

CHAPTER 216
SB 211-FN – FINAL VERSION

03/05/2015 0510s
29Apr2015... 1240h

2015 SESSION

15-0634
10/09

SENATE BILL ***211-FN***

AN ACT relative to taxation of employee leasing companies under the business enterprise tax.

SPONSORS: Sen. Carson, Dist 14; Sen. Boutin, Dist 16; Sen. Daniels, Dist 11; Sen. Bradley,
Dist 3; Sen. Lasky, Dist 13; Sen. Soucy, Dist 18; Rep. L. Ober, Hills 37;
Rep. Cilley, Straf 4

COMMITTEE: Commerce

ANALYSIS

This bill allows an employee leasing company and a client company to elect to make the client company solely responsible for paying business enterprise taxes concerning its leased employees and be eligible for credits against such taxes.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 216
SB 211-FN – FINAL VERSION

03/05/2015 0510s
29Apr2015... 1240h

15-0634
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to taxation of employee leasing companies under the business enterprise tax.

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

1 216:1 New Section; Business Enterprise Tax; Employee Leasing Companies. Amend RSA 77-E
2 by inserting after section 13 the following new section:

3 77-E:13-a Employee Leasing Companies.

4 I. For the purposes of the provisions of RSA 277-B:9, I(h), an employee leasing company and
5 client company may elect to make the client company solely responsible for paying the tax imposed
6 by RSA 77-E, and include in the client company's compensation portion of the enterprise value tax
7 base those wages paid to the leased employees.

8 II. If the employee leasing company and the client company make such an election, the client
9 company shall be eligible for the credit provided in RSA 77-A:5, X.

10 III.(a) In order to make the election under paragraph I, the client company and the employee
11 leasing company shall file the forms required by the department pursuant to rules adopted by the
12 commissioner under RSA 541-A.

13 (b) For an election to be effective for any given tax year, forms required to be filed with
14 the commissioner shall be filed prior to the end of the employee leasing company's tax year.

15 (c) An election under this section shall remain in effect until the employee leasing
16 company and the client company both notify the department of the termination of an election
17 described in paragraph I on forms required by the department pursuant to rules adopted by the
18 commissioner under RSA 541-A.

19 IV. For purposes of this section, the terms "employee leasing company" and "client company"
20 shall have the same meaning as in RSA 277-B:2.

21 216:2 New Section; Employee Leasing Companies; Tax Credits. Amend RSA 277-B by inserting
22 after section 17 the following new section:

23 277-B:17-a Tax Credits and Other Incentives. For purposes of determination of tax credits,
24 grants, or any other economic incentives provided by this state or other government entity that are
25 based on employment, leased employees shall be deemed employees solely of the client company if an
26 election is made pursuant to RSA 77-E:13-a. A client company shall be entitled to the benefit of any
27 tax credit, economic incentive, or other benefit arising as the result of the employment of leased
28 employees of such client company. Notwithstanding that the employee leasing company is the W-2

CHAPTER 216
SB 211-FN – FINAL VERSION
- Page 2 -

1 reporting employer, the client company shall continue to qualify for such benefit, incentive, or credit.
2 If a grant or amount of any such incentive is based on the number of employees, then each client
3 company shall be treated as employing only those leased employees co-employed by the client
4 company. Leased employees working for other client companies of the employee leasing company
5 shall not be counted together. Each employing leasing company shall provide, upon request by a
6 client company, state agency, or department responsible for administration of any such tax credit or
7 economic incentive, employment information reasonably required by such agency or department and
8 necessary to support any request, claim, application, or other action by a client company seeking any
9 such tax credit or economic incentive.

10 216:3 Employee Leasing Companies; Co-Employment; Election. Amend RSA 277-B:9, I(h) to
11 read as follows:

12 (h) Paying the tax imposed by RSA 77-E and inclusion in its compensation portion of the
13 base tax those wages paid to its leased employees, ***unless an election is made pursuant to***
14 ***RSA 77-E:13-a.***

15 216:4 Applicability. The provisions of this act shall apply to taxable periods beginning on or
16 after January 1, 2016.

17 216:5 Effective Date. This act shall take effect July 1, 2015.

18
19 Approved: July 6, 2015

20 Effective Date: July 1, 2015