

CHAPTER 192
SB 243 – FINAL VERSION

01/30/14 0145s
7May2014... 1554h

2014 SESSION

14-2663
10/05

SENATE BILL **243**

AN ACT relative to the carry forward of a credit against the business profits tax, rulemaking concerning the real estate transfer tax, the disclosure of certain department of revenue administration records, and the tax on unstamped tobacco products.

SPONSORS: Sen. Odell, Dist 8; Sen. Forrester, Dist 2; Sen. Hosmer, Dist 7; Sen. D'Allesandro, Dist 20; Sen. Rausch, Dist 19; Rep. Major, Rock 14; Rep. Hess, Merr 24; Rep. Schamberg, Merr 4; Rep. Lovejoy, Rock 36

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill clarifies certain statutes administered by the department of revenue administration, including:

- I. The taxable years for which the business profits tax credit for business enterprise tax paid may be carried forward.
- II. Allowing rules concerning the real estate transfer tax to include examples.
- III. The disclosure of records of the department of revenue administration to the federal Department of Justice.
- IV. Payment of tax on unstamped tobacco products.

This bill is a request of the department of revenue administration.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 relative to the carry forward of a credit against the business profits tax, rulemaking concerning the real estate transfer tax, the disclosure of certain department of revenue administration records, and the tax on unstamped tobacco products.

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

1 192:1 Business Profits Tax; Credits Carried Forward. Amend RSA 77-A:5, X to read as follows:

2 X. Taxes paid pursuant to RSA 77-E. Such credit shall be applied in accordance with
3 RSA 77-E:13. No amount of tax paid pursuant to RSA 77-E and used as a credit against the taxes
4 due under RSA 400-A shall be allowed as a credit under this paragraph except as provided in
5 RSA 400-A:34-a. Any unused portion of the credit allowed under this paragraph ***from taxable***
6 ***periods ending on or after December 31, 2014*** may be carried forward and allowed against the
7 tax due under this chapter for 10 taxable periods from the taxable period in which the tax was paid.

8 192:2 Real Estate Transfer Tax; Rules. Amend RSA 78-B:8, I to read as follows:

9 I. This chapter shall be administered by the commissioner of revenue administration. The
10 commissioner may adopt rules, pursuant to RSA 541-A, relative to the administration of this
11 chapter. ***Rules adopted under this chapter may include written examples of taxable and***
12 ***nontaxable real estate transactions.*** The commissioner shall recommend the amount of bond for
13 each register of deeds. The cost of such bond shall be paid by the state as an expense of
14 administering this chapter. Each register of deeds, or county if the register of deeds is on a salary
15 basis, shall be paid for his services 4 percent of the face value of the stamps or other approved indicia
16 of payment of the tax sold in his registry. Such payment for services shall be made prior to remitting
17 all taxes collected, and shall be deducted from the remittance made in paragraph II. A sum
18 sufficient to pay each register of deeds for his services pursuant to this section is hereby continually
19 appropriated. The governor is authorized to draw [~~his~~] ***a*** warrant for the payment thereof out of any
20 funds in the treasury not otherwise appropriated.

21 192:3 New Subparagraph; Department of Revenue Administration Records; Disclosure. Amend
22 RSA 21-J:14, V by inserting after subparagraph (f) the following new subparagraph:

23 (g) Disclosure of department records, files, or returns to the United States Department
24 of Justice in accordance with compacts for the exchange of information between the department and
25 the United States Department of Justice, but only for the purpose of, and to the extent necessary in,
26 the administration and enforcement of RSA 541-C and RSA 541-D relative to the tobacco master

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1 settlement agreement.

2 192:4 Tobacco Tax; Affixing Stamps. Amend RSA 78:12, II to read as follows:

3 II. The commissioner is authorized to exempt such tobacco products, other than cigarettes *in*
4 *packs of 20 or 25*, from the requirement of affixing stamps to their packages under paragraph I, as
5 to which he *or she* finds that the affixing of stamps is physically impractical due to the size or
6 nature of the package or that the cost of affixing the stamps is unreasonably disproportionate to the
7 tax revenue to be collected. In lieu of stamps, the commissioner may, by rules adopted under
8 RSA 541-A, require the submission of periodic returns to the commissioner by wholesalers thereof
9 exempted under this paragraph, setting forth the total amount of such unstamped tobacco products
10 distributed and transmitting payment of the tax due under this chapter.

