

SB 77-FN-A - AS INTRODUCED

2017 SESSION

17-0816

10/05

SENATE BILL ***77-FN-A***

AN ACT relative to expense deductions under the business profits tax.

SPONSORS: Sen. Sanborn, Dist 9; Sen. Avard, Dist 12; Sen. Carson, Dist 14; Sen. French,
Dist 7; Sen. Fuller Clark, Dist 21; Sen. Gannon, Dist 23; Sen. Innis, Dist 24; Sen.
Morse, Dist 22; Sen. Reagan, Dist 17; Rep. Pearl, Merr. 26; Rep. Cordelli, Carr. 4

COMMITTEE: Ways and Means

ANALYSIS

This bill removes the state limits on expense deductions under the business profits tax.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Seventeen

AN ACT relative to expense deductions under the business profits tax.

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

1 1 Repeals. The following are repealed:

2 I. RSA 77-A:3-a, relative to the limit on expense deductions for business organizations
3 under the business profits tax.

4 II. RSA 77-A:3-b, IV, relative to adjustment to the provisions of the United States Internal
5 Revenue Code for Section 179 of the Internal Revenue Code.

6 2 Applicability. The provisions of this act shall apply to property placed in service on or after
7 July 1, 2017.

8 3 Effective Date. This act shall take effect July 1, 2017.

**SB 77-FN-A- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to expense deductions under the business profits tax.

FISCAL IMPACT: ☒ **State** ☐ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2018	FY 2019	FY 2020	FY 2021
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill removes the New Hampshire limitation of \$100,000 for the Internal Revenue Code Section 179 deduction. The removal of this limitation will allow taxpayers to use the current Internal Revenue Code Section 179 deduction of \$500,000. The Department is not able to determine the potential future loss of revenue resulting from removing the \$100,000 deduction limit and allowing taxpayers to use the current Internal Revenue Code Section 179 deduction of \$500,000. However the Department is able to show the potential decrease in revenue by removing the \$100,000 Section 179 deduction limit for Tax Year 2014 if this bill had been effect. The amount of each taxpayer's federal IRC section 179 deduction was multiplied by the taxpayer's apportionment percentage and then multiplied by the tax year 2017 tax rate of 8.2% to calculate a maximum decrease in state general fund and education trust fund revenue of approximately \$9.7 million. The impact provided for Tax Year 2014 does not consider the offset of deductions or credits taken by taxpayers. Additionally, any portion of the taxpayer's federal IRC section 179 deduction that is disallowed on the New Hampshire return may be deducted as regular depreciation over several years under the relevant IRC depreciation provision. The Department has no way to isolate the depreciated amount over the years compared to the initial add back of the IRC section 179 expense. The Department indicates that in theory the IRC section 179 expense add back is a timing issue because any deduction disallowed by New Hampshire in the year of acquisition would be deducted as depreciation in later years. However, because businesses move, go out of business, or their New Hampshire apportionment changes, it cannot be stated with any certainty that New Hampshire's treatment of the IRC section 179 deduction is simply a timing issue. The Department indicates the changes in this bill will have an indeterminable fiscal impact on state revenue as it cannot predict which federal tax

provisions would apply to NH taxpayers for their current and future tax returns or how those changes might impact each taxpayer's overall tax liability. The Department states it is able to administer this bill within the Department's operating budget.

AGENCIES CONTACTED:

Department of Revenue Administration