

HB 1668-FN - AS INTRODUCED

2026 SESSION

26-3063

07/09

HOUSE BILL ***1668-FN***

AN ACT relative to the application of the Internal Revenue Code to provisions of the business profits tax.

SPONSORS: Rep. Osborne, Rock. 2; Rep. Labrie, Hills. 2; Rep. Notter, Hills. 12; Rep. Sweeney, Rock. 25; Rep. Ammon, Hills. 42; Rep. Drago, Rock. 4

COMMITTEE: Ways and Means

ANALYSIS

This bill updates the effective version of the United States Internal Revenue Code of 1986 applicable to the business profits tax, subject to certain adjustments. The bill also requires the commissioner of revenue administration to report biennially on changes to the Internal Revenue Code.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the application of the Internal Revenue Code to provisions of the business profits tax.

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

1 1 New Subparagraph; Business Profits Tax; Definition; United States Internal Revenue Code.
2 Amend RSA 77-A:1, XX by inserting after subparagraph (o) the following new subparagraph:

3 (p) For all taxable periods beginning on or after January 1, 2027, the United States
4 Internal Revenue Code of 1986, as amended, subject to RSA 77-A:3-a.

5 2 Business Profits Tax; Adjustments; Internal Revenue Code. RSA 77-A:3-a is repealed and
6 reenacted to read as follows:

7 77-A:3-a Adjustments; Internal Revenue Code Provisions. In determining gross business profits
8 before net operating loss and special deductions, a business organization shall calculate expense
9 deductions as permitted under section 179 of the Internal Revenue Code as provided in RSA 77-A:1,
10 XX, except that for property placed in service on or after January 1, 2027, a business organization
11 shall calculate expense deductions not to exceed \$500,000.

12 3 New Paragraph; Duties of the Commissioner of Revenue Administration; Report; Internal
13 Revenue Code Changes. Amend RSA 21-J:3 by inserting after paragraph XXXIII the following new
14 paragraph:

15 XXXIV. File a report at least biennially with the finance committees of the senate and the
16 house of representatives informing the committees of changes to the United States Internal Revenue
17 Code, related Treasury Regulations, and administrative rulings which would impact New
18 Hampshire.

19 4 Applicability.

20 I. Section 1 of this act shall apply to taxable periods beginning on or after January 1, 2027.

21 II. Section 2 of this act shall apply to property placed in service on or after January 1, 2027.

22 5 Effective Date. This act shall take effect upon its passage.

**HB 1668-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the application of the Internal Revenue Code to provisions of the business profits tax.

FISCAL IMPACT:

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
<i>Revenue Fund(s)</i>	General Fund and Education Trust Fund			
Expenditures*	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source(s)</i>	None			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill updates the version of Internal Revenue Code (IRC) used for purposes of the Business Profits Tax (BPT) to be the code "as amended" beginning with taxable periods on or after January 1, 2027. This change would make every federal amendment to the IRC applicable in New Hampshire automatically upon its adoption (rolling conformity). Currently, New Hampshire is a static conformity state, using the IRC in effect on December 31, 2018, subject to adjustments found in RSA 77-A:3-b.

The most recent amendment to the IRC was made July 2025 in the One Big Beautiful Bill Act (OBBBA). This bill would make the amendments in the OBBBA as well as any other amendments to the IRC made in 2026 or 2027 applicable in New Hampshire for Tax Year (TY) 2027.

The Department states one effect of moving from static to rolling conformity is the onus would be placed on the state legislature to review federal law changes and react quickly if it did not wish to adopt them. For example, with respect to the OBBBA, which was signed into law on and became effective July 4, 2025 for Tax Year 2025, New Hampshire would have had to meet in special session if it wished to decouple from or adjust any of its provisions.

With respect to implementation of federal tax law changes, the Department would need to quickly incorporate amendments into its tax year change process which begins in August of each year in order to be ready with new materials on January 1. Rolling conformity would have the Department adapting its materials at the same time the legislature might be considering its options, which could result in superseded and/or retroactive materials and guidance which is not ideal from a taxpayer perspective. Depending upon the scope and frequency of these events, there could be required increases in the Department's operating budget to timely accommodate these additional activities.

The bill changes the referenced code adjustments from RSA 77-A:3-b to RSA 77-A:3-a. RSA 77-A:3-a is New Hampshire's modified expense deduction provision—an area where New Hampshire currently “decouples” from federal law. Under IRC § 179, in effect on December 31, 2018, taxpayers may elect to treat up to \$1 million of the cost to acquire depreciable property as a deductible business expense for property placed in service on or after January 1, 2018 provided total capital expenditures do not exceed a defined threshold. New Hampshire limits the amount that can be immediately expensed to \$500,000. RSA 77-A:3-b maintains the adjustment of a \$500,000 limit and contains two additional required adjustments. Under RSA 77-A:3-b, I. and III., New Hampshire also decouples from IRC §168(k) (Bonus Depreciation) and IRC §181 (Treatment of Certain Qualified Productions). The Department notes the reference code adjustments from RSA 77-A:3-b to RSA 77-A:3-a may be interpreted to eliminate the decoupling from IRC §168(k) (Bonus Depreciation) and §181 (Treatment of Certain Qualified Productions), even though the bill does not repeal or amend RSA 77-A:3-b. If this is not the intent, language may need to be clarified and references restored.

