

NH Society of CPAs
NH Legislative Newsletter
June 2020

What can we say about the 2020 Legislative session? It started off slow, then as crossover neared (the end of March); it was an executive session marathon after executive session marathon. On top of the marathons, the Senate met in all-day sessions. The House met in multiple day sessions in one week and one day for a straight 19 hours (9 am one day to 4 am the next). Then the COVID-19 virus hit and the Legislature was cancelled. A number of the Committees of the House and Senate had not completed their needed crossover work. As we entered May after 6 weeks of closure, a few House Committees began to hold executive sessions by ZOOM and have now successfully completed their work. The Senate Committees have not met; therefore, there are a number of Senate bills that have not had an executive session. So what happens now? Maybe Senate Committee Executive sessions in June?

The House has announced it will meet in session at the Whitmore Center on June 11th to take up all House bills introduced for 2020. Rumor has it the Senate will also meet on the 11th possibly to take up all 2020 Senate bills. The rumors are also that the House Committees are reviewing their bills and identifying 5 or so that are crucial bi-partisan bills to pass. The Senate supposedly has about 30 bi-partisan bills they would like to pass. They may pass them in one Christmas tree bill or a couple of subject matter Christmas tree bills. The process of how they are going to have public hearing in the second body is not clear. We are guessing there will be a lot of new rules voted in on the 11th. Nothing is clear except it will be an unprecedented end of the legislative session and biennium.

So what happened before the Legislature went home for self-quarantine– some good outcomes and some concerning outcomes. Normally for the concerning or bad bills, we would still have another bite at the apple after crossover. House bills that pass, go to the Senate and Senate bills that pass, go to the House. So, what happens now? The House and Senate leadership are really making the decision about what moves forward. We expect the majority of bills will not move forward as there is no indication the House or Senate will meet after July 1. The chatter is that anything that can wait until 2021, will be Killed to Interim Studied and reintroduced in 2021.

What is Ready to Move Forward ?

Gross Income for Filing Increase

After being held over from the 2019 session, **SB 223** was passed by the Senate in a 24-0 vote. The bill increases the minimum gross business income required for filing a business profits tax

return from \$50k to \$75k. Originally, the bill increased the minimum gross business income to \$100,000 but that was too generous for the Senate. Baby steps are the norm in NH and this is a good step forward. The bill ordinarily would now have a public hearing in House Ways and Means Committee and be voted on by the House, however, there is no indication this bill is on a “must pass” list. Is this bill essential to pass in 2020? The guess is no.

Single Sales Factor Delay Maybe!

The House has followed the lead of the House Ways and Means Committee (unanimous vote-20-0) to pass **HB 1200**. The original bill removed the consideration of weighted apportionment factors under the business profits tax from inclusion in the tax expenditure report. However, the bill was amended by the House to delay the enactment of the single sales factor for determining apportionment under the BPT and the BET and extend the legislative committee, which decides whether to move forward with on single sales apportionment, both by 4 years. Uncertainty is never the friend of business and this bill is definitely uncertainty for businesses as to how they are taxed by NH. The implementation of single sales factor beginning in 2022 was a bi-partisan decision in the Senate during the budget debate in the fall of 2019. The House Ways and Means Committee is annoyed that they did not have a chance to debate the single sales factor apportionment issue before it went into the compromise budget. The Senate and Governor put it in the budget without a House hearing. Shame on them! The House Ways and Means Committee want a bite at the apple. The Senate may have a different thought about single sales factor being delayed 4 years. Our bet is this bill does not move forward in the Senate. The tax expenditure report can wait a year. The only reason this would move forward is if revenue would be lost if the State does not extend the implementation date of single sales apportionment.

HB 1161, which clarifies electronic filing of meals and rooms taxes, has passed the House. The bill excludes interest for the 30-day period after notice of assessment of state taxes for amounts paid within the 30-day period. This bill was requested by DRA as a taxpayer friendly bill. How important is this to DRA? Can it wait until 2021?

The Senate passed **SB 661**, which requires the Department of Business and Economic Affairs to certify each application for an economic revitalization zone tax credit. This bill also modifies the calculation of the credits that may be issued to a taxpayer by the BEA and extends the prospective repeal of the economic revitalization zone tax credit program to January 1, 2028. One we may see in 2021.

What Has Been Left Behind?

Water's Edge

HB 1567 that repeals the “Water's edge” combined group provisions of the business profits tax. This tax issue commonly called “Water's edge”, which in laymen's language, deals with trying to capture taxes from companies who have operations in NH but are headquartered offshore **HB 1567**, was deemed to be too complicated for now. The House Way and Means Committee decided with all the other changes in 2020 (conformity with the IRS tax code), 2021 (moving to

market based appointment), and 2022 (moving to single sales appointment – maybe) adding one more change was possibly too much. It makes sense for DRA and the State to see what the impact is to the State and business community of the other changes before it moves forward with another change. The House killed the bill.

Sales Taxes

Sales taxing are still not popular with the NH Legislature. **HB 1492**, which establishes a tax on the retail sales of electronics, the proceeds of which would go into the education trust fund, was doomed from the start. In addition, can you imagine the state trying to tax skiing in NH? A sales tax on skiing was not going to make it very far? **HB 1652** died too.

This year's sales taxes are dead. No doubt, they would have been vetoed if they made it to the Governor's desk.

Education Tax Credit Reduction

The Senate killed **SB 663** that provides for a credit against business taxes for participating employers in the graduate retention incentive partnership (GRIP) program and reduces by 60% the amount of credit available under the education tax credit. Anytime the Legislature tries to muck around with the education tax credit for low-income children to attend private school, the room is packed with parents who will fight for their children to have options. This one was no different, the room was packed. The bill died unanimously; however, the GRIP program credit reappeared on **SB 661**, which is moving forward now but our guess is it bites the dust too.

Predictions

No predictions as to what will make it to the Governor's desk in July. It is an election year and politics is being played with legislation in Concord. Good bills have been tabled, particularly in the Senate, so there is no record of a vote on potential election issues. It will be interesting to see if the Democrats pass any bills they know the Governor will veto again such a minimum wage and Family Medical Leave. Will the COVID crisis have changed some minds about partisan bills? Yes, this is NH not DC. Our fall newsletter may have more insights. Enjoy the summer.