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Alternative Language To Address Internal Revenue Code Section 1031 Issue Under NH Business Profits Tax

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Insert a new Section 77-A:4-b

Special Rule for "Exchanges of Like Kind Property Under Internal Revenue Code Section 1031"

Notwithstanding the requirement of separate entity taxation included within the definition of a business organization, no gain or loss shall be recognized by a business organization if the replacement property received in a transaction qualifying for non-recognition of income pursuant to Internal Revenue Code Section 1031 is placed in a revocable trust, a single-member limited liability company or other entity treated as a disregarded entity under the provisions of the United States Internal Revenue Code of 1986 as amended. The basis of the replacement property received shall be the basis of the relinquished property as held by the business organization prior to the exchange as computed for federal income tax purposes. The Department of Revenue Administration shall recognize any like-kind exchange that qualifies under the provisions of Internal Revenue Code Section 1031, US Department of the Treasury Income Tax Regulations or pronouncements issued by the Internal Revenue Service relating to like-kind exchanges.

Effective Date

This Act shall be effective as of January 1, 2005 and shall apply to any taxable period that begins on or after January 1, 2005.

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