

HB 437-FN - AS INTRODUCED

2015 SESSION

15-0212
10/03

HOUSE BILL ***437-FN***

AN ACT exempting proprietorships from taxation under the business enterprise tax.

SPONSORS: Rep. Itse, Rock 10; Rep. Hoell, Merr 23; Rep. Tucker, Rock 23; Rep. W. O'Brien,
 Hills 5; Rep. Abramson, Rock 20

COMMITTEE: Ways and Means

ANALYSIS

This bill exempts from taxation under the business enterprise tax persons who do business activity as a proprietorship.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT exempting proprietorships from taxation under the business enterprise tax.

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

1 1 Findings. The general court of the State of New Hampshire recognizes that proprietorships
2 are legally identical with their owners. Therefore, in as much individuals are not liable for the
3 business enterprise tax, neither can their proprietorships be liable for the business enterprise tax.

4 2 Business Enterprise Tax; Exemption for Proprietorships. Amend RSA 77-E:1, III to read as
5 follows:

6 III. "Business enterprise" means any profit or nonprofit enterprise or organization, whether
7 corporation, partnership, limited liability company, [~~proprietorship,~~] association, trust, business
8 trust, real estate trust or other form of organization engaged in or carrying on any business activity
9 within this state, except such enterprises as are expressly made exempt from income taxation under
10 section 501(c)(3) of the United States Internal Revenue Code to the extent such enterprise does not
11 engage in any business activity constituting unrelated business activity as defined by section 513 of
12 the United States Internal Revenue Code. Each business enterprise under this definition shall be
13 subject to the tax imposed under RSA 77-E as a separate entity except that trusts treated as grantor
14 trusts under section 671 of the United States Internal Revenue Code shall be included in the return
15 of their owners, and such owners shall be subject to the tax thereon to the extent any such owners
16 would be considered a business enterprise hereunder notwithstanding the existence of the trust. The
17 use of consolidated returns as defined in the United States Internal Revenue Code or of combined
18 reporting is not permitted. Notwithstanding any other provision of this paragraph, an enterprise
19 shall not be characterized as a business enterprise and shall be excluded from taxation at the entity
20 level if it is a qualified investment company as defined in RSA 77-E:1, XIV. ***Notwithstanding any
21 other provision of this paragraph, a person who does business activity as a proprietorship,
22 that is, without formally creating a separate business organization as a legal entity, shall
23 be excluded from taxation under this chapter.***

24 3 Effective Date. This act shall take effect July 1, 2015.

LBAO
15-0212
12/10/14

HB 437-FN - FISCAL NOTE

AN ACT exempting proprietorships from taxation under the business enterprise tax.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, will decrease state general and education trust fund revenue by \$17,100,000 in FY 2016, and by an indeterminable amount in FY 2017 and each year thereafter. There will be no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:

The Department of Revenue Administration states this bill would exempt proprietorships from the business enterprise tax (BET). The Department states BET revenue for FY 2015 is estimated at \$227,700,000. On average proprietorships paid approximately 7.5% of total BET revenue. Assuming FY 2015 revenue as the base, the Department estimates this bill would decrease BET revenue by approximately \$17,100,000 in FY 2016. The Department is unable to determine the fiscal impact in FY 2017 and beyond, but states it would be reasonable to assume that a similar revenue decrease would occur.