

LEGISLATIVE COMMITTEE MINUTES

SB404

Bill as
Introduced

SB 404-FN-A - AS INTRODUCED

2018 SESSION

18-2784
10/05

SENATE BILL **404-FN-A**

AN ACT phasing out the tax on interest and dividends.

SPONSORS: Sen. Sanborn, Dist 9; Sen. Avard, Dist 12; Sen. French, Dist 7; Sen. Gannon, Dist 23; Sen. Giuda, Dist 2; Sen. Gray, Dist 6; Sen. Innis, Dist 24; Sen. Reagan, Dist 17

COMMITTEE: Ways and Means

ANALYSIS

This bill phases out the interest and dividends tax over a 5-year period and repeals the tax on January 1, 2024.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT phasing out the tax on interest and dividends.

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

1 1 Rate; 2020. Amend RSA 77:1 to read as follows:

2 77:1 Rate. The annual tax upon incomes shall be levied at the rate of [5] 4 percent.

3 2 Rate; 2021. Amend RSA 77:1 to read as follows:

4 77:1 Rate. The annual tax upon incomes shall be levied at the rate of [4] 3 percent.

5 3 Rate; 2022. Amend RSA 77:1 to read as follows:

6 77:1 Rate. The annual tax upon incomes shall be levied at the rate of [3] 2 percent.

7 4 Rate; 2023. Amend RSA 77:1 to read as follows:

8 77:1 Rate The annual tax upon incomes shall be levied at the rate of [2] 1 percent.

9 5 Repeal; 2024. RSA 77, relative the taxations of incomes, is repealed.

10 6 Reference to Interest and Dividends Tax Deleted. Amend RSA 14-B:8, III(q) to read as
11 follows:

12 (q) New Hampshire taxes, specifying if business profits tax[,] *or* business enterprise
13 tax[, ~~or interest and dividends tax~~].

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15 follows:

16 (17) New Hampshire taxes, specifying if business profits tax[,] *or* business
17 enterprise tax[, ~~or interest and dividends tax~~].

18 8 Reference to Interest and Dividends Tax Deleted. Amend RSA 21-J:31 to read as follows:

19 21-J:31 Penalty for Failure to File. Any taxpayer who fails to file a return when due, unless an
20 extension has been granted by the department, shall pay a penalty equal to 5 percent of the amount
21 of the tax due or \$10, whichever is greater, for each month or part of a month during which the
22 return remains unfiled. The total amount of any penalty shall not, however, exceed 25 percent of
23 the amount of the tax due or \$50, whichever is greater. This penalty shall not be applied in any
24 case in which a return is filed within the extended filing period as provided in [RSA 77:18-b,]
25 RSA 77-A:9, RSA 77-E:8, RSA 83-C:6, RSA 83-E:5, RSA 84-A:7, or RSA 84-C:7, or the failure to file
26 was due to reasonable cause and not willful neglect of the taxpayer. The amount of the penalty is
27 determined by applying the percentages specified to the net amount of any tax due after crediting
28 any timely payments made through estimating or other means.

29 9 Reference to Interest and Dividends Tax Deleted. Amend the introductory paragraph of
30 RSA 21-J:33-a, I to read as follows:

31 I. If there is a substantial understatement of tax imposed under [RSA 77,] RSA 77-A,

SB 404-FN-A - AS INTRODUCED

- Page 2 -

1 RSA 77-E, RSA 78-A, RSA 78-C, RSA 82-A, RSA 83-C, RSA 83-E, or RSA 84-A for any taxable
2 period, there shall be added to the tax an amount equal to 25 percent of the amount of any
3 underpayment attributable to such understatement.

4 10 Reference to Interest and Dividends Tax Deleted. Amend RSA 21-J:46, III to read as
5 follows:

6 III. This section shall apply only to tax returns and associated payments under ~~[RSA 77,]~~
7 RSA 77-A~~[,]~~ and RSA 77-E.

8 11 References to Interest and Dividends Tax Deleted; Tax Expenditure Report. Amend RSA
9 71-C:4, I and II to read as follows:

10 I. On or before December 15 of every fiscal year the commissioner of the department of
11 revenue administration shall certify in a report to the general court and the governor an analysis of
12 each of the past fiscal year's tax expenditures as identified in RSA 71-C:2, and other credits allowed
13 under ~~[RSA 77,]~~ RSA 77-A, RSA 77-E, RSA 77-G, RSA 78, RSA 78-A, 78-B, RSA 82-A, RSA 83-E,
14 RSA 84-A, RSA 84-C, and RSA 400-A.

15 II. The report shall be divided into the following parts:

16 (a) Tax expenditures as determined by the joint committee on tax expenditure review
17 under RSA 71-C:3;

18 (b) Potential liabilities against the state's revenues, specifically:

19 (1) Other credits allowed under ~~[RSA 77,]~~