



State & Local Tax **Alert**

Breaking state and local tax developments from Grant Thornton LLP

New Hampshire Enacts Legislation Updating IRC Conformity, Decreasing Tax Rates

On June 28, 2017, New Hampshire Governor Chris Sununu signed a budget bill which updates the Internal Revenue Code (IRC) conformity date and increases the IRC Section 179 depreciation expense deduction limitation.¹ Further, the law reduces the tax rates for the business profits tax (BPT) and the business enterprise tax (BET), and repeals the electricity consumption tax.

IRC Conformity Updated

Prior to amendment, the BPT adopted the IRC as in effect on December 31, 2015 for all taxable periods beginning on or after January 1, 2017.² For all taxable periods beginning on or after January 1, 2018, the legislation adopts the IRC as in effect on December 31, 2016.³ However, New Hampshire does not adopt IRC Sections 168(k) (bonus depreciation), 199 (domestic production activities) and 181 (movie production expenses).⁴ For property placed in service on or after January 1, 2018, the legislation increases the maximum IRC Section 179 expense deduction from \$100,000 to \$500,000.⁵

Tax Rates Reduced

The legislation reduces the applicable tax rates over the next several years for both the business profits tax (BPT) and business enterprise tax (BET).

Business Profits Tax (BPT)

For taxable periods ending on or after December 31, 2019, the business profits tax rate imposed upon the taxable business profits of every business organization is reduced from its current value of 8.2 percent to 7.7 percent.⁶ For taxable periods ending on or after December 31, 2021, the applicable tax rate is further reduced to 7.5 percent.⁷ Notably, the rate is currently scheduled to decrease to 7.9 percent for taxable periods ending on or after

¹ Ch. 156 (H.B. 517), Laws 2017, enacted on June 28, 2017.

² N.H. REV. STAT. ANN. § 77-A:1.XX(m). See [GT SALT Alert: New Hampshire Enacts Legislation Updating IRC Conformity, Repealing “Phantom Tax” on Sale of Business.](#)

³ H.B. 517, adding N.H. REV. STAT. ANN. § 77-A:1.XX(n).

⁴ N.H. REV. STAT. ANN. § 77-A:3-b.

⁵ N.H. REV. STAT. ANN. § 77-A:3-a.

⁶ N.H. REV. STAT. ANN. § 77-A:2.

⁷ *Id.*

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December 31, 2018 provided certain state revenue levels are achieved during the two-year period ending on June 30, 2017.⁸

Business Enterprise Tax (BET)

For taxable periods ending on or after December 31, 2019, the BET rate imposed upon the taxable enterprise value tax base decreases from its current value of 0.72 percent to 0.60 percent.⁹ For taxable periods ending on or after December 31, 2021, the rate is further reduced to 0.50 percent.¹⁰ Similar to the BPT rate, the BET rate is currently scheduled to decrease to 0.675 percent for periods ending on or after December 31, 2018 provided certain state revenue levels are achieved during the two-year period ending on June 30, 2017.¹¹

Electricity Consumption Tax Eliminated

Effective January 1, 2019, the electricity consumption tax is repealed.¹² The tax is currently imposed on the consumption of electrical energy in New Hampshire at the rate of \$0.00055 per kilowatt hour.¹³

Commentary

By passing its budget bill before the expiration of its regularly scheduled legislative session, New Hampshire has achieved a feat many states have been struggling to match this year.¹⁴ The several tax provisions included in the budget appear to be taxpayer-favorable. Specifically, the reductions in tax rates and the increase in the IRC Section 179 depreciation deduction represent favorable changes for taxpayers. Notably, the previously scheduled tax rate reductions which are planned to take effect in 2018 and are dependent upon the state meeting certain revenue levels were not modified. The New Hampshire Department of Revenue Administration is expected to issue guidance discussing the tax rates for that period by the end of this year.

While New Hampshire had historically differed from most states by not frequently updating its reference date to the IRC, this legislation continues a trend which began last year by updating the IRC conformity date. Taxpayers should appreciate this new update which maintains consistency with neighboring states regarding federal conformity.

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⁸ N.H. REV. STAT. ANN. § 77-A:2.III, IV. The revenue report is required to be issued by December 31, 2017.

⁹ N.H. REV. STAT. ANN. § 77-E:2.

¹⁰ *Id.*

¹¹ N.H. REV. STAT. ANN. § 77-E:2.III, IV. The revenue report is required to be issued by December 31, 2017.

¹² H.B. 517, § 224, eliminating N.H. REV. STAT. ANN. § 83-E.

¹³ N.H. REV. STAT. ANN. § 83-E:2.

¹⁴ For example, the Illinois legislature enacted a budget for the first time in two years on July 6, 2017, overriding a gubernatorial veto.

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