

HB 354-FN-A – AS INTRODUCED

2013 SESSION

13-0498
09/10

HOUSE BILL **354-FN-A**

AN ACT reducing the rate of the business enterprise tax over a 5-year period and repealing the tax.

SPONSORS: Rep. Rideout, Coos 7; Rep. H. Richardson, Coos 4; Rep. Tucker, Rock 23; Rep. Baldasaro, Rock 5

COMMITTEE: Ways and Means

ANALYSIS

This bill reduces the rate of the business enterprise tax over a 5-year period and repeals the tax July 1, 2018.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT reducing the rate of the business enterprise tax over a 5-year period and repealing the tax.

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

1 1 Business Enterprise Tax; Rate Reduced; 2014. Amend RSA 77-E:2 to read as follows:
2 77-E:2 Imposition of Tax. A tax is imposed at the rate of [~~3/4 of one~~] **.60** percent upon the
3 taxable enterprise value tax base of every business enterprise.

4 2 Business Enterprise Tax; Rate Reduced; 2015. Amend RSA 77-E:2 to read as follows:
5 77-E:2 Imposition of Tax. A tax is imposed at the rate of [~~.60~~] **.45** percent upon the taxable
6 enterprise value tax base of every business enterprise.

7 3 Business Enterprise Tax; Rate Reduced; 2016. Amend RSA 77-E:2 to read as follows:
8 77-E:2 Imposition of Tax. A tax is imposed at the rate of [~~.45~~] **.30** percent upon the taxable
9 enterprise value tax base of every business enterprise.

10 4 Business Enterprise Tax; Rate Reduced; 2017. Amend RSA 77-E:2 to read as follows:
11 77-E:2 Imposition of Tax. A tax is imposed at the rate of [~~.30~~] **.15** percent upon the taxable
12 enterprise value tax base of every business enterprise.

13 5 Business Enterprise Tax; Distribution of Funds. Amend RSA 77-E:14 to read as follows:
14 77-E:14 Distribution of Funds.

15 I. The commissioner shall determine the [~~additional~~] amounts of revenue produced by [~~an~~
16 ~~increase of .50 percent in~~] **2/3 of** the rate of tax imposed by RSA 77-E:2 for each fiscal year and shall
17 certify such amounts to the state treasurer by October 1 of that year for deposit in the education
18 trust fund established by RSA 198:39.

19 II. The commissioner shall make quarterly estimates of the amount of [~~additional~~] revenues
20 [~~that will be~~] produced by [~~the increase in~~] **2/3 of the** tax rate for the next fiscal year and shall certify
21 such amounts to the state treasurer for deposit in the education trust fund established by
22 RSA 198:39. Such estimates shall be certified on June 1, September 1, December 1, and March 1 of
23 each year.

24 6 Reference Deleted; Special Fund. Amend RSA 6:12, I(b)(65) to read as follows:

25 (65) Money received under RSA 77-A, [~~RSA 77-E,~~] RSA 78, RSA 78-A, RSA 78-B,
26 RSA 83-F, RSA 198:46, and from the sweepstakes fund, which shall be credited to the education
27 trust fund under RSA 198:39.

28 7 Reference Deleted; Penalty for Failure to File. Amend RSA 21-J:31 to read as follows:

29 21-J:31 Penalty for Failure to File. Any taxpayer who fails to file a return when due, unless an
30 extension has been granted by the department, shall pay a penalty equal to 5 percent of the amount

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1 of the tax due or \$10, whichever is greater, for each month or part of a month during which the
2 return remains unfiled. The total amount of any penalty shall not, however, exceed 25 percent of the
3 amount of the tax due or \$50, whichever is greater. This penalty shall not be applied in any case in
4 which a return is filed within the extended filing period as provided in RSA 77:18-b, RSA 77-A:9,
5 ~~[RSA 77-E:8, RSA 83-C:6,]~~ RSA 83-E:5, RSA 84-A:7, or RSA 84-C:7, or the failure to file was due to
6 reasonable cause and not willful neglect of the taxpayer. The amount of the penalty is determined by
7 applying the percentages specified to the net amount of any tax due after crediting any timely
8 payments made through estimating or other means.

