 2703.02 (repeal)	RSA 84-C:10

There is no difference in costs when comparing the proposed rules to the existing rules.

- Not applicable to Rev 303.06 and Rev 402.06 as these are new rules.
- Not applicable to Rev 2703.02 as this rule is being repealed.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no differences in costs or benefits when comparing the proposed rules to the existing rules. Nor are there any costs or benefits to the new and repealed rules. The new rules are merely technical in nature and any cost or benefits would be attributable to statute and not the proposed rules.

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules does not mandate fees, or additional local expenditures, on a political subdivision of the state and therefore does not violate Part I, Article 28-a of the NH Constitution.

INSTRUCTIONS FOR THE RULEMAKING NOTICE FORM

NOTE:

Completion of this notice is required pursuant to RSA 541-A:6, I for publication by the Administrative Rules office in the New Hampshire Rulemaking Register pursuant to RSA 541-A:9, I(a). Other notice may also be required to be sent by the agency to other persons pursuant to RSA 541-A:6, III and RSA 541-A:39. See Section 2.6 of Chapter 3 of the Drafting and Procedure Manual for Administrative Rules (Manual) about these other notices.

The first unnumbered item to the left of the form is labeled "Notice Number" and shall be left blank. The number of each notice will be assigned by the Administrative Rules office.

The second unnumbered item to the right of the form is the rule number of the proposed rule(s) in the codification scheme described in Part 1 of Chapter 4 in the Manual. The number shall be correctly identified, such as Agr 501.03(e) and not Agr 501.03 if only paragraph (e) is being filed. A summary may be used, such as "Agr 502, various sections," if there is not enough space to list all the rules.

Item 1 is the name and address of the agency with rulemaking authority. This is the individual or group named in the RSA passage delegating authority, which is cited in Item 2. However, where an individual rulemaker is involved, such as a Commissioner, Division Director, or Bureau Chief, the name of the office may be used, such as "Department of," "Division of," or "Bureau of."

Item 2 shall be a citation to the specific statutory passage indicating RSA chapter, section, and paragraph delegating the agency rulemaking authority, for example: RSA 309-A:2, III, not RSA 309-A.

Item 3 shall cite the Federal authority, if applicable.

Item 4 shall be checked to indicate the type(s) of rulemaking action proposed. Four types are listed, as described below. **NOTE: The text of each rule filed must encompass at least a full rules section pursuant to RSA 541-A:10, I, as amended by 2020, 37:72, effective 9/27/20:**

(a) "Adoption" means that a new section, part, or chapter is being inserted or an expired one is being reinstated. The term only applies to the insertion of whole sections, parts, and chapters, but does not apply to insertions of text less than an entire section.

(b) "Repeal" means to eliminate an entire section or sections of an existing rule with no rule in its place or with a rule on a different subject area instead.

(c) "Readoption" means that an existing rule is being adopted again without change.

(d) "Readoption with amendment" means that a section or a larger unit of an existing rule is being changed, and the entire text of that section, or larger unit, of the existing rule is being included for purposes of readoption.

Item 5 is a "short title", and shall be a brief description of the subject matter in key words and not merely repeat the rule number affected. The rule's "short title" is a quick way of identifying what the rule is about.

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Item 6 is the summary and analysis required by RSA 541-A:6, I(f) and (g) and the identification required by RSA 541-A:3-a, which shall include at least the following:

- (a) A summary of what the rule says and of any amendments, clarifying any ambiguity due to multiple rulemaking actions in one proposal and whether the proposal implements a state statute for the first time;
- (b) A brief description of groups affected; and
- (c) The specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

The agency shall number the paragraphs in its analysis of Items 6(a), 6(b), and 6(c) to correspond to the above.

It shall also be clear from the context in the summary and analysis in Item 6(a) what the consequences would be if the rule were not adopted.

