

HB 1500-FN-A - AS INTRODUCED

2022 SESSION

22-2749

10/05

HOUSE BILL ***1500-FN-A***

AN ACT reducing the rate of the communications services tax and repealing the tax in 2025.

SPONSORS: Rep. White, Merr. 20; Rep. Yakubovich, Merr. 24; Rep. Berezhny, Graf. 9; Rep. Seaworth, Merr. 20; Rep. Baxter, Rock. 20; Rep. Cushman, Hills. 2

COMMITTEE: Ways and Means

ANALYSIS

This bill reduces the rate of the communications services tax for 2022 through 2024 and repeals the tax in 2025.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT reducing the rate of the communications services tax and repealing the tax in 2025.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Communications Services Tax; Intrastate Rate. Amend RSA 82-A:3 to read as follows:
2 82-A:3 Imposition of Tax; Intrastate Communications Services. A tax is imposed upon
3 intrastate communications services furnished to a person in this state and purchased at retail from a
4 retailer by such person, at the rate of [~~7 percent~~] **6 percent for 2022, 4 percent for 2023, and 2**
5 **percent for 2024** of the gross charge therefor. However, such tax is not imposed on any
6 communications services to the extent a tax on such services may not, under the Constitution and
7 statutes of the United States, be made the subject of taxation by the state.

8 2 Communications Services Tax; Interstate Rate. Amend RSA 82-A:4 to read as follows:
9 82-A:4 Imposition of Tax; Interstate Communications Services. Except as provided in RSA 82-
10 A:4-b, RSA 82-A:4-d, and RSA 82-A:4-e, a tax is imposed upon interstate communications services
11 and private communications services furnished to a person in this state and purchased at retail from
12 a retailer by such person, at the rate of [~~7 percent~~] **6 percent for 2022, 4 percent for 2023, and 2**
13 **percent for 2024** of the gross charge when such service purchased on a call-by call basis originates
14 in this state and terminates outside this state or originates outside this state and terminates in this
15 state and the service address is in this state, or when such service purchased on a basis other than a
16 call-by-call basis is provided to a person with a place of primary use in this state or when such
17 private communications services are apportioned to this state in accordance with RSA 82-A:4-c.
18 Provided however, a tax is imposed upon interstate paid calling service furnished to a person in this
19 state and purchased at retail from a retailer by such person, at the rate of [~~7 percent~~] **6 percent for**
20 **2022, 4 percent for 2023, and 2 percent for 2024** of the gross charge when the origination point of
21 the communications signal (as first identified by either (a) the seller's telecommunications system, or
22 (b) information received by the seller from its service provider, where the system used to transport
23 such signals is not that of the seller) is in this state. To prevent actual multi-state taxation of
24 communications services that are subject to taxation under this section, any taxpayer, upon proof
25 that the taxpayer has paid a tax in another state on such services, shall be allowed a credit against
26 the tax imposed in this section to the extent of the amount of such tax properly due and paid in such
27 other state. However, such tax is not imposed on communications services to the extent such
28 services may not, under the Constitution and statutes of the United States, be made the subject of
29 taxation by the state.

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1 3 Repeal; Communications Services Tax; 2025. RSA 82-A relative to the communications
2 services tax is repealed.

3 4 Reference Deleted; 2025; Understatement of Tax. Amend RSA 21-J:33-a, I to read as follows:

4 I. If there is a substantial understatement of tax imposed under RSA 77, RSA 77-A, RSA 77-
5 E, RSA 78-A, RSA 78-C, ~~[RSA 82-A,]~~ RSA 83-C, or RSA 84-A for any taxable period, there shall be
6 added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to
7 such understatement.

8 5 Reference Deleted; 2025; Tax Expenditures. Amend RSA 71-C:4, I to read as follows:

9 I. On or before December 15 of every fiscal year the commissioner of the department of
10 revenue administration shall certify in a report to the general court and the governor an analysis of
11 each of the past fiscal year's tax expenditures as identified in RSA 71-C:2, and other credits allowed
12 under RSA 77, RSA 77-A, RSA 77-E, RSA 77-G, RSA 78, RSA 78-A, 78-B, ~~[RSA 82-A,]~~ RSA 84-A,
13 RSA 84-C, and RSA 400-A.

14 6 Reference Deleted; 2025; Property Taxation. Amend RSA 72:12 to read as follows:

15 72:12 Public Utilities. All real estate of railroads and other public utility corporations and
16 companies which is not taxed under RSA 82 ~~[and 82-A]~~ shall be appraised and taxed by the
17 authorities of the town in which it is situated.

18 7 References Deleted; 2025; E911 System. Amend RSA 106-H:9, III to read as follows:

19 III.(a) Notwithstanding any other provision of law, ~~[and except as otherwise provided in~~
20 ~~RSA 82-A,]~~ the records and files of the department, related to this section, are confidential and
21 privileged. Neither the department, nor any employee of the department, nor any other person
22 charged with the custody of such records or files, nor any vendor or any of its employees to whom
23 such information becomes available in the performance of any contractual services for the
24 department shall disclose any information obtained from the department's records, files, or returns
25 or from any examination, investigation, or hearing, nor may any such employee or person be
26 required to produce any such information for the inspection of any person or for the use in any action
27 or proceeding except as provided in this paragraph.

