

Bill as Introduced

SB 125-FN-A - AS AMENDED BY THE SENATE

03/23/11 1.158s

2011 SESSION

11-0212
09/10

SENATE BILL ***125-FN-A***

AN ACT relative to the business profits tax deduction for reasonable compensation.

SPONSORS: Sen. Bradley, Dist 3; Sen. Barnes, Jr., Dist 17; Sen. Boutin, Dist 16; Sen. Bragdon, Dist 11; Sen. Carson, Dist 14; Sen. De Blois, Dist 18; Sen. Forrester, Dist 2; Sen. Forsythe, Dist 4; Sen. Gallus, Dist 1; Sen. Lambert, Dist 13; Sen. Luther, Dist 12; Sen. Morse, Dist 22; Sen. Rausch, Dist 19; Sen. Sanborn, Dist 7; Sen. Stiles, Dist 24; Sen. White, Dist 9; Rep. Chandler, Carr 1; Rep. Hess, Merr 9; Rep. Major, Rock 8; Rep. Tucker, Rock 17; Rep. Bettencourt, Rock 4

COMMITTEE: Ways and Means

ANALYSIS

This bill modifies standards and burden of proof with respect to the business profits tax deduction for reasonable compensation attributable to owners of partnerships, limited liability companies, and sole proprietorships.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the business profits tax deduction for reasonable compensation.

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

1 1 Purpose. The legislature finds that:

2 I. Small businesses are the lifeblood of the New Hampshire economy and are the most
3 important source of jobs for residents of New Hampshire.

4 II. Recent increases in audits of small businesses in which small business owners are not
5 allowed to deduct the full and fair value of their services to their small business in determining the
6 business profits tax liability of the business have undermined New Hampshire's ability to provide a
7 sound and encouraging environment for small business growth.

8 III. Good tax policy requires tax rules that provide taxpayers with clear guidance, encourage
9 compliance, and enhance the competitiveness of our economy.

10 IV This act clarifies important business profits tax rules that apply to small businesses,
11 eliminates costly and inefficient audits, and restores New Hampshire's ability to encourage small
12 business growth and the good jobs these businesses create.

13 2 Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and reenacted as follows:

14 III.(a) In the case of a proprietorship, partnership, or limited liability company filing a
15 business profits tax return as a proprietorship, partnership, or limited liability company, a deduction
16 equal to a fair and reasonable compensation for the personal services of a natural person who is a
17 proprietor, partner, or member provided to the business organization, provided, however, that the
18 amount of such deduction shall not exceed such business organization's gross business profits. The
19 purpose of this paragraph is to permit a deduction from gross business profits of such a
20 proprietorship, partnership, or limited liability company of all amounts that are fairly attributable to
21 the personal services of the proprietor, partner, or member. Such amounts shall generally include all
22 amounts reported as earned income on federal tax returns, but shall also include amounts
23 attributable to personal services provided in connection with the operation and rental of real
24 property, the sale of property and services, and other amounts due to services rendered.

25 (b) A taxpayer claiming a deduction under this paragraph shall bear the burden of
26 proving that at least one or more proprietors, partners, or members provided actual services to the
27 business organization at any time during the taxable period. Once a taxpayer has satisfied this
28 burden of proof, the amount claimed as a deduction shall be presumed to be reasonable, unless the
29 commissioner proves by a preponderance of the evidence that the deduction claimed by the taxpayer
30 is grossly excessive.

31 3 Applicability. This act shall apply with respect to taxable periods ending after January 1,

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1 2013.

2 4 Effective Date. This act shall take effect April 15, 2013.

LBAO
11-0212
12/20/10

SB 125-FN-A - FISCAL NOTE

AN ACT relative to the business profits tax deduction for reasonable compensation.

FISCAL IMPACT:

The Department of Revenue Administration states this bill will decrease state revenue by \$49,430,000 in FY 2012 and each year thereafter. There will be no fiscal impact on county and local revenue or state, county, and local expenditures.

METHODOLOGY:

The Department of Revenue Administration states this bill would transfer the burden of proof for the business profits tax deduction for reasonable compensation attributable to owners of partnerships, limited liability companies, and sole proprietorships to the Department. The Department states this bill would make it responsible for proving whether a deduction taken for reasonable compensation is grossly excessive. The Department states this bill will make it difficult for it to dispute a taxpayer's compensation deduction because the Department does not have any information about the services rendered by the partnership or proprietorship. The Department states as a result, it would be ineffective to conduct an audit of a partnership or proprietorship to ensure compliance with the law.

The Department of Revenue Administration states partnerships and proprietorships paid \$49,430,000 in business profits taxes during tax year 2008. The Department assumes the bill would result in no partnerships or proprietorships being liable to pay the business profits tax and would result in a decrease in revenue by the same amount. The Department further states it can administer the law without any additional direct costs.

Amendments

Rep. Hess, Merr. 9
April 18, 2011
2011-1466h
09/10

Amendment to SB 125-FN-A

1 Amend the bill by replacing section 2 with the following:

2

3 2 Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and reenacted as follows:

4 III.(a) In the case of a proprietorship, partnership, or limited liability company filing a
5 business profits tax return as a proprietorship, partnership, or limited liability company, a deduction
6 equal to a fair and reasonable compensation for the actual personal services of a natural person who
7 is a proprietor, partner, or member provided to the business organization, provided, however, that
8 the amount of such deduction shall not exceed such business organization's gross business profits.
9 The purpose of this paragraph is to permit a deduction from gross business profits of such a
10 proprietorship, partnership, or limited liability company of all amounts that are fairly attributable to
11 the actual personal services of the proprietor, partner, or member. Such amounts shall generally
12 include all amounts reported as earned income on federal tax returns, but shall also include amounts
13 attributable to actual personal services provided in connection with the operation and rental of real
14 property, the sale of property and services, and other amounts due to services rendered.

