

SB 189-FN - AS AMENDED BY THE SENATE

02/22/2023 0558s

2023 SESSION

23-0764

02/04

SENATE BILL ***189-FN***

AN ACT relative to the definition of gross business profits in determining taxable business profits.

SPONSORS: Sen. Lang, Dist 2; Sen. Gendreau, Dist 1; Sen. Gannon, Dist 23; Sen. Innis, Dist 7; Sen. Pearl, Dist 17; Rep. Moffett, Merr. 4

COMMITTEE: Ways and Means

ANALYSIS

This bill alters the definition of gross business profits in determining additions and deductions allowed under the business profits tax.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

02/22/2023 0558s 23-0764
02/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the definition of gross business profits in determining taxable business profits.

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

1 New Paragraph; Business Profits Tax; Additions and Deductions. Amend RSA 77-A:4 by inserting after paragraph XIX the following new paragraph:
XX. For tax years commencing on or after January 1, 2024, a deduction equal to the amount disallowed as a deduction under section 163(j) of the Internal Revenue Code. For tax years commencing on or after January 1, 2024, an addition equal to the amount deducted by reason of a carry forward of disallowed business interest under section 163(j) of the Internal Revenue Code generated in tax years commencing after January 1, 2024.

2 Effective Date. This act shall take effect January 1, 2024.

SB 189-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2023-0558s)

AN ACT relative to the definition of gross business profits in determining taxable business profits.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill proposes to allow business organizations to fully deduct its business interest expense in the year it is incurred for tax years commencing on or after January 1, 2024.

The Department of Revenue Administration states this bill amends the adjustments needed to be made to gross business profits for the determination of taxable business profits by giving a deduction for the federally disallowed portion of business interest expense deduction under Internal Revenue Code (IRC) section 163(j) (section 163(j) limitation).

The Department also states this bill would disallow a deduction for the business interest expense carry forward generated in tax years commencing on or after January 1, 2024 from the 163(j) limitation, by adding back to the gross business profits the deduction taken federally. It is assumed the disallowed deduction is the deduction taken by the business organization on its federal return.

The Department provides the following information relative to the current law:

- the section 163(j) limitation caps the business interest expense deduction to the sum of business interest income, 30% of the adjusted taxable income, and floor plan financing interest expense.
- the business interest expense in excess of the 163(j) limitation shall be carried forward to the following year.
- the 163(j) limitation shall not apply to small business taxpayers that have an average annual gross receipt of \$25 million (adjusted for inflation for taxable years beginning after December 31, 2018) or less for the three prior tax years. This proposed legislation does not change this.

The Department is unable to provide an estimate of the fiscal impact to revenue as it does not have sufficient information on all the federal calculations made by business organizations to arrive at their federal business interest expense deduction. However, the Department does state this bill would accelerate the effects of business interest expense deduction to the year in which the business organization incurred that expense resulting in an indeterminable decrease in General Fund and Education Trust Fund revenue.

The Department would need to update all necessary tax return forms and electronic management systems to reflect the proposed change; however, it is not anticipated this will result in any additional administrative costs that could not be absorbed in the Department's operating budget. The proposed legislation would accelerate the effects of business interest expense deduction to the year in which the business organization incurred that expense.

AGENCIES CONTACTED:

Department of Revenue Administration

CONSENT CALENDAR

May 9, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Ways and Means to which was referred SB 189-FN,

AN ACT relative to the definition of gross business profits in determining taxable business profits. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. John Janigian

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Ways and Means
Bill Number:	SB 189-FN
Title:	relative to the definition of gross business profits in determining taxable business profits.
Date:	May 9, 2023
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2023-1628h

STATEMENT OF INTENT

This bill, as amended, decouples the NH business tax interest deduction from Internal Revenue Code (IRC) section 163(j). Prior to the 2020 tax year, NH allowed the full interest deduction in one year. For tax years 2020, 2021, and 2022, NH disallowed the full deduction and was in line with IRC section 163(j). This bill brings us back to handling the deduction as NH did prior to the 2020 tax year. The amendment ensures that previously disallowed deductions that have been carried forward will be deducted in equal amounts over three years. This helps ensure a smooth transition in Department of Revenue Administration revenue collections. The committee believes this bill will encourage investment by NH companies and thus help the NH economy grow.

Vote 19-0.

Rep. John Janigian
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Ways and Means

SB 189-FN, relative to the definition of gross business profits in determining taxable business profits. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John Janigian for Ways and Means. This bill, as amended, decouples the NH business tax interest deduction from Internal Revenue Code (IRC) section 163(j). Prior to the 2020 tax year, NH allowed the full interest deduction in one year. For tax years 2020, 2021, and 2022, NH disallowed the full deduction and was in line with IRC section 163(j). This bill brings us back to handling the deduction as NH did prior to the 2020 tax year. The amendment ensures that previously disallowed deductions that have been carried forward will be deducted in equal amounts over three years. This helps ensure a smooth transition in Department of Revenue Administration revenue collections. The committee believes this bill will encourage investment by NH companies and thus help the NH economy grow. **Vote 19-0.**

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON SB 189-FN

BILL TITLE: relative to the definition of gross business profits in determining taxable business profits.