The Department provides the changes made by OBBBA that would significantly impact New Hampshire, and their likely impacts as follows:

1. GILTI/NCTI

Applying the IRC as of December 31, 2018 (2018 IRC), NH includes Global Intangible Low Taxed Income (GILTI) in income and would allow the 50% GILTI deduction through TY2025. Beginning in TY2026, the deduction is reduced to 37.5% under the currently applicable IRC. GILTI, under the 2018 IRC, excludes QBAI (the Qualified Business Asset Investment exclusion, reflecting a 10% imputed return on the value of certain assets). The OBBBA modifies GILTI to include QBAI. NH additionally excludes amounts taxed as GILTI from taxable foreign dividends in order to avoid double taxation of income. With the QBAI added back to GILTI, the taxable foreign income base in NH would increase. The OBBBA renames GILTI to net CFC tested income (NCTI). Further, the OBBBA increases the deduction reduction to 40% from 37.5%. Beginning in TY2027, NH's taxbase will increase due to the change from GILTI to NCTI but the

deduction will increase by 2.5%. The net effect of these changes should be an increase to the GF and ETF in FY 2027 due to the overall increase in the tax base and acceleration of income recognition which will begin to produce additional revenue that fiscal year.

2. Research and Experimental Expenditures

Under §174 of the 2018 IRC, qualifying Research & Experimental (R&E) expenditures are generally amortized and deducted over a five year period for domestic research and a fifteen-year period for foreign research. The OBBBA creates new §174A, permitting full expensing and immediate deduction of qualifying domestic R&E expenditures paid or incurred in taxable years beginning after December 31, 2024 (treatment of foreign R&E is unchanged). In the short term, the impact of this change will be a revenue decrease to the GF and ETF beginning in FY2027. As with other deduction accelerations, this may be a timing issue, since over the five-year period, deductions taken in year one cannot be taken again later. However, given the time value of money, business uncertainty, and changes in NH apportionment, it is likely this provision is also not revenue-neutral over the longer term.

3. Qualified Opportunity Zones

Under the 2018 IRC, payment of tax on capital gains can be deferred if the gains are reinvested in Qualified Opportunity Zones (QOZ). The gain is recognized when the taxpayer sells their investment in the QOZ, unless the investment is held for 10 years or more, in which case the gain is no longer subject to tax. This provision is set to expire on December 31, 2026. The OBBBA makes the QOZ deferral program permanent. With respect to QOZs, conforming to the OBBBA would cause a revenue decrease to the GF and ETF beginning in FY2027 because new investments beginning in TY2027 will also be subject to the QOZ capital gains deferral and potential exclusion.

4. Fringe Benefits Deduction

The deductibility of fringe benefits depends on whether the expenditure is an ordinary and necessary business expense. Historically employers could deduct up to 50% of meal and entertainment expenses and certain meals provided on premises could be fully deducted as “de minimis” fringe benefits. The 2018 IRC disallowed deduction of entertainment expenses, even if business related. Meal expenses continued to be deductible, up to 50% and meals on premises also became subject to the 50% limitation. The OBBBA disallows any deduction for business-related meals (with an exception for certain fishing boats and fish processing facilities) beginning with tax year 2026. Applying this provision of OBBBA would result in a revenue increase to the GF and ETF beginning in FY2027.

5. Commission and Performance-Based Employee Wages

Employee remuneration is generally deductible as an ordinary and necessary business expense. However, in the case of publicly held companies, remuneration in excess of \$1million was not deductible unless it was “commission or performance based.” The 2018 IRC disallowed deduction of all remuneration in excess of \$1 million for publicly held companies, regardless of the type of remuneration. The OBBBA further expands this deduction limit, by broadening the scope of entities affected from the company’s “affiliated group” under §1504, to include all members of a corporation’s “controlled group,” including partnerships and other noncorporate entities. Adopting this provision of the OBBBA will result in a revenue increase to the GF and ETF beginning in FY2027.

6. Qualified Production Property Deduction

The OBBBA adds a new IRC §168(n), allowing first-year expensing for properties tied directly to production activities such as manufacturing, processing, or refining tangible goods. The provision allows a 100% cost deduction in year one if the property remains a production property for at least 10 years. Deductions may be recaptured if the ten-year provision is not satisfied. Further, properties that partially meet the definition of a qualified production property can take a deduction for the portion of the property that is eligible. Under the OBBBA, §168(n) expires for taxable periods beginning after December 31, 2028. Since the proposed legislation is effective beginning in TY 2027, this provision of the OBBBA would only impact TYs 2027 and 2028. However, for any qualified activity, this deduction will result in a revenue decrease beginning in FY2027.

The bill also amends RSA 21-J:3 to require the Commissioner to file a report at least biennially with the finance committees of the Senate and House of Representatives informing the committees of changes to the IRC, Treasury Regulations, and administrative rulings that would impact the state. The Department already produces this report annually for the ways and means committees under RSA 21-J:3, XXXIII. and suggests the finance committees be added as recipients of that report rather than create a separate requirement in the interest of efficiency.

Overall, the Department anticipates the changes resulting from this bill will result in an indeterminable decrease to General Fund and Education Trust Fund revenue beginning in FY 2027. The Department is unable to quantify the exact impact as it continues to consider the potential impact and ways to quantify the impacts.

The Department does not anticipate any additional administrative costs that could not be absorbed in its operating budget as long as it is able to update taxpayer materials within the normal time frame that begins in August to have all the updates completed and ready by January 1. If updates are needed outside of this normal time frame due to changes to the IRC,

the Department may need additional appropriations depending on the scope and frequency of the changes.

AGENCIES CONTACTED:

Department of Revenue Administration