15 (b) A taxpayer claiming a deduction under this paragraph shall bear the burden of
16 proving that all proprietors, partners, or members for whom a deduction is being claimed provided
17 actual personal services to the business organization at any time during the taxable period. Once a
18 taxpayer has satisfied this burden of proof, the amount claimed as a deduction shall be presumed to
19 be reasonable, unless the commissioner proves by a preponderance of the evidence that the deduction
20 claimed by the taxpayer is clearly unreasonable.

21 (c) In lieu of substantiating the value of the personal services of proprietors, partners, or
22 members, a business organization or group of related business organizations may elect, as a safe-
23 harbor, to deduct up to \$50,000 as total compensation for the tax year.



Rep. Major, Rock. 8
April 25, 2011
2011-1545h
09/04

Amendment to SB 125-FN-A

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the standards and burden of proof with respect to the business profits
4 tax deduction for reasonable compensation attributable to owners of partnerships,
5 limited liability companies, and sole proprietorships.
6

7 Amend the bill by replacing all after section 1 with the following:

8

9 2 Clarification of Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and
10 reenacted as follows:

11 III.(a) In the case of a proprietorship, partnership, or limited liability company filing a
12 business profits tax return as a proprietorship or a partnership, a deduction equal to a fair and
13 reasonable compensation for the personal services of a natural person who is a proprietor, partner, or
14 member provided to the business organization; provided, under this chapter however, that the amount
15 of such deduction shall not reduce such business organization's tax to less than zero. The purpose of
16 this paragraph is to permit a deduction from gross business profits of such a proprietorship,
17 partnership, or limited liability company filing as a proprietorship or partnership of all amounts that
18 are fairly attributable to the personal services of the proprietor, partner, or member.

19 (b) Subject to the provisions of subparagraph (c) which establishes a record-keeping safe
20 harbor, one method of determining the amount of the deduction allowed under this paragraph shall
21 be by using the standards set forth in section 162(a)(1) of the United States Internal Revenue Code,
22 as it may be amended from time to time, and the Treasury Regulations, administrative rulings, and
23 judicial cases issued thereunder.

24 (c) In lieu of substantiating the value of the personal services of proprietors, partners, or
25 members, a business organization or group of related business organizations may elect, as a record-
26 keeping safe-harbor, to deduct up to \$50,000 as total compensation for the tax year;

27 (d)(1) In this paragraph, "record-keeping safe harbor" means that amount of
28 compensation for personal services claimed by a business organization which does not need to be
29 substantiated by any evidence, records, or legal or regulatory authority, except as provided in
30 subparagraph (e).

31 (2) Notwithstanding subparagraph III(d)(1), the record-keeping safe harbor shall not
32 be relevant or admissible for any purpose in determining whether a compensation deduction claimed
33 in an amount in excess of any such record-keeping safe harbor is fair and reasonable.

Amendment to SB 125-FN-A

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1 (e) A business organization or group of related business organizations may elect the
2 record-keeping safe-harbor option in subparagraph III(c) without a redetermination of the
3 reasonableness of the deduction by the commissioner. Any such deduction claimed by the business
4 organization or group of related business organizations shall not be subject to challenge; provided,
5 that upon request, the business organization or group of related business organizations shall be
6 required to substantiate that the proprietor or the partner or partners or member or members
7 performed personal services for the business organization or group of related business organizations.

8 (f) Related business organizations electing not to substantiate the extent of the personal
9 services of their proprietors, partners, and members, shall be limited to the safe harbor deduction,
10 less any owners' compensation taken on the federal tax returns of corporate members of the group,
11 allocated among the related business organizations. For the purposes of RSA 77-A:4, III, "related
12 business organizations" are unitary business organizations and business organizations that would
13 qualify as unitary but for the fact that they conduct business only within the state.

14 (g) A taxpayer claiming a deduction under this paragraph shall bear the burden of
15 proving that the proprietors, partners, or members provided actual services to the business
16 organization at any time during the taxable period. Once a taxpayer has satisfied this burden of
17 proof, the amount claimed as a deduction shall be presumed to be reasonable, unless the
18 commissioner proves by a preponderance of the evidence that the deduction claimed by the taxpayer
19 is clearly unreasonable.

20 3 New Paragraph; Appeal for Redetermination or Reconsideration; Procedure. Amend RSA 21-
21 J:28-b by inserting after paragraph VII the following new paragraph:

22 VIII. The department shall bear the burden of proof on any change to any compensation
23 deduction under RSA 77-A determined by examination. This provision shall apply to all entities,
24 including corporations, for changes that have not been finally determined to be due as of January 1,
25 2011. "Not finally determined to be due" means a determination with respect to which all
26 administrative and judicial rights to appeal or to request a review, a rehearing, or a redetermination
27 have not been exhausted or have not lapsed.

28 4 New Section; Interest and Dividends Tax; Excess Compensation. Amend RSA 77 by inserting
29 after section 4-f the following new section:

30 77:4-g Dividend. Excess compensation determined by audit of the department shall not be
31 considered a dividend under this chapter unless such determination is accepted by the Internal
32 Revenue Service.

33 5 Applicability. Sections 1-2 of this act shall apply with respect to taxable periods ending after
34 June 30, 2011.

35 6 Effective Date. This act shall take effect July 1, 2012.

Rep. Sapareto, Rock. 5
April 29, 2011
2011-1679h
09/10

Draft Amendment to SB 125-FN-A

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the standards and burden of proof with respect to the business profits
4 tax deduction for reasonable compensation attributable to owners of partnerships,
5 limited liability companies, and sole proprietorships.
6

7 Amend the bill by replacing all after section 1 with the following:

8

9 2 Clarification of Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and
10 reenacted as follows:

11 III.(a) In the case of a proprietorship, partnership, or limited liability company filing a
12 business profits tax return as a proprietorship or partnership, a deduction equal to a fair and
13 reasonable compensation for the actual personal services of a natural person who is a proprietor,
14 partner, or member provided to the business organization; provided, however, that the amount of
15 such deduction shall not reduce such business organization's taxable business profits to less than
16 zero. The purpose of this paragraph is to permit a deduction from gross business profits of such a
17 proprietorship, partnership, or limited liability company of all amounts that are fairly attributable to
18 the actual personal services of the proprietor, partner, or member. Such amounts shall not exceed
19 the amount reported as earned income on the federal income tax returns of the proprietor, partner,
20 or member, but may also include an amount not to exceed net rental income as compensation for
21 operating rental property, and an amount not to exceed 15 percent of the gross selling price as
22 commissions on the sale of business assets.