DATE: April 26, 2023

LOB ROOM: 202-204 **Time Public Hearing Called to Order:** 10:14 a.m.

Time Adjourned: 11:12 a.m.

Committee Members: Reps. L. Sanborn, Janigian, Plett, Doucette, Spilsbury, Soti, Aures, Rochefort, Almy, Ames, Southworth, Malloy, Fellows, Bolton and Elberger

Bill Sponsors:

Sen. Lang
Sen. Innis

Sen. Gendreau
Sen. Pearl

Sen. Gannon
Rep. Moffett

TESTIMONY

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

Senator Lang – Allows 100% business tax deduction.

Alan Pasetsky, Global Business Alliance- Supports. Reresents two hundred companies. Supports – driven business growth & income. In 2018 federal cut to interest due to Tax Cuts & Jobs act in a tradeoff for lower rates. Eighteen states allow full deduction. Rochefort – When I file I can file 100% of mortgage interest, but not on business interest – cannot deduct all. Carries forward to another year. Federal Law applies only to corporations with receipts over \$25 million. Rep. Janigian – If in 2024 fully deductible, but 2023 & prior, have to follow old rules. Limitation is 30% of taxable income which can be applied to interest deductions. Question about Rep. Ellberger impact of states decoupling havn't tried to recouple. Twenty=Seven million is worldwide. Revenue potential loss gets us back to where we were in 2019.

Mr. David Juvet, SVP Public Policy of BIA, Supports. For businesses, helpful if state tax laws follow. Rep. Ames – Divide between big and smaller companies.

Keen Wong & Frederick Coolbroth (Director of Audit). No position on bill. \$25 million threshold adjusted for inflation, now \$27 million.

Respectfully submitted,

Rep. FredPlett, Clerk

House Remote Testify

Ways and Means Committee Testify List for Bill SB189 on 2023-04-26

Support: 5 Oppose: 0 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Beeson, Meredith	Washington, DC mbeeson@globalbusiness.org	A Lobbyist	Global Business Alliance	Support	No	No	4/24/2023 12:16 PM
Gendreau, Senate Carrie	Littleton, NH kathryn.cummings@leg.state.nh.us	An Elected Official	Senate District 1	Support	No	No	4/24/2023 12:51 PM
Heavey, Leonore	Washington, DC lheavey@cost.org	A Member of the Public	Council on State Taxation	Support	No	No	4/25/2023 9:15 AM
Scarboro, Morgan	Arlington, VA mscarboro@multistate.us	A Member of the Public	STARR Partnership	Support	No	No	4/25/2023 12:23 PM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	4/25/2023 7:08 PM



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 9:55:04 AM
Roll Call Committee Registers
Report

2023 SESSION

Ways and Means

Bill #: 189 Motion: OTPM AM #: _____ Exec Session Date: May 9, 2023

Members	YEAS	Nays	NV
Sanborn, Laurie J. Chairman	19		
Janigian, John C. Vice Chairman	1		
Ulery, Jordan G.	2		
Doucette, Fred G.	3		
Spilsbury, Walter	4		
Plett, Fred R. Clerk	5		
Hynes, Dan <i>See Aluns</i>	6		
Soti, Julius F. <i>Thomas, Doug</i>	7		
Aures, Cyril Nicholas	8		
Rochefort, David <i>Ringold, Andrew</i>	9		
Almy, Susan W.	10		
Ames, Richard	11		
Southworth, Thomas L.	12		
Malloy, Dennis J.	13		
Schamberg, Thomas C.	14		
Fellows, Sallie D.	15		
Bolton, Bill-R <i>Loy Christal</i>	16		
Elberger, Susan A	17		
Leapley, Nicole M	18		
Smith, Geoffrey			1
TOTAL VOTE:	19	0	1



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

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Roll Call Committee Registers
Report

2023 SESSION

Bill #: _____ Motion: _____ AM #: _____ Exec Session Date: _____



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1/10/2023 9:55:04 AM
Roll Call Committee Registers
Report

2023 SESSION

Ways and Means

Bill #: 189 Motion: OTP AM #: 16281 Exec Session Date: May 9, 2023

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Sanborn, Laurie J. Chairman	19		
Janigian, John C. Vice Chairman	1		
Ulery, Jordan G.	2		
Doucette, Fred G.	3		
Spilsbury, Walter	4		
Plett, Fred R. Clerk	5		
Hynes, Dan <i>See, Alvin</i>	6		
Soti, Julius F. <i>Tronzo, Douglas</i>	7		
Aures, Cyril Nicholas	8		
Rocheport, David <i>Renzullo, Andrew</i>	9		
Almy, Susan W.	10		
Ames, Richard	11		
Southworth, Thomas L.	12		
Malloy, Dennis J.	13		
Schamberg, Thomas C.	14		
Fellows, Sallie D.	15		
Bolton, Bill R <i>Lloyd, Charles</i>	16		
Elberger, Susan A	17		
Leapley, Nicole M	18		
Smith, Geoffrey			1
TOTAL VOTE:	19	0	1



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2023 SESSION

Bill #: _____ Motion: _____ AM #: _____ Exec Session Date: _____