

CHAPTER 286

SB 483-FN-A – FINAL VERSION

03/10/10 0892s

12May2010... 1924h

2010 SESSION

10-2791

09/04

SENATE BILL ***483-FN-A***

AN ACT relative to the interpretation of Internal Revenue Code section 1031 as it relates to taxation under the business profits tax.

SPONSORS: Sen. D'Allesandro, Dist 20; Sen. Gallus, Dist 1; Sen. Reynolds, Dist 2; Sen. Gilmour, Dist 12; Rep. W. Douglas Scamman, Rock 13; Rep. Peterson, Hills 3

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill recognizes Internal Revenue Code section 1031 like-kind exchanges which use federally disregarded entities as the recipient of replacement property, but emphasizes the character of such entities as separate entities for purposes of New Hampshire business profits tax.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT relative to the interpretation of Internal Revenue Code section 1031 as it relates to taxation under the business profits tax.

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

286:1 New Section; Special Rule for Exchanges of Like-Kind Property Under Internal Revenue Code Section 1031. Amend RSA 77-A by inserting after section 4-a the following new section:

77-A:4-b Special Rule for Exchanges of Like-Kind Property Under Internal Revenue Code Section 1031.

I. In the case of a qualified like-kind exchange under Internal Revenue Code section 1031, in which a business organization uses a single member limited liability company, revocable trust, or other entity disregarded for federal income tax purposes as the recipient of replacement property, the recipient entity shall take the basis of the relinquished property as held by the parent business organization, prior to the exchange, as computed for federal income tax purposes.

II. The recipient of the replacement property, for all other purposes, and in keeping with the requirements of separate entity taxation under this chapter, shall be a business organization, as defined in RSA 77-A:1, I and subject to the provisions of RSA 77-A.

286:2 Applicability. This act shall apply to any taxable period that began on or after January 1, 2004.

286:3 Effective Date. This act shall take effect upon its passage.

Approved: July 8, 2010

Effective Date: July 8, 2010