

Bill as Introduced

SB 208-FN - AS INTRODUCED

2014 SESSION

14-2610

10/06

SENATE BILL **208-FN**

AN ACT allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax.

SPONSORS: Sen. Woodburn, Dist 1; Sen. D'Allesandro, Dist 20

COMMITTEE: Ways and Means

ANALYSIS

This bill provides that taxable dividends under the interest and dividends tax shall be net of foreign taxes paid by the taxpayer.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax.

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

- 1 1 Interest and Dividends Taxation; Foreign Taxes Paid. Amend RSA 77:4, II to read as follows:
- 2 II. Dividends, other than stock dividends paid in new stock of the company issuing the same,
- 3 on shares in all corporations and joint stock companies organized under the laws of any state,
- 4 territory, or nation. *Provided, however, that dividends shall be net of foreign taxes actually*
- 5 *paid or accrued by the taxpayer on dividends and other distributions on stock, in U.S.*
- 6 *dollars.*
- 7 2 Effective Date. This act shall take effect July 1, 2014.

LBAO
14-2610
12/31/13

SB 208-FN - FISCAL NOTE

AN ACT allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, as introduced, will reduce state general fund revenue by \$300,000 in FY 2015, and by an indeterminable amount in FY 2016 and each year thereafter. This bill will have no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:

The Department of Revenue Administration (DRA) states this bill amends the definition of dividends that are taxable under the Interest and Dividends (I&D) tax to exclude foreign taxes paid in the taxable base. Data from Tax Year 2011 was used to estimate the fiscal impact as this is the most recent tax year with substantially complete data. There were 22,848 New Hampshire I&D filers that had foreign taxes paid as reported on Federal Form 1099-DIV, totaling \$6,188,126. Total dividends for Tax Year 2011 as reported on NH I&D returns were \$1,041,954,890. At the 5% I&D tax rate, this equals \$52,097,745 in tax due prior to removing tax exempt amounts, deductions, and exemptions for the disabled, elderly, and blind. DRA states removing the \$6,188,126 from the dividends taxable base of \$1,041,954,890 results in a revised base of \$1,035,766,764. At the 5% I&D tax rate this equals \$51,788,338 in tax due prior to removing tax exempt amounts, deductions, and exemption for the disabled, elderly, and blind, a reduction of \$309,407. With an effective date of July 1, 2015, DRA estimates a reduction in state general fund revenue of \$300,000 (rounded) in FY 2015, but states they are unable to determine the fiscal impact in FY 2016 and each year thereafter. However, DRA states it would be reasonable to assume similar decreases in those fiscal years.

Committee Minutes

**SENATE CALENDAR NOTICE
WAYS AND MEANS**

Senator Bob Odell Chairman
 Senator Lou D'Allesandro V Chairman
 Senator Andrew Hosmer
 Senator Chuck Morse
 Senator Jim Rausch

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: January 29, 2014

HEARINGS

Tuesday

2/4/2014

WAYS AND MEANS	SH 103	9:00 AM
(Name of Committee)	(Place)	(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	SB208-FN	allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax.
9:15 AM	SB233	relative to property tax exemption for district fire mutual aid systems.
9:30 AM	SB286	relative to abatements for prior years' property taxes.
9:45 AM	SB300	allowing municipalities to calculate and set annual property tax rates for the municipality.
10:15 AM	SB304-L	relative to the valuation of property for purposes of agreements for payments in lieu of taxes.

Sponsors:

SB208-FN	Sen. Lou D'Allesandro		
SB233	Sen. Job Bradley	Rep. Kris Roberts	Rep. Larry Phillips
SB286	Sen. Andy Sanborn		
SB300	Sen. Andy Sanborn	Rep. Kathleen Stroud	
SB304-L	Sen. Jeff Woodburn	Sen. Jim Rausch	Sen. David Watters

Sonja Caldwell 271-2117

Sen. Bob Odell
Chairman

Ways and Means Committee

Sonja Caldwell, Legislative Aide

SB208-FN allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax.

Hearing date: February 4, 2014

Members present: Sen. Odell, Sen. D'Allesandro, Sen. Rausch, Sen. Hosmer

Members absent: Sen. Morse

Sponsor(s): Sen. Woodburn, Dist 1; Sen. D'Allesandro, Dist 20

What the bill does: This bill provides that taxable dividends under the interest and dividends tax shall be net of foreign taxes paid by the taxpayer.

Who supports the bill: Sen. Woodburn

Who opposes the bill: No one

Summary of testimony received:

Sen. Woodburn stated that with regard to foreign dividends, NH taxes the gross amount rather than the net amount. This bill would change that by allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax. He sponsored this bill at the request of a constituent. DRA helped him come up with the language for this bill. His constituent's point is that he is being taxed on money he never actually receives.

Sen. D'Allesandro asked if his constituent believes he's being taxed twice.

Sen. Woodburn said yes.

Mindy Cyr and Lindsay Stepp (DRA)

They don't take a position on this bill. It's a tax policy position for the legislature to take.

They explained that the IRS gives a tax credit for foreign tax paid. In NH, there is no provision for a deduction or credit for foreign tax paid.

This bill, instead of offering a credit or deduction, changes the definition of dividend income to exclude foreign tax paid.

The way the DP10 form (NH's Interest and Dividends form) works, all interest dividends and distributions are put on the form, and there are places to take certain tax exempt amounts out. The way this bill is written, you would put the net amount up front. This would be different than all of their other tax forms.