28 (b) The following exceptions shall apply to this paragraph:

29 (1) Delivery to the surcharge collector or its representative of a copy of any return or
30 other papers filed by the surcharge collector.

31 (2) Disclosure of department records, files, returns, or information in a New
32 Hampshire state judicial or administrative proceeding pertaining to administration of the surcharge
33 where the information is directly related to an issue in the proceeding regarding the surcharge under
34 this section, or the surcharge collector whom the information concerns is a party to such proceeding,
35 or the information concerns a transactional relationship between a person who is a party to the
36 proceeding and the taxpayer.

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1 (3) Disclosure to the department of revenue administration of records, files, and
2 information required by the department of revenue administration to ~~administer the~~
3 ~~communications services tax pursuant to RSA 82-A and to~~ assist the bureau in its administration of
4 RSA 106-H:9.

5 (4) Disclosure of department records, files, and information to the legislative budget
6 assistant, when requested by the legislative budget assistant pursuant to RSA 14:31, IV

7 8 State of Emergency Waivers for Businesses; 2025. RSA 319-D:1, I is repealed and reenacted
8 to read as follows:

9 I. "Communications services" means services for transmitting, emitting, or receiving signs,
10 signals, writing, images, sounds or intelligence of any nature by any electromagnetic system capable
11 of 2-way communication and includes, without limitation, messages or information transmitted
12 through use of local, toll and wide area telephone service; private line services and networks,
13 whether leased, rented or owned; channel services; telegraph services; teletypewriter services; cable
14 television; computer exchange services; mobile telecommunications services; prepaid wireless
15 telecommunications services; VoIP; facsimile services; specialized mobile radio; stationary 2-way
16 radio; paging services; or any other form, whether stationary, portable or mobile, of 2-way
17 communications; or any other transmission of messages or information by electronic or similar
18 means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or
19 similar facilities. "Communications services" shall not include:

20 (a) Value added services in which computer processing applications are used to act on
21 the form, content, code and protocol of the information for purposes other than transmission;

22 (b) Purchases of communications services by a communications services provider for use
23 as a component part of the service provided by him to the ultimate retail consumer who originates or
24 terminates the taxable end-to-end communications, including carrier access charges, right of access
25 charges, charges for use of inter-company facilities, and all communications services resold in the
26 subsequent provision of, used as a component of, or integrated into end-to-end communications
27 services;

28 (c) The one-way transmission of radio or television programming, by cable, broadcast,
29 satellite, microwave or similar facility, which is made available generally to any person able to
30 receive such transmission, together with the interaction, if any, of such person required for the
31 selection of such programming other than by use of the same facility by which such transmission
32 was received; or

33 (d) Internet access.

34 9 Effective Date.

35 I. Sections 3-8 of this act shall take effect January 1, 2025.

36 II. The remainder of this act shall take effect July 1, 2022.

**HB 1500-FN-A- FISCAL NOTE
AS INTRODUCED**

AN ACT reducing the rate of the communications services tax and repealing the tax in 2025.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill would phase out the Communications Services Tax (CST) by decreasing the rate to 6 percent for 2022, 4 percent for 2023, and 2 percent for 2024 and repealed effective January 1, 2025. The Department of Revenue Administration states it is unclear when the proposed rate reductions are intended to apply. For purposes of the fiscal note, the Department has assumed the rate reductions would be applied to FY 2023, FY 2024 and FY 2025 and the repeal would be effective July 1, 2025.

The exact fiscal impact of this bill cannot be determined, however the Department is able to provide an estimate of the CST tax rate reduction from 7.0% to 0.0% using the FY 2021 cash basis collection of CST of \$39.6 million and adjusting the tax rate from 7.0 % to the rate proposed for each fiscal year. Based on the following assumptions and information, the Department is able to provide an estimated fiscal impact for this bill as contained in the table below.

Communciation Services Tax Static Analysis using FY 2021 Revenues				
\$ in Millions				
Fiscal Year	Proposed Rates	FY 2021 CST General Fund Revenue at 7.0%	CST General Fund Revenue at Proposed Rate Reductions	Fiscal Impact (Proposed Legislation Compared to Current Law)
2023	6%	\$39.6	\$33.9	(\$5.7)
2024	4%	\$39.6	\$22.6	(\$17.0)
2025	2%	\$39.6	\$11.3	(\$28.3)
2026 and forward	Repealed	\$39.6	\$0.0	(\$39.6)

CST returns must be filed on the 15th day of the month for the preceding calendar month, accompanied by the tax collected. For those CST taxpayers with an estimated monthly liability in excess of \$10,000, they are required to provide an estimated payment equal to 90% of the actual tax collected on or before the 15th day of the month during which the liability is incurred. This requirement results in a nominal amount of revenue being attributable to the prior month. With an effective date of July 1, 2022, a nominal amount of revenue remitted in July 2022 would be attributable to the June 2021 taxable period at the higher 7.0% rate. The Department found that for July 2020, approximately 1.0% of the revenue collected was attributable to the June 2019 taxable period.

The Department would need to update all necessary tax forms and electronic management systems related to CST, however it is not anticipated this bill would result in any additional administrative costs that could not be absorbed in the Department's operating budget.

AGENCIES CONTACTED:

Department of Revenue Administration