9 8 Reference Deleted; Substantial Understatement Penalty. Amend RSA 21-J:33-a, I to read as
10 follows:

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

15 9 Reference Removed; Extension of Tax Filing Deadlines for Members of the Armed Forces and
16 National Guard. Amend RSA 21-J:46, III to read as follow:

17 III. This section shall apply only to tax returns and associated payments under RSA 77[~~]~~
18 **and** RSA 77-A[~~, and RSA 77-E~~].

19 10 Reference Deleted; Business Profits Tax; Tax Expenditure Report. Amend RSA 77-A:5-a to
20 read as follows:

21 77-A:5-a Tax Expenditure Report. On or before February 1 of every calendar year the
22 commissioner shall certify to the general court and the governor an analysis of each of the past year's
23 credits allowed under RSA 77-A[~~, RSA 77-E, RSA 83-C, RSA 83-D,~~] and RSA 400-A against the
24 business profits tax imposed by this chapter and the apportionment factors under RSA 77-A:3, II(a).

25 11 References Deleted; Business Profits Tax; Reporting for Qualified Investment Capital
26 Companies. Amend RSA 77-A:5-b, IV to read as follows:

27 IV. The qualified investment company shall be subject to the provisions of RSA 77-A:11 ~~[and~~
28 ~~RSA 77-E:10]~~. The commissioner is authorized to audit and enforce such provisions with any of the
29 powers granted under this chapter ~~[and RSA 77-E]~~.

30 12 References Deleted; New Investment Tax Credit. Amend RSA 162-L:10, I-II to read as
31 follows:

32 I. An investment tax credit equal to 75 percent of the contribution made to the authority
33 during the contributor's tax year shall be allowed against any of the following individually or in
34 combination:

35 (a) Taxes imposed by RSA 77-A.

36 (b) Taxes imposed by RSA 400-A.

37 ~~[(c) Taxes imposed by RSA 77-E.]~~

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1 II. Credits provided by this section applied against the liabilities imposed by RSA 400-A [~~and~~
2 ~~RSA 77-E~~] shall be deemed to be taxes paid for the purpose of RSA 77-A:5, III [~~and X, respectively~~].

3 13 Reference Deleted; Corporations; Effect of Dissolutions. Amend RSA 293-A:14.05, (b) to read
4 as follows:

5 (b) Prior to making any distribution of its remaining property among its shareholders
6 according to their interests, the corporation shall first obtain a certificate of dissolution from the
7 department of revenue administration in accordance with RSA 77-A:18 [~~and RSA 77-E:12~~].

8 14 Reference Deleted; Corporations; Reinstatement After Administrative Dissolution. Amend
9 RSA 293-A:14.22, (a)(4) to read as follows:

10 (4) Contain a certificate from the New Hampshire department of revenue
11 administration in accordance with RSA 77-A:18, III, [~~and RSA 77-E:12, III~~], if such application is
12 received by the secretary of state more than 120 days after the notice of administrative dissolution is
13 mailed.

14 15 Reference Deleted; Corporations; Late Reinstatement Hearings. Amend RSA 293-A:14.22-a,
15 (a)(4) to read as follows:

16 (4) Contain a certificate from the New Hampshire department of revenue
17 administration in accordance with RSA 77-A:18, III [~~and RSA 77-E:12, III~~];

18 16 Reference Deleted; Corporations; Withdrawal of Foreign Corporation. Amend
19 RSA 293-A:15.20, (b)(6) to read as follows:

20 (6) A statement of withdrawal from the New Hampshire department of revenue
21 administration in accordance with RSA 77-A:18, II [~~and RSA 77-E:12, II~~].

22 17 Repeal. The following are repealed:

23 I. RSA 21-J:45, I(b), relative to reports on status of monthly tax returns for the business
24 enterprise tax.

25 II. RSA 77-E, relative to the business enterprise tax.

26 III. RSA 77-A:5, X, relative to the business enterprise tax credit against the business profits
27 tax.

28 IV. RSA 77-A:5, XII, relative to the crop zone tax credit.

29 V. RSA 77-A:5, XIV, relative to the Coos county job creation tax credit.

30 VI. RSA 162-N, relative to community reinvestment and opportunity (CROP) zones and tax
31 credits.

32 VII. RSA 162-Q, relative to the Coos county job creation credit.

33 VIII. RSA 198:39, I(b), relative to business enterprise tax revenues deposited in the
34 education trust fund.

35 IX. RSA 277-B:9, I(h), relative to payment of the business enterprise tax by employee leasing
36 companies.

37 X. RSA 400-A:34-a, relative to the credit against the business enterprise tax for insurance

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1 taxes.