23 (b) Subject to the provisions of subparagraph (c) which establishes a record-keeping safe
24 harbor, the method of determining the amount of the deduction available to the taxpayer allowed
25 under this paragraph shall be by using the standards set forth in section 162(a)(1) of the United
26 States Internal Revenue Code, as it may be amended from time to time, and the Treasury
27 Regulations, administrative rulings, and judicial cases issued thereunder.

28 (c) In lieu of substantiating the value of the personal services of proprietors, partners, or
29 members, a business organization or group of related business organizations may elect, as a record-
30 keeping safe harbor, to deduct up to \$50,000 as total compensation for the tax year;

31 (d)(1) In this paragraph, "record-keeping safe harbor" means that amount of
32 compensation for personal services claimed by a business organization which does not need to be
33 substantiated by any evidence, records, or legal or regulatory authority, except as provided in

1 subparagraph (e).

2 (2) Notwithstanding subparagraph III(d)(1), the record-keeping safe harbor shall not
3 be relevant or admissible for any purpose in determining whether a compensation deduction claimed
4 in an amount in excess of any such record-keeping safe harbor is fair and reasonable.

5 (e) A business organization or group of related business organizations may elect the
6 record-keeping safe harbor option in subparagraph III(c) without a redetermination of the
7 reasonableness of the deduction by the commissioner. Any such deduction claimed by the business
8 organization or group of related business organizations shall not be subject to challenge; provided,
9 that upon request, the business organization or group of related business organizations shall be
10 required to substantiate that the proprietor or at least one partner or member performed actual
11 personal services for the business organization or group of related business organizations.

12 (f) Related business organizations electing not to substantiate the extent of the actual
13 personal services of their proprietors, partners, and members, shall be limited to the record-keeping
14 safe harbor deduction, less any owners' compensation taken on the federal tax returns of corporate
15 members of the group, allocated among the related business organizations. For the purposes of
16 RSA 77-A:4, III, "related business organizations" are unitary business organizations and business
17 organizations that would qualify as unitary but for the fact that they conduct business only within
18 the state.

19 (g) A taxpayer claiming a deduction under this paragraph shall bear the burden of
20 proving that all proprietors, partners, or members for whom a deduction is being claimed provided
21 actual personal services to the business organization at any time during the taxable period. Once a
22 taxpayer has satisfied this burden of proof, the amount claimed as a deduction shall be presumed to
23 be reasonable, unless the commissioner proves by a preponderance of the evidence that the deduction
24 claimed by the taxpayer is clearly unreasonable.

25 3 New Paragraph; Appeal for Redetermination or Reconsideration; Procedure. Amend RSA 21-
26 J:28-b by inserting after paragraph VII the following new paragraph:

27 VIII. The department shall bear the burden of proof on any change to any compensation
28 deduction under RSA 77-A determined by examination. This provision shall apply to all entities,
29 including corporations, for changes that have not been finally determined to be due as of January 1,
30 2011. "Not finally determined to be due" means a determination with respect to which all
31 administrative and judicial rights to appeal or to request a review, a rehearing, or a redetermination
32 have not been exhausted or have not lapsed.

33 4 New Section; Interest and Dividends Tax; Excess Compensation. Amend RSA 77 by inserting
34 after section 4-f the following new section:

35 77:4-g Dividend. Excess compensation determined by audit of the department shall not be
36 considered a dividend under this chapter unless such determination is accepted by the Internal
37 Revenue Service.

Draft Amendment to SB 125-FN-A

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1 5 Applicability. This act shall apply with respect to taxable periods beginning on or after
2 July 1, 2011.

3 6 Effective Date. This act shall take effect July 1, 2011.

Rep. Sapareto, Rock. 5
Rep. Hess, Merr. 9
May 3, 2011
2011-1717h
09/05

Amendment to SB 125-FN-A

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the standards and burden of proof with respect to the business profits
4 tax deduction for reasonable compensation attributable to owners of partnerships,
5 limited liability companies, and sole proprietorships.
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7 Amend the bill by replacing all after section 1 with the following:

8

9 2 Clarification of Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and
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11 III.(a) In the case of a proprietorship, partnership, or limited liability company filing a
12 business profits tax return as a proprietorship or partnership, a deduction equal to a fair and
13 reasonable compensation for the actual personal services of a natural person who is a proprietor,
14 partner, or member provided to the business organization; provided, however, that the amount of
15 such deduction shall not reduce such business organization's taxable business profits to less than
16 zero. The purpose of this paragraph is to permit a deduction from gross business profits of such a
17 proprietorship, partnership, or limited liability company of all amounts that are fairly attributable to
18 the actual personal services of the proprietor, partner, or member. Such amounts shall not exceed
19 the amount reported as earned income on the federal income tax returns of the proprietor, partner,
20 or member, but may also include an amount not to exceed net rental income as compensation for
21 operating rental property, and an amount not to exceed 15 percent of the gross selling price as
22 commissions on the sale of business assets.

23 (b) Subject to the provisions of subparagraph (c) which establishes a record-keeping safe
24 harbor, the method of determining the amount of the deduction available to the business
25 organization allowed under this paragraph shall be by using the standards set forth in section
26 162(a)(1) of the United States Internal Revenue Code, as it may be amended from time to time, and
27 the Treasury Regulations, administrative rulings, and judicial cases issued thereunder. The
28 business organization shall keep such records as may be necessary to determine that the deduction
29 is reasonable under these standards.

