

HB 10-FN - AS INTRODUCED

2021 SESSION

21-0017

10/05

HOUSE BILL

10-FN

AN ACT relative to the rates of business profits tax and the business enterprise tax.

SPONSORS: Rep. Packard, Rock. 5; Rep. Major, Rock. 14; Rep. L. Ober, Hills. 37; Rep. J. Osborne, Rock. 4; Rep. Lang, Belk. 4; Rep. Bershtein, Rock. 2; Rep. Erf, Hills. 2; Sen. Morse, Dist 22; Sen. Bradley, Dist 3; Sen. Carson, Dist 14; Sen. Birdsell, Dist 19; Sen. Hennessey, Dist 1

COMMITTEE: Ways and Means

ANALYSIS

This bill reduces the rates of the business profits tax and the business enterprise 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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Twenty One

AN ACT relative to the rates of business profits tax and the business enterprise tax.

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

1 1 Business Profits Tax; Rate Reduced; Contingency Deleted. Amend RSA 77-A:2 to read as
2 follows:

3 77-A:2 Imposition of Tax.

4 I. For all taxable periods ending on or after December 31, 2019, a tax is imposed at the rate
5 of 7.7 percent upon the taxable business profits of every business organization.

6 II. For all taxable periods ending on or after December 31, 2021, a tax is imposed at the rate
7 of [7.9] **7.6** percent upon the taxable business profits of every business organization.

8 III. For all taxable periods ending on or after December 31, [2021] **2022**, a tax is imposed at
9 the rate of 7.5 percent upon the taxable business profits of every business organization.

10 ~~[IV. Upon completion of the audited comprehensive annual report performed pursuant to~~
11 ~~RSA 21-I:8, II(a), the commissioner of the department of revenue administration shall report the~~
12 ~~total amount of combined unrestricted general and education trust fund revenue collected for the~~
13 ~~fiscal year ending June 30, 2020, as reported in the schedule of undesignated/unassigned fund~~
14 ~~balance for the general fund and education fund, to the secretary of state with copies to the governor,~~
15 ~~speaker of the house of representatives, the senate president, the fiscal committee of the general~~
16 ~~court, and the director of the office of legislative services. If the combined amount of general and~~
17 ~~education trust fund revenue collected, not including sums appropriated to the education trust fund~~
18 ~~in section 386 of this act, for the fiscal year ending June 30, 2020 is 6 percent or more below the~~
19 ~~official revenue estimates for said fiscal year, the tax shall be imposed at the rate in paragraph II~~
20 ~~and the rate in paragraph III shall not take effect. If the combined amount of general and education~~
21 ~~trust fund revenue collected, not including sums appropriated to the education trust fund in section~~
22 ~~386 of this act, for the fiscal year ending June 30, 2020 is 6 percent or more above the official~~
23 ~~revenue estimates for said fiscal year, the tax shall be imposed at the rate in paragraph III and the~~
24 ~~rate in paragraph II shall not take effect. If the combined amount of general and education trust~~
25 ~~fund revenue collected, not including sums appropriated to the education trust fund in section 386 of~~
26 ~~this act, for the fiscal year ending June 30, 2020 is not 6 percent or more below or above the official~~
27 ~~revenue estimates for said fiscal year, the tax shall continue to be imposed at the rate in paragraph~~
28 ~~I, and the rates in paragraphs II and III shall not take effect.]~~

29 2 Business Enterprise Tax; Rate Reduced; Contingency Deleted. Amend RSA 77-E:2 to read as
30 follows:

31 77-E:2 Imposition of Tax.

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1 I. For all taxable periods ending on or after December 31, 2019, a tax is imposed at the rate
2 of 0.6 percent upon the taxable enterprise value tax base of every business enterprise.

3 II. For all taxable periods ending on or after December 31, 2021, a tax is imposed at the rate
4 of ~~[0.675]~~ **0.55** percent upon the taxable enterprise value tax base of every business enterprise.

5 III. For all taxable periods ending on or after December 31, ~~[2021]~~ **2022**, a tax is imposed at
6 the rate of 0.5 percent upon the taxable enterprise value tax base of every business enterprise.

7 ~~[IV. Upon completion of the audited comprehensive annual report performed pursuant to~~
8 ~~RSA 21-I:8, II(a), the commissioner of the department of revenue administration shall report the~~
9 ~~total amount of combined unrestricted general and education trust fund revenue collected for the~~
10 ~~fiscal year ending June 30, 2020, as reported in the schedule of undesignated/unassigned fund~~
11 ~~balance for the general fund and education fund, to the secretary of state with copies to the governor,~~
12 ~~speaker of the house of representatives, the senate president, the fiscal committee of the general~~
13 ~~court, and the director of the office of legislative services. If the combined amount of general and~~
14 ~~education trust fund revenue collected, not including sums appropriated to the education trust fund~~
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23 ~~this act, for the fiscal year ending June 30, 2020 is not 6 percent or more below or above the official~~
24 ~~revenue estimates for said fiscal year, the tax shall continue to be imposed at the rate in paragraph~~
25 ~~I, and the rates in paragraphs II and III shall not take effect.-]~~

26 3 Effective Date. This act shall take effect upon its passage.