They did a fiscal impact based on 2011 data and came up with \$300,000 for a loss of revenue.

Sen. Odell asked whether this is unfair, what other states do, and if a lot of people complain about this.

Ms. Cyr said she doesn't recall this issue ever coming up before. It is not a double taxation issue because the foreign country and NH are separate taxing jurisdictions.

Sen. Rausch also asked how other states treat this issue.

They didn't have that information but offered to look into it.

Sen. Rausch was concerned that passing this bill might change how and where people invest. These are probably high net worth people who can invest in or out of the country, and this could incentivize people to invest overseas rather than in the US.

Speakers

Testimony

Caldwell, Sonja

From: jeff woodburn [jwoodburnya@hotmail.com]
Sent: Monday, February 03, 2014 4:15 PM
To: Odell, Bob; D'Allesandro, Lou; Andrew Hosmer; Rausch, James; Morse, Chuck
Subject: SB 208 prime bill "allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax"
Attachments: 20140131115406432.pdf

Dear Senator Odell and Members of the Ways and Means Committee,

I'm pleased to present to you SB 208, which will allow for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax. This is at the request of a 97-year old constituent of mine, Commander Richard Benneck. Unfortunately, Commander Benneck can't be at the hearing tomorrow. I'm attaching his letter to me to explain why he believes this change in the law is important.

As it relates to SB 304 relative to PILOTS, which you are hearing tomorrow, I would request that this bill be defeated as I believe HB 1549 best addresses the issues relating to windmill valuations in Millsfield and Dixville.

Thank you for your attention to this.

Regards,
Jeff

Sen. Jeff Woodburn
North Country - District 1
603.259.6878
524 Faraway Road, Dalton, NH 03598
www.jeffwoodburn.com

2/3/2014

7/1/13

Is it possible that the state of New Hampshire can force tax payers, who are filing a return for its interest and dividends tax, to declare and pay a tax on money he or she has never received? Yes it is for some one who receives a dividend or interest from a foreign country. That country will levy a tax and probably a transfer fee before you get any money, but you will get charged for the gross amount. I will use my case to explain how and why this occurs. I own shares of Anheuser Busch based in Belgium. They paid a dividend of \$110 from which Belgium took out a tax and transfer fee of \$292, leaving me with \$817 net. When you check the list of qualified dividends you will find it lists the gross amount before tax and fee are deducted. This will be in your 1099 and in item 9b of the 1040 return. This figure then goes into item 1(b) on the 2nd page of the New Hampshire Tax form - thereby it is taxed at 5% including the tax and fee. You are taxed for money you never received.

The federal Form 1040 does provide some relief. On the second page item 47 allows you to deduct the foreign tax, althow it still pads up one's adjusted gross income (AGI). The State of New Hampshire does not allow any deduction and so does tax you on money you never receive. I pointed this out to the Revenue Department last year on the 2012 tax form. They had a meeting to discuss this, but came back with a weak result: the NH doesn't allow any deduction of Foreign tax. This could have easily been put with the non-taxable items in step 3 of page 2 of the NH Form. This is wrong and might even be illegal.

Richard E. Berrink

55 River Glen Lane Apt 208

Littleton NH 03561

Tel. 603-259-3258

(over)

Dividend from
Anheuser
Bosch
\$1109

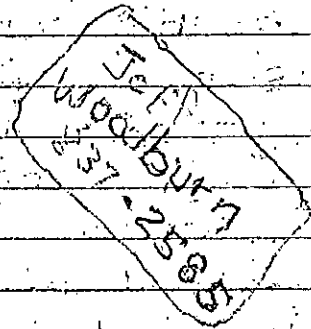
Tax & Transfer
Fee charged
by Belgium
\$292

Net of \$817
received by
owner of stock

the gross will
be in the 1099
and in item 9b
of the Federal
1040 return

↓
Can be deducted
in the Federal
1040 return page
2 item 47. But
not by NH

↓
Then you must
enter this amount
in item 1(b) on
page 2 of the
NH form - where
it is taxed at 5%
with out any deduction



Mr. Chriss Cote
Legislative Office Bldg
107 North Main St.
Concord NH 03301

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: March 4, 2014

THE COMMITTEE ON Ways and Means

to which was referred Senate Bill 208-FN

AN ACT allowing for the deduction of foreign taxes paid from
taxable dividends under the interest and dividends tax.

Having considered the same, the committee recommends that the Bill:

BE REFERRED TO INTERIM STUDY

BY A VOTE OF: 5-0

Senator Andrew J. Hosmer
For the Committee

Sonja Caldwell 271-2117

Docket of SB208

Docket Abbreviations

Bill Title: allowing for the deduction of foreign taxes paid from taxable dividends under the interest and dividends tax.

Official Docket of SB208:

Date	Body	Description
1/2/2014	S	Introduced 1/8/2014 and Referred to Ways and Means
1/29/2014	S	Hearing: 2/4/14, Room 103, SH, 9:00 a.m.; SC5
3/4/2014	S	Committee Report: Referred to Interim Study, 3/13/14; SC9
3/13/2014	S	Refer to Interim Study, MA, VV; SJ 7

NH House**NH Senate**

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB 208 ORIGINAL REFERRAL

_____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

_____ - AMENDMENT # _____ _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
_____ FINAL VERSION _____ AS AMENDED BY THE SENATE

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

DATE DELIVERED TO SENATE CLERK:

6-17-14

BY:

SC

COMMITTEE AIDE