30 (c) In lieu of substantiating the value of the personal services of proprietors, partners, or
31 members, a business organization or group of related business organizations may elect, as a record-
32 keeping safe harbor, to deduct up to \$50,000 as total compensation for the tax year;

Amendment to SB 125-FN-A

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1 (d)(1) In this paragraph, "record-keeping safe harbor" means that amount of
2 compensation for personal services claimed by a business organization which does not need to be
3 substantiated by any evidence, records, or legal or regulatory authority, except as provided in
4 subparagraph (e).

5 (2) Notwithstanding subparagraph III(d)(1), the record-keeping safe harbor shall not
6 be relevant or admissible for any purpose in determining whether a compensation deduction claimed
7 in an amount in excess of any such record-keeping safe harbor is fair and reasonable.

8 (e) A business organization or group of related business organizations may elect the
9 record-keeping safe harbor option in subparagraph III(c) without a redetermination of the
10 reasonableness of the deduction by the commissioner. Any such deduction claimed by the business
11 organization or group of related business organizations shall not be subject to challenge; provided,
12 that upon request, the business organization or group of related business organizations shall be
13 required to substantiate that the proprietor or at least one partner or member performed actual
14 personal services for the business organization or group of related business organizations.

15 (f) Related business organizations electing not to substantiate the extent of the actual
16 personal services of their proprietors, partners, and members, shall be limited to the record-keeping
17 safe harbor deduction, less any owners' compensation taken on the federal tax returns of corporate
18 members of the group, allocated among the related business organizations. For the purposes of
19 RSA 77-A:4, III, "related business organizations" are unitary business organizations and business
20 organizations that would qualify as unitary but for the fact that they conduct business only within
21 the state.

22 (g) A business organization claiming a deduction under this paragraph shall bear the
23 burden of proving that all proprietors, partners, or members for whom a deduction is being claimed
24 provided actual personal services to the business organization at any time during the taxable period.
25 Once a business organization has satisfied this burden of proof, the amount claimed as a deduction
26 shall be presumed to be reasonable, unless the commissioner proves by a preponderance of the
27 evidence that the deduction claimed by the business organization is clearly unreasonable.

28 3 New Paragraph; Appeal for Redetermination or Reconsideration; Procedure. Amend RSA 21-
29 J:28-b by inserting after paragraph VII the following new paragraph:

30 VIII. The department shall bear the burden of proof on any change to any compensation
31 deduction under RSA 77-A determined by examination.

32 4 New Section; Interest and Dividends Tax; Excess Compensation. Amend RSA 77 by inserting
33 after section 4-f the following new section:

34 77:4-g Dividend. Excess compensation determined by audit of the department shall not be
35 considered a dividend under this chapter unless such determination is accepted by the Internal
36 Revenue Service.

37 5 Taxpayer Records. Amend RSA 77-A:11, I to read as follows:

Amendment to SB 125-FN-A

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1 I. Keep such records as may be necessary to determine the amount of its liability under this
2 chapter *and to determine whether the compensation claimed as a deduction under RSA 77-*
3 *A:4, III is reasonable;*

4 6 Applicability. This act shall apply with respect to taxable periods beginning on or after
5 January 1, 2011.

6 7 Effective Date. This act shall take effect upon its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # OB 125 - FN - A Date 4/5/2011

Committee: Ways & Means

** Please Print All Information **

Name	Address	Phone	Representing	(check one)	
				Pro	Con
SEN. DAVID BOUTIN	HOOKSETT		DISTRICT #16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. SHARON CARSON	LONDON DERRY		SD # 14	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. NANCY SIBLES	HAMPTON		SD 24	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. JIM LUTHER	NASHUA		dist. 12	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. TOM DEBLOIS	MANCHESTER		dist. 18	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. JEANIE FORRESTER			dist. 2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. RAY WHITE			Dist 9	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. WALLUS			SD #1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SEN. BRANDON MILFORD			District 11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR BRADLEY WOLFEBORO			District 3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. GENE CHAMBERLAIN				<input checked="" type="checkbox"/>	<input type="checkbox"/>
GARY ABBOTT	BOW, NH		Associated General Contractors of NH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR MORSE			D-22	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. NORMAN MAJORA				<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRUCE BERKE			National Federation of Independent Business	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CURTIS J. BARRY			THE OUPAT GROUP / RETAIL MERCHANTS ASSOC. OF NH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BILL ARDINGER	RATH, YAG, PIJATALLIE		Concord	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JAMIE E. COLE	Denise Millette & Bunch		Manchester	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Hearing Minutes

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON SB 125-FN-A

BILL TITLE: relative to the business profits tax deduction for reasonable compensation.

DATE: April 5, 2011

LOB ROOM: 202 **Time Public Hearing Called to Order:** 11:13 AM

Time Adjourned: 12:47 PM

(please circle if present)

Committee Members: Reps. Stepanek, Major, Griffin, Hess, Sapareto, Uery, Osgood, Ober, Abram, Azarian, Daugherty, McDonnell, Murphy, Ohm, Sanborn, Skuler, Almy, Hamm, Butynski, Hatch and Cooney.

Bill Sponsors: Sens. Bradley, Dist 3; Barnes, Jr., Dist 17; Boutin, Dist 16; Bragdon, Dist 11; Carson, Dist 14; De Blois, Dist 18; Forrester, Dist 2; Forsythe, Dist 4; Gallus, Dist 1; Lambert, Dist 13; Luther, Dist 12; Morse, Dist 22; Rausch, Dist 19; Sanborn, Dist 7; Stiles, Dist 24; White, Dist 9; Reps. Chandler, Carr 1; Hess, Merr 9; Major, Rock 8; Tucker, Rock 17; Bettencourt, Rock 4

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Senator Bradley, prime sponsor – supports. He introduced the bill. There was a discussion between Representative Almy and Senator Bradley about how the DRA would be able to prove numbers for compensation.

Representative Hess, co-sponsor – supports. He is looking for an amendment – pertaining to burden of proof and how all people taking compensation must state how much they worked. There were several questions about the exact wording of the suggested amendment.