11 192:5 Tobacco Tax; Unstamped Tobacco Products. Amend RSA 78:14 to read as follows:

12 78:14 [~~Unstamped~~] Tobacco Products. No sub-jobber, vending machine operator, or retailer, and
13 no other person who is not licensed under the provisions of this chapter or licensed under the
14 provisions of RSA 178, shall sell, offer for sale, display for sale, ship, store, import, transport, carry,
15 or possess with or without intent to sell, any tobacco products [~~not properly stamped~~] *without*
16 *documentation of tax paid* under RSA 78:12 or 78:13[~~except as provided in RSA 78:12, II~~]. This
17 section shall not prevent any unlicensed person able to purchase unstamped tobacco products by
18 statute from possessing such products for his or her own use or consumption, if the tax otherwise due
19 under this chapter is paid by the unlicensed person to the department directly. The provisions of
20 this section shall not apply to common carriers transporting unstamped tobacco products. Any
21 person who violates the provisions of this section shall be guilty of a felony.

22 192:6 Tobacco Tax; Forfeiture of Unstamped Products. Amend RSA 78:16, I to read as follows:

23 I. [~~Unless the tobacco products are subject to the exemption under RSA 78:12, II,~~] Tobacco
24 products found at any place in this state without the necessary [~~stamps affixed to them~~]
25 *documentation as provided in RSA 78:12 and RSA 78:13 to evidence the payment of the tax*
26 *imposed by this chapter*, unless they shall be in the possession of a licensed manufacturer or
27 wholesaler, or unless they shall be in the course of transit by common carrier from a bonded
28 warehouse and consigned to a licensed manufacturer, wholesaler, or anyone exempted by statute,
29 shall be declared to be contraband goods and subject to forfeiture to the state.

30 192:7 Tobacco Tax; Records. Amend RSA 78:18 to read as follows:

31 78:18 Required Taxpayer Records.

32 I. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form for
33 records of all tobacco products manufactured, produced, purchased, and sold. Each manufacturer,
34 wholesaler, sub-jobber, vending machine operator, and retailer shall keep complete and accurate
35 records of all such tobacco products. Such records shall be safely preserved for 3 years in such
36 manner as to insure permanency and accessibility for inspection by the commissioner and the

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1 commissioner's authorized agents. *Retailers of tobacco products exempt from the requirement*
2 *of affixing stamps in RSA 78:12, II shall keep such records with such exempt tobacco*
3 *products, as determined by the commissioner, that document the tax imposed by this*
4 *chapter on the tobacco products has been paid in full.*

5 **II.** The commissioner and the authorized agents may examine the books, papers, and
6 records of any manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer doing
7 business in this state, for the purpose of determining whether the tax imposed by this chapter has
8 been fully paid, and they may investigate and examine the stock of tobacco products in or upon any
9 premises where such tobacco products are possessed, stored, or sold, for the purpose of determining
10 whether the provisions of this chapter are being obeyed. Each sampler shall keep complete and
11 accurate records of tobacco products distributed free to consumers in New Hampshire for
12 promotional purposes. The commissioner and the commissioner's authorized agents may examine
13 such records.

14 192:8 Effective Date.

15 I. Section 1 of this act shall take effect July 1, 2014 at 12:01 a.m. and shall apply to taxable
16 periods ending on or after December 31, 2014.

17 II. The remainder of this act shall take effect 60 days after its passage.

18
19 Approved: July 11, 2014

20 Effective Date: I. Section 1 shall take effect July 1, 2014 at 12:01 a.m. and shall apply to taxable
21 periods ending on or after December 31, 2014.

22 II. Remainder shall take effect September 9, 2014