HB 10-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the rates of business profits tax and the business enterprise tax.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
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 checked="" type="checkbox"/> Other

METHODOLOGY:

This bill will remove the contingency rate adjustments to the business profits tax (BPT) and business enterprise tax (BET) for taxable periods ending on or after December 31, 2021. The bill also reduces the BPT rate from 7.7 percent to 7.6 percent for taxable periods ending on or after December 31, 2021 and further reduces the rate from 7.6 percent to 7.5 percent for taxable periods ending on or after December 31, 2022. The BET rate will reduce from 0.60 percent to 0.55 percent for taxable periods ending on or after December 31, 2021 and further reduces the rate from 0.55 percent to 0.50 percent for taxable periods ending on or after December 31, 2022.

The Department of Revenue Administration states the fiscal impact is indeterminable as the Department is not able to predict future business tax revenue. Based on the following assumptions, the Department is able to estimate a possible fiscal impact:

- to calculate FY 2021 thru FY 2024 revenues, the FY 2020 cash basis business tax revenue plus anomalous receivable revenue (revenue received in FY 2021 that is credited back to FY 2020) of \$697,472,623 (BET revenue of \$258,511,460 and BPT revenue of \$438,961,163) is the starting point for calculating fiscal impact;
- due to FY 2020 including a small amount (approx. 15%) of revenue attributable to tax year (TY) 2018 which had a BPT rate of 7.9 percent and a BET rate of 0.675 percent, the Department adjusted the FY 2020 cash basis revenue assuming the BPT rate of 7.7 percent and BET rate of 0.60 percent. This recalculation resulted in the total expected business tax revenue of \$691,497,158 under current law.

- based on a tax year revenue analysis of FY 2020 revenue, 15 percent is attributable to tax year 2018, 63 percent is attributable to tax year 2019, and 22 percent is attributable to tax year 2020; and,
- applying the split to FY 2020 revenue as well as applying the applicable rates creates a base of \$48,046,301,704 (BET:\$42,367,155,963 + BPT:\$5,679,145,741) to use for the starting point of the calculating the fiscal impact.
- the proposed rate changes are then applied to the applicable tax to provide an estimated impact on the tax revenue.

The following tables provide the tax rates and any changes under current law and as proposed in this bill. The last table provides an estimated impact the rate changes will have on revenue.

Current Law Rates and Split

Fiscal Year	Tax Year	% Applicable to Tax Year	BET Rates	BPT Rates
Fiscal Year 2020	Tax Year 2018	15%	0.675%	7.9%
	Tax Year 2019	63%	0.600%	7.7%
	Tax Year 2020	22%	0.600%	7.7%
Fiscal Year 2021 and forward	Tax Year 2019 and forward	100%	0.600%	7.7%

Proposed Legislation Rates and Split

Fiscal Year	Tax Year	% Applicable to Tax Year	BET Rates	BPT Rates
Fiscal Year 2020	Tax Year 2018	15%	0.675%	7.9%
	Tax Year 2019	63%	0.600%	7.7%
	Tax Year 2020	22%	0.600%	7.7%
Fiscal Year 2021	Tax Year 2019	15%	0.600%	7.7%
	Tax Year 2020	63%	0.600%	7.7%
	Tax Year 2021	22%	0.550%	7.6%
Fiscal Year 2022	Tax Year 2020	15%	0.600%	7.7%
	Tax Year 2021	63%	0.550%	7.6%
	Tax Year 2022	22%	0.500%	7.5%
Fiscal Year 2023	Tax Year 2021	15%	0.550%	7.6%
	Tax Year 2022	63%	0.500%	7.5%
	Tax Year 2023	22%	0.500%	7.5%

Fiscal Impact of Rate Changes by Fiscal Year

Business Taxes - Static Analysis using FY 2020 Revenues

Fiscal Year	FY 2020 Revenues with Current Law's 2019 thru 2021 Rates	FY 2020 Revenues with Proposed Legislation's Rates	Estimated Fiscal Impact Per Year <i>(Proposed Legislation Compared to Current Law)</i>	Estimated Cumulative Impact <i>(Proposed Legislation Compared to Current Law)</i>
2021	\$691,497,158	\$685,587,359	(\$5,909,799)	(\$5,909,799)
2022	\$691,497,158	\$662,754,043	(\$22,833,315)	(\$28,743,114)
2023	\$691,497,158	\$641,801,119	(\$20,952,925)	(\$49,696,039)
2024	\$691,497,158	\$637,771,710	(\$4,029,409)	(\$53,725,447)

The fiscal impact of the proposed rate reductions as depicted in the above table may be overstated or understated for future years depending on whether actual revenue is more or less than the FY 2020 cash basis revenue plus the anomalous receivable revenue (revenue received in FY 2021 that is credited back to FY 2020).

AGENCIES CONTACTED:

Department of Revenue Administration