***J. Christopher Williams, Greater Nashua Chamber of Commerce – supports.** See written testimony.

Dave Juvet, BIA – supports. He wants the committee to consider “safe harbor” addition, also “162.”

C. Philip Blatsas, Goffstown, NH – supports. He gave a history lesson about reasonable compensation. Compensation is a difficult number to come up with. Sometimes compensation can vary widely over the years. There were several questions about reasonable/unreasonable.

Representative Hatch asked – would you agree “safe harbor” should be included? Answer: Yes.

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***Cathy Silber, Granite State Fair Tax Coalition – opposes.** See written testimony. There was lots of commentary about why the state should have “big” taxes and not small ones. State revenue would be enhanced by a general sales tax. She claims the cost of this bill is too much.

William Ardinger, Rath, Young and Pignatelli – supports. He mentioned the uncertainty of knowing how much compensation should be. Likes the “clearly unreasonable” wording. There were questions about how many people in a business should get compensation.

Joseph Haas, Concord, NH – supports. He asks about the term “rental” in the bill. “A tax is not a debt.” He mentioned the Federal Court case M-83-50D 1983.

Respectfully submitted,


Representative Russell Ober, Clerk

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON SB 125-FN-A

BILL TITLE: relative to the business profits tax deduction for reasonable-compensation.

DATE: 4/15/2011

LOB ROOM: 202 **Time Public Hearing Called to Order:** 11:13

Time Adjourned: 12:47

(please circle if present)

Committee Members: Reps. Stepanek, Major, Griffin, Hess, Sapareto, Ulery, Osgood, Ober, Abrami, Azarian, Daugherty, McDonnell, Murphy, Ohm, Sanborn, Shuler, Almy, Hamm, Butynski, Hatch and Cooney.

Bill Sponsors: Sens. Bradley, Dist 3; Barnes, Jr., Dist 17; Boutin, Dist 16; Bragdon, Dist 11; Carson, Dist 14; De Blois, Dist 18; Forrester, Dist 2; Forsythe, Dist 4; Gallus, Dist 1; Lambert, Dist 13; Luther, Dist 12; Morse, Dist 22; Rausch, Dist 19; Sanborn, Dist 7; Stiles, Dist 24; White, Dist 9; Reps. Chandler, Carr 1; Hess, Merr 9; Major, Rock 8; Tucker, Rock 17; Bettencourt, Rock 4

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sen Bradley - prime sponsor. reasonable compensation
constant discussion between Almy and Bradley about how the DRA
would be able to prove ~~some~~ numbers for compensation. *Introduced the bill*

Rep Hess - cosponsor. favors bill
looking for amendment - pertaining to burden of proof
and how all people taking compensation
must state how much they worked.

~~several~~ several questions about the exact wording of suggested amendment
Chris Welton* Nashua CFC. favors bill

Dave Juel - BIA. supports bill
wants committee to consider "safe harbor" addition, also "162"

C. Philip Blatso - self representing - supports the bill

(OVER) He gave long history lesson about reasonable compensation
compensation is a difficult number to come up with

sometimes compensation can vary widely over the years.

several questions about reasonable / unreasonable

Hatch - question - would you agree "safe harbor" should be included? Ans yes

Cathy Silvers* - opposes - grants state taxpayers

lots of commentary about why the state should have "big" taxes
and not small ones.

state revenue would be enhanced by a general sales tax
claims the cost of this bill is too much

William Archer - favors bill

Rath, Young, Leggett Pisgatelli;

mentioned the uncertainty of knowing how much compensation should be
likes the "clearly unreasonable" wording

questions about how many people in a business should get compensation.

Joseph Haas - self - favors bill

asks about the term "rental" in the bill

"atax is not a debt"

Fed. Court Case
M-83-500 1983

mentioned this case

Sub-Committee Actions

HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE WORK SESSION ON SB 125-FN-A

BILL TITLE: relative to the business profits tax deduction for reasonable compensation.

DATE: May 2, 2011

Subcommittee Members: Reps: Major, Sapareto, Hess, and Almy

Comments and Recommendations: "Taxpayer" all changed to business organization, effective date and add record keeping for reasonable deductions.

Amendments:


- | | |
|---------------|-----------------|
| Sponsor: Rep. | OLS Document #: |
| Sponsor: Rep. | OLS Document #: |
| Sponsor: Rep. | OLS Document #: |

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Major
Seconded by Rep. Sapareto
Vote: 4-0

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote:

Respectfully submitted, 
Rep. Frank Sapareto
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE WORK SESSION ON SB 125-FN-A

BILL TITLE: relative to the business profits tax deduction for reasonable compensation.

DATE: May 2, 2011

Subcommittee Members: Reps. Major, Sapareto, Hess, and Almy

Comments and Recommendations:

"Taxpayer" all changed to business organization, effective date, + add record keeping for reasonable deduction.

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

DRA

Motions:

OTP, OTP/A, ITL, Retained (Please circle one.) as further amended

Moved by Rep. Rep Major

Seconded by Rep. Sapareto

Vote: 4-0

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Frank Sapareto

Sub-Committee Minutes

HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE WORK SESSION ON SB 125-FN-A

BILL TITLE: relative to the business profits tax deduction for reasonable compensation.

DATE: April 28, 2011

Subcommittee Members: Reps. Major, Sapareto, Hess, Almy

Comments and Recommendations: Representative Sapareto drafted changes to the amendment and remitted copies to the subcommittee members with two versions of effective dates.

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Frank Sapareto
Subcommittee Chairman/Clerk



HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE WORK SESSION ON SB 125-FN-A

BILL TITLE: relative to the business profits tax deduction for reasonable compensation.

DATE: 4/28/2011

Subcommittee Members:

Reps.

Majes, Sapareto, Hesse, Almy

- DRA Mindy -
John H
+ Phil Bliss

Comments and Recommendations:

Rep Sapareto Draft changes and ~~sent~~ copies to subcommittee members with 2 versions of effective dates.