2 18 Applicability.

3 I. Section 1 of this act shall apply to returns and taxes due on account of taxable periods
4 ending on or after July 1, 2014. In the case of any business organization or enterprise which has
5 elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code
6 and the fiscal year of which ends on the last day of the week nearest to June 30, 2014, the taxable
7 period shall be deemed to have ended on June 30, 2014, for the purposes of this act.

8 II. Section 2 of this act shall apply to returns and taxes due on account of taxable periods
9 ending on or after July 1, 2015. In the case of any business organization or enterprise which has
10 elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code
11 and the fiscal year of which ends on the last day of the week nearest to June 30, 2015, the taxable
12 period shall be deemed to have ended on June 30, 2015, for the purposes of this act.

13 III. Section 3 of this act shall apply to returns and taxes due on account of taxable periods
14 ending on or after July 1, 2016. In the case of any business organization or enterprise which has
15 elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code
16 and the fiscal year of which ends on the last day of the week nearest to June 30, 2016, the taxable
17 period shall be deemed to have ended on June 30, 2016, for the purposes of this act.

18 IV. Section 4 of this act shall apply to returns and taxes due on account of taxable periods
19 ending on or after July 1, 2017. In the case of any business organization or enterprise which has
20 elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code
21 and the fiscal year of which ends on the last day of the week nearest to June 30, 2017, the taxable
22 period shall be deemed to have ended on June 30, 2017, for the purposes of this act.

23 V. Sections 5-17 of this act shall apply to returns and taxes due on account of taxable periods
24 ending on or after July 1, 2018. In the case of any business organization or enterprise which has
25 elected a 52-53 week taxable period under section 441(f) of the United States Internal Revenue Code
26 and the fiscal year of which ends on the last day of the week nearest to June 30, 2018, the taxable
27 period shall be deemed to have ended on June 30, 2018, for the purposes of sections 5-17 of this act.

28 20 Effective Date.

29 I. Sections 1 and 18 of this act shall take effect July 1, 2014.

30 II. Section 2 of this act shall take effect July 1, 2015.

31 III. Section 3 of this act shall take effect July 1, 2016.

32 IV. Section 4 of this act shall take effect July 1, 2017.

33 V. The remainder of this act shall take effect July 1, 2018.

HB 354-FN-A - FISCAL NOTE

AN ACT reducing the rate of the business enterprise tax over a 5-year period and repealing the tax.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, will reduce state revenue by \$39,220,000 in FY 2015, \$78,440,000 in FY 2016, and \$117,660,000 in FY 2017. This bill will have no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:

The Department of Revenue Administration (DRA) states this bill would reduce the Business Enterprise Tax (BET) rate over a five year period and repeal the BET tax effective July 1, 2018. The Department estimates the BET tax base at \$26,146,666,667 by dividing the projected FY 2013 BET revenue estimate of \$196,100,000 by the current tax rate ($\$196,100,000 / .0075 = \$26,146,666,667$). The estimated revenue loss is projected as follows –

Fiscal Year	BET Rate	Revenue Loss
FY 2015	.60%	\$39,220,000
FY 2016	.45%	\$78,440,000
FY 2017	.30%	\$117,660,000
FY 2018	.15%	\$156,880,000
FY 2019	Repealed	\$196,000,000

The Department is unable to determine the impact related to the corresponding reduction in Business Enterprise Tax (BET) credit against BPT revenue.

The Department states the bill also repeals the Crop Zone Tax Credit, the Economic Revitalization Zone Tax Credit, and the Coos County Job Creation Tax Credit on July 1, 2018. The Department states the repeal of the three tax credits, revenue would increase by approximately \$1,000,000 annually in FY 2019 and thereafter.

The Department states it can administer this bill without any additional cost.