See Section 2.4 of Chapter 3 in the Manual. Item 6(c) is not the rulemaking authority under Item 2 or Item 3. Item 6(c) contains the specific section(s) or provisions of the RSA or federal statute or regulation, that the rule is meant to implement. For example, authority to adopt rules pursuant to RSA 541-A on license procedures could be in one RSA section, but a provision requiring that a person obtain a license (implemented by rules on license procedures) might be in a different section. The citation under Item 2 would be the same as in Item 6(c) only if the RSA rulemaking authority and the specific RSA provision being implemented are in the same RSA section or provision.

A list of cross-references will be necessary in Item 6(c) if different portions of the rule relate to different sections or provisions of state or federal statutes or regulations. Pursuant to RSA 541-A:3-a, III:

General references to the name or title of a state or federal statute or regulation shall not suffice for the purposes of this section. To the extent that specific provisions of the proposed rule are designed to implement different sections or provisions of state or federal statutes or regulations, the agency shall reference the state or federal statutes or regulation with the provision of the proposed rule that is intended to implement that statute or regulation.

Item 6(c) may be submitted as an attached cross-reference table on a separate sheet if necessary. The same information must be submitted as an appendix to the rules. See Section 2.5 of Chapter 3 in the Manual.

Item 7 shall identify the name, title, mailing address, telephone and fax numbers, and e-mail address, of a person in the agency who can supply copies of the proposed rule and answer questions about it including requests to accommodate persons with disabilities in the rulemaking process.

Item 8 shall be the deadline for submission of materials in writing or, if practicable for the agency, in electronic format (such as fax, e-mail, or on diskette). Pursuant to RSA 541-A:11, I, this deadline shall be at least 5 business days after the public hearing(s), but if the rule is proposed by a group, such as a board or commission, that agency may specify a shorter period in the notice provided that the deadline is not earlier than the scheduled conclusion of the public hearing(s). Specify the electronic format, if any, that is practicable for your agency.

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Item 9 shall be the date, time, , and physical location of the agency's public hearing(s) required by RSA 541-A:11, I(a) and, if applicable and consistent with RSA 91-A and RSA 541-A:11, I(d), “the necessary information to access the meeting electronically, and a mechanism for the public to alert the agency during the hearing if there are problems with access”. Pursuant to RSA 541-A:11, I(d):

If consistent with RSA 91-A and the provisions of this section, the agency under subparagraph I(a) may hold a virtual or hybrid hearing, provided that the public may participate by telephone, with additional access possibilities by video or other electronic means in accordance with the terms of the notice filed pursuant to RSA 541-A:3, I, including a mechanism for the public to alert the agency during the hearing if there are problems with access. Each participant in a virtual hearing or hybrid hearing shall be able to simultaneously hear and speak to the other agency and public participants and be audible or otherwise discernable to the public in attendance, whether attendance is in-person or by electronic means.

If the hearing is virtual, then insert “N/A” for the physical location. If the hearing is only in a physical location, then insert “N/A” for the electronic access information. Currently RSA 91-A does not allow virtual hearings by a state board or commission. RSA 91-A:2, IV sets limits on electronic participation by members of a state board or commission and permits electronic participation by the public in an otherwise in-person hearing only to the extent that the agency’s own rules and procedures allow.

Pursuant to RSA 541-A:6, I, the agency shall give at least 20 days’ notice of the hearing. The notice period shall begin on the day after the date of publication in the Rulemaking Register. Therefore the date of the first hearing shall be no earlier than 3 weeks after the online publication date of the Rulemaking Register containing the notice, which is Thursday, or earlier if Thursday is a holiday.

Item 10 shall consist of the fiscal impact statement prepared by the Legislative Budget Assistant. When it receives the fiscal impact statement, the agency shall either retype or copy and paste this as part of the notice form and shall not amend it except for converting the font to Times New Roman. The agency shall also submit the original document as received from the Legislative Budget Assistant, and keep a copy for its own records.

Item 11 shall contain a statement which the agency shall prepare. Pursuant to RSA 541-A:6, I(j), it is the statement that the proposed rule does not violate Part I, Article 28-a of the N.H. Constitution. It shall contain the agency's concise rationale, in compliance with Section 2.4 of Chapter 3 in the Manual, why it does not.