- Chris Sullivan
(Ruth K. + P.S)

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

- Jim
Vesely CPA
- Mary McCabe

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. {Type NAME} *Frank V. Sapareto - Clerk*
Subcommittee Chairman/Clerk

Testimony

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION

FISCAL IMPACT ESTIMATE FOR THE HOUSE WAYS & MEANS COMMITTEE
ON PROPOSED AMENDMENT #1717h TO SENATE BILL 125

This bill, as amended, permits a proprietorship or partnership to claim a deduction from gross business profits of all amounts which are fairly attributable to the actual personal services of the proprietor, partner or member. The method of determining the amount of the compensation deduction available to the business organization shall be by using the standards set forth in the Internal Revenue Code Section 162(a)(1) “. . .and the Treasury Regulations, administrative rulings and judicial cases issued thereunder.” The amended bill requires business organizations to keep records as may be necessary to determine that the deduction is “reasonable” under Section 162(a)(1).

The amendment to this bill also allows a business organization to elect a “record-keeping safe harbor” of up to \$50,000 as total compensation for the tax year. In addition, it shifts the burden of proving the “reasonableness” of a claimed compensation deduction from the business organization to the Department. The amended effective date is “effective upon passage” and the changes in this bill would be applicable for taxable periods beginning on or after January 1, 2011.

The changes proposed in Amendment #1717h to SB 125 could potentially reduce state revenue in the range of \$0 to a maximum of \$5 million per year. The estimated fiscal impact range of \$0 to \$5 million per year is based upon a possible reduction of Business Profits Tax revenue through self-reporting and/or decreased revenue received through audit activity. The estimated \$5 million maximum loss of revenue is derived from the Department’s 2009 audit activity data in which the Department audited business tax returns of Non-Water’s Edge entities and, wherein, the compensation deduction *may* have been an issue in some of those audits. See Attachment.

DRA Audit Activity FYE 6/30/2009

All Taxes (BET, BPT, I&D, M&R, RETT)

	Returns Resulting in a Change	# of Taxpayers	\$	% of Dollars
Reports of Change	428	261	4,145,469	9.5
Nexus	1339	403	3,287,127	7.5
Single Issue/Error Codes/Simple Issues	2346	1390	5,444,332	12.5
Water's Edge books : records	276	113	25,517,211	58.6
Non Water's Edge books : records	896	324	5,136,024	11.9
Total	5285	2491	\$43,530,163	100.00%
Discovery	8,775		\$3,428,000	
	(4,972 new/amended returns)			

- Report of Change: Identify non-filers and underreporters by comparing IRS amended return to state returns.
- Nexus: Identify non-filers and underreporters by comparing Department of Employment Security reports to state tax returns.
- Water's Edge: Review business entities working in multiple states or multi-nationals - "books : records"
- Non-Water's Edge: Review business entities working in New Hampshire. **Of the 896 returns reviewed and adjusted, 324 involved "books & records" audits of individual taxpayers.** 14 in-state auditors @ 5 per audit/mo.
- Single Issue/Filing Errors: Follow-up on "error codes" with taxpayer/practitioner. Single issue follow-up. Return adjustments.
- Discovery: Identify non-filers and underpayers by company IRS data to state returns.



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NASHUA, NEW HAMPSHIRE 03060
TEL 603.881.8333 • FAX 603.881.7323
www.nashuachamber.com

April 5, 2011

The Honorable Stephen Stepanek
Chair, House Ways & Means Committee
LOB 202
Concord, NH 03301

Re: SB 125 – relative to the business profits tax deduction for reasonable compensation

Dear Representative Stepanek:

On behalf of the Greater Nashua Chamber of Commerce and its 700 businesses, I am writing to voice our support for passage of SB 125. As many of us are aware, the Greater Nashua Chamber of Commerce has been deeply engaged in New Hampshire's debate concerning the need for balance between the State and the private sector when it comes to tax policy. Our Chamber helped lead the fight to overturn the LLC Tax that served as the impetus for today's discussion, and we're happy to participate in today's hearing on this bill, which we feel will help restore that balance between the State and the private sector.

SB 125 helps restore the same philosophy to the business world that is used in our justice system – one is innocent until proven guilty. For too long, our State has used the opposite philosophy when taxing certain business entities. Far too often, LLC's, partnerships and sole proprietorships are approached by the State and treated as if they're guilty until proven innocent. This philosophy certainly wouldn't work in our justice system, and it shouldn't be allowed to continue working within our State's tax policy.

Small businessmen and women who devote their waking hours to growing and managing their business – far beyond the standard 40-hour per week rate and far beyond what anyone would ask their employees to do – should be allowed to keep what they've rightfully earned. SB 125 helps ensure that this happens.

We ask for your support of SB 125 today, in the interest of better protecting the thousands of NH residents who are proud to call themselves business owners.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Christopher Williams".

J. Christopher Williams
President & CEO

Cc: Members of the House Ways & Means Committee

Cathy Silber

File Copy

SB 125-FN-A

GRANITE STATE FAIR TAX COALITION
PO Box 3431, Concord, NH 03302
www.nhfairtax.org

April 5, 2011

The Honorable Stephen Stepanek
NH House Ways and Means Committee

Re: SB 125-FN-A

Dear Representative Stepanek and Committee Members:

The Granite State Fair Tax Coalition is a nonprofit, nonpartisan coalition of groups and individuals that reaches more than 70,000 people across the state. We advocate for a more effective revenue structure for New Hampshire, one that raises enough to meet the state's needs in a way that everyone pays their share.

We urge the committee to recommend SB 125-FN-A Inexpedient to Legislate.

The reason is simple. A time of deep cuts into the programs and infrastructures that our families and businesses depend upon is not the time to reduce revenues further. Whatever the merits of reforming the Business Profits Tax, reducing revenues by any amount--be it \$4 million a year or \$50 million a year or anywhere in between is too great a price to pay at this time. Again and again, "We can't afford it," has been the rationale for cuts into the programs and infrastructures that keep our state strong. If we can't afford some of the most basic functions of our state, we surely can't afford SB 125-FN-A. It's a question of priorities.

