

HB 1553-FN-A – AS INTRODUCED

2014 SESSION

14-2581
10/04

HOUSE BILL ***1553-FN-A***

AN ACT requiring the refund of business profits taxes and business enterprise taxes which exceed an annual revenue cap adopted by the legislature.

SPONSORS: Rep. Lambert, Hills 44; Rep. Hoell, Merr 23

COMMITTEE: Ways and Means

ANALYSIS

This bill requires the department of revenue administration to refund taxes paid for business profits taxes and business enterprise taxes which exceed an amount of tax revenues determined annually by the legislature.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Fourteen

AN ACT requiring the refund of business profits taxes and business enterprise taxes which exceed an annual revenue cap adopted by the legislature.

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

1 1 New Section; Business Profits Tax; Refund of Excess Revenues; Legislative Cap. Amend RSA
2 77-A by inserting after section 15 the following new section:

3 77-A:15-a Refund of Excess Revenues; Legislative Cap. The legislature, by adoption of
4 appropriate legislation, shall annually establish the amount of business profits tax revenues
5 expected to be collected in the next state fiscal year. Such amount shall act as a cap on the amount
6 of revenue to be certified and paid over to the state treasurer under RSA 77-A:15. Within 30 days of
7 the close of each state fiscal year, the commissioner of revenue administration shall determine if the
8 net revenues collected under this chapter for the state fiscal year exceed the cap established by the
9 legislature for the same year. If the commissioner determines that there are excess revenues
10 collected, the commissioner shall refund the total amount of such excess to each of the taxpayers of
11 the business profits tax in the proportion that the amount each taxpayer remitted compared to the
12 total amount of taxes collected. Such refunds shall be a required return of excess moneys paid and
13 shall not be administered as provided in RSA 21-J:28-a.

14 2 New Section; Business Enterprise Tax; Refund of Excess Revenues; Legislative Cap. Amend
15 RSA 77-E by inserting after section 11 the following new section:

16 77-A:11-a Refund of Excess Revenues; Legislative Cap. The legislature, by adoption of
17 appropriate legislation, shall annually establish the amount of business enterprise tax revenues
18 expected to be collected in the next state fiscal year. Such amount shall act as a cap on the amount
19 of revenue to be certified and paid over to the state treasurer under RSA 77-E:11. Within 30 days of
20 the close of each state fiscal year, the commissioner of revenue administration shall determine if the
21 net revenues collected under this chapter for the state fiscal year exceed the cap established by the
22 legislature for the same year. If the commissioner determines that there are excess revenues
23 collected, the commissioner shall refund the total amount of such excess to each of the taxpayers of
24 the business enterprise tax in the proportion that the amount each taxpayer remitted compared to
25 the total amount of taxes collected. Such refunds shall be a required return of excess moneys paid
26 and shall not be administered as provided in RSA 21-J:28-a.

27 3 Effective Date. This act shall take effect July 1, 2014.

HB 1553-FN-A - FISCAL NOTE

AN ACT requiring the refund of business profits taxes and business enterprise taxes which exceed an annual revenue cap adopted by the legislature.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, may reduce state revenue and increase state expenditures by an indeterminable amount in FY 2015 and each year thereafter. This bill will have no fiscal impact on county and local revenue or expenditures.

METHODOLOGY:

The Department of Revenue Administration (DRA) states this bill would require the Legislature to establish a cap on the amount of revenue collected for the Business Profits Tax (BPT) and Business Enterprise Tax (BET) each year. Both taxes would have its own cap. The Department states the bill would require within 30 days of the close of each fiscal year, DRA to determine if the net revenue received is in excess of the cap established for that year. It is assumed that the cap would be set for the combined state general and education trust fund amount. If the revenue received is in excess of the cap for BPT or BET, the DRA must refund the excess to each of the taxpayers of the respective taxes in proportion to the amount each taxpayer remitted compared to the total amount of taxes collected. The refunds shall not be administered as provided in RSA 21-J:28-a, which requires the request for refund to be made in writing, requires the DRA to issue a notice of refund or denial, allow the DRA to offset the refund against any liability for refunds of \$10 or more, and allows the DRA to not issue refunds less than \$10 if they are not requested as the cost could exceed the amount involved. The refunds would be paid out of the state general fund and could require that the State pay interest on the amounts if more than three months have passed since the later of the due date, extension date or when the return is filed. The Department states the bill would require a significant amount of work by DRA to calculate the refunds due to each taxpayer, issue refunds, and potentially re-process the refunds as many taxpayers choose to have overpayments applied as credits to their accounts. In addition, the DRA would need to update its systems in order to accommodate the requirements under this bill. The effort to update the systems would be substantial, as would the effort of processing the refunds manually if the systems were not updated. The fiscal impact of this bill is indeterminable as the DRA has no way of knowing what the cap would be and what, if any, revenue would be received in excess of the cap. Also, the fiscal impact would not just be the difference between the revenue received and the cap

since some of the refunds may require the addition of interest. There would also be an indeterminable increase in state expenditures as DRA would need additional staff. In addition, there could be additional Department of Information Technology (DoIT) resources needed in order to update the systems. The exact fiscal impact cannot be determined at this time.

This bill does not contain an appropriation or establish positions.