We can debate the necessity of the spending cuts in the budget. I can say the deficit we're facing is primarily the result of the dramatic revenue shortfalls of the Great Recession; you might say our state has been spending excessively, over-educating our children, making college too affordable, keeping too many people out of expensive institutions like hospitals and prisons, training too many people for jobs, and enabling too many welfare mothers to return to work.

We can debate the value of these spending cuts to businesses in our state. I might say that businesses small and large have always thrived in communities of educated employees and customers, communities with good schools, roads, parks, libraries, police and fire protection, and that the continued success of business in our state depends upon the maintenance of these infrastructures. You might say that business needs none of this as much as it does a tax cut.

We could even debate the meaning of the phrase "Ways and Means." I could insist that it has always implied coming up with the ways, coming up with the means, not shutting off ways and refusing means. You might say the term simply means revenues.

If the term simply means revenues, then GSFTC urges the committee to entertain alterations to various tax laws only within the context of our revenue structure as a whole. If these bills aim to help small business, please note that, according to the Council on State Taxation, the BPT and BET combined amount to less than 20% of the state and local taxes businesses pay in New Hampshire. According to the DRA, 35% of businesses in the state pay no BPT or BET at all, and another 17% pay less than \$500 a year (<http://www.nhfpi.org/>).

According to the Council on State Taxation, 59% of the state and local taxes business pay are the property tax. State revenue reductions and the downshifting of costs onto the local property tax only increase property taxes, which is the single biggest way to increase business taxes. Again, business tax reform should happen in the context of comprehensive revenue reform, not piecemeal.

It's a question of priorities. Whatever this bill will cost, it is money that currently invests in our state and that we need to continue to invest in our state. Previous generations invested in the infrastructures we rely on today and it is our responsibility to maintain those infrastructures, not erode them.

From 30,000 feet, I can testify about programs and infrastructures and dollar amounts on a ledger line. But here on the ground, right here in this room, I need to tell you about my brother. His story pertains directly to the cost of this bill, whatever it is. He graduated from the University of Chicago with honors, a soccer star, destined to be a research scientist or a doctor. Then schizophrenia. hit. That's a severe and persistent mental illness, a lifelong disabling condition. Before medication, he was tormented by voices in his head, voices that ordered him to kill himself. He ran into the kitchen, grabbed the butcher knife and slit his throat, my five-foot-tall mother struggling to pull the knife from his hands. Money this bill would cut paid for his commitment to the state hospital. Before medication, it was years of living in filth, evicted from apartments, fired from jobs, then no longer employable, in and out of the emergency room, jail, the state hospital. Money this bill would cut also paid for all those services. His being untreated, filthy and smelly, in and out of small businesses, freaking people out--that wasn't good for business. It happens that he's not violent against others (only a small minority of the mentally ill is), but he might have been; he might have been the next guy to shoot the next Gabby Giffords--or your wife, or anybody. A mess like that will cost a state some money.

For years now, my brother has benefited from state funding for mental illness management and treatment. He takes medication, lives in a subsidized apartment, volunteers at the animal shelter and a nonprofit that refits old computers for donation. For a while he worked bagging groceries, but he got fired for being too weird. No one will hire him for anything. But because he has access to programs that maintain him, he's functioning--and functioning pretty well for someone with his disease. No more ruining anybody's business climate, trips to the ER, jail, the state hospital, no more ruining apartments and costing landlords.

New Hampshire needs the \$4 million or \$50 million or whatever it is to keep people like my brother on track, to help those like he used to be to get where he is now, to prevent driving up the cost of corrections, or someone getting shot.

Finally, the fact that the cost of the bill could range from \$4 to \$50 million is in itself a reason to urge prudence and caution. Look at the whole revenue system, how all the pieces fit. Investing resources where they're most needed is the best thing we can do for business in New Hampshire.

Respectfully,

Cathy Silber, executive director
Granite State Fair Tax Coalition

The Granite State Fair Tax Coalition is a nonpartisan, nonprofit, 501(c)3 organization whose members include American Friends Service Committee NH, Episcopal Diocese of New Hampshire, League of Women Voters of New Hampshire, NEA-New Hampshire, Northern New England District Unitarian Universalist Association, State Employee's Association (SEIU Local 1984), United Church of Christ, Commission for Witness and Action, and over 1,000 individuals across the state.

Voting Sheets

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on SB 125-FN-A

BILL TITLE: relative to the business profits tax deduction for reasonable compensation.

DATE: May 10, 2011

LOB ROOM: 202

Amendments:

Sponsor: Rep. Sapareto, Hess OLS Document #: 2011 1717h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.) AMENDMENT ONLY

Moved by Rep. Major

Seconded by Rep. Hess

Vote: 20-1 - HAND VOTE (Please attach record of roll call vote.)

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Sapareto

Seconded by Rep. Griffin

Vote: 16-5 (Please attach record of roll call vote.)

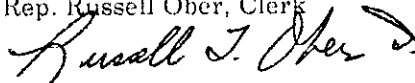
CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Russell Ober, Clerk



HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on SB 125-FN-A

put off for now

BILL TITLE: relative to the business profits tax deduction for reasonable compensation.

DATE: *4/26/2011 5/10/2011*

LOB ROOM: 202

Amendments:

Sponsor: Rep. <i>Majors/Ness</i>	OLS Document #: <i>2011 - 1717h</i>
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

20-1 hand vote

Motions: OTR (OTP/A) ITL, Interim Study (Please circle one.)

Moved by Rep. *Sapareto*

Seconded by Rep. *Griffen*

Vote: *16-5* (Please attach record of roll call vote.)

Res cal

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Majors*

Seconded by Rep. *Ness*

Vote: *20-1* (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:
(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Russell Ober, Clerk

Committee Report

REGULAR CALENDAR

May 18, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on WAYS AND MEANS
to which was referred SB125-FN-A,**

**AN ACT relative to the business profits tax deduction
for reasonable compensation. Having considered the
same, report the same with the following amendment,
and the recommendation that the bill OUGHT TO PASS
WITH AMENDMENT.**

Rep. Frank V Sapareto

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: **WAYS AND MEANS**
Bill Number: **SB125-FN-A**
Title: **relative to the business profits tax deduction
for reasonable compensation.**
Date: **May 10, 2011**
Consent Calendar: **NO**
Recommendation: **OUGHT TO PASS WITH AMENDMENT**

STATEMENT OF INTENT

This bill solves the issue of reasonable compensation for LLC's. It places the burden of disproving the deduction with the Department of Revenue Administration as opposed to the taxpayer proving the deduction. It uses the commonly accepted standards of the Internal Revenue Code Section 162A and its record keeping requirements. It retains the \$50,000 safe-harbor as in current law and only applies to the taxable periods after January 1, 2011. All pending cases with the DRA prior to January 1, 2011 shall remain unaffected. This bill is a comprehensive clarification supported by the business industry in response to over aggressive audits.

Vote 16-5

Rep. Frank V Sapareto
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

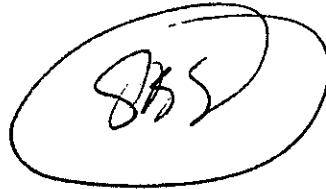
REGULAR CALENDAR

WAYS AND MEANS

SB125-FN-A, relative to the business profits tax deduction for reasonable compensation. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank V Sapareto for the **Majority** of WAYS AND MEANS. This bill solves the issue of reasonable compensation for LLC's. It places the burden of disproving the deduction with the Department of Revenue Administration as opposed to the taxpayer proving the deduction. It uses the commonly accepted standards of the Internal Revenue Code Section 162A and its record keeping requirements. It retains the \$50,000 safe-harbor as in current law and only applies to the taxable periods after January 1, 2011. All pending cases with the DRA prior to January 1, 2011 shall remain unaffected. This bill is a comprehensive clarification supported by the business industry in response to over aggressive audits. **Vote 16-5.**

This bill solves the issue of reasonable compensation for LLC's. It places the burden of disproving the deduction with the Department of Revenue Administration as opposed to the taxpayer proving the deduction. It uses the commonly accepted standards of the Internal Revenue Code Section 162A and its record keeping requirements. It retains the \$50,000 safe-harbor as in current law and only applies to the taxable periods after January 1, 2011. All pending cases with the DRA prior to January 1, 2011 shall remain unaffected. This bill is a comprehensive clarification supported by the business industry in response to over aggressive audits.

Handwritten initials "SBS" circled in black.

COMMITTEE REPORT

COMMITTEE: Wayne Means

BILL NUMBER: SB 125 - FN - A

TITLE: relative to the business profits tax deduction for reasonable compensation

DATE: 5/10/11 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
 - OUGHT TO PASS W/ AMENDMENT
 - INEXPEDIENT TO LEGISLATE
 - INTERIM STUDY (Available only 2nd year of biennium)
- Amendment No.
1717b

STATEMENT OF INTENT:

holding the deduction

SB125 solves the issue of reasonable compensation for LC's. It places the burden of disproving the deduction with the Dept of Revenue Administration as opposed to the taxpayer. It uses the commonly accepted standards of Internal Revenue Code Section 162 A and its record-keeping requirements. It retains the \$50,000 safe-harbor as in current law and only applies to the taxable periods after Jan 1 2011. All pending cases with the DRA prior to Jan 1, 2011 shall remain unaffected. This bill is a comprehensive clarification supported by the business industry in response to over aggressive audits.

COMMITTEE VOTE: 16-5

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Joe V. Reynolds
For the Committee

O/K SB

REGULAR CALENDAR

May 18, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on WAYS AND MEANS
to which was referred SB125-FN-A,

AN ACT relative to the business profits tax deduction
for reasonable compensation. Having considered the
same, and being unable to agree with the Majority,
report with the following Resolution: **RESOLVED**, That
it is **INEXPEDIENT TO LEGISLATE**.

Rep. Susan W Almy

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee: **WAYS AND MEANS**
Bill Number: **SB125-FN-A**
Title: **relative to the business profits tax deduction
for reasonable compensation.**
Date: **May 10, 2011**
Consent Calendar: **NO**
Recommendation: **INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

The minority agrees that the amendment goes a long way to sorting out how shifting the burden of proof from the taxpayer to the department of revenue would work. The minority is apprehensive about any revenue loss in such challenging times. A few other states tried to shift the burden of proof years ago and shifted back immediately due to severe revenue losses.

Rep. Susan W Almy
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

WAYS AND MEANS

SB125-FN-A, relative to the business profits tax deduction for reasonable compensation.

INEXPEDIENT TO LEGISLATE.

Rep. Susan W Almy for the **Minority** of **WAYS AND MEANS**. The minority agrees that the amendment goes a long way to sorting out how shifting the burden of proof from the taxpayer to the department of revenue would work. The minority is apprehensive about any revenue loss in such challenging times. A few other states tried to shift the burden of proof years ago and shifted back immediately due to severe revenue losses.

The minority agrees that the amendment goes a long way to sorting out how shifting the burden of proof from the taxpayer to the department of revenue would work. The minority is apprehensive about any revenue loss in such challenging times. A few other states tried to shift the burden of proof years ago and shifted back immediately due to severe revenue losses.

OK SB 125

MINORITY REPORT

COMMITTEE: WJM

BILL NUMBER: SB 125

TITLE: Relative to the business profits tax deduction for reasonable compensation

DATE: 5/10/11 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

The minority agrees that the amendment goes a long way to sorting out how shifting the burden of proof from the taxpayer to ^{the} department of revenue would work. The minority is apprehensive about any revenue loss in such challenging times. A few other states tried to shift the burden of proof years ago and shifted back immediately due to severe revenue losses.

OK SBS

COMMITTEE VOTE: _____

• Copy to Committee Bill File

RESPECTFULLY SUBMITTED,

Rep. *Susan Wilkey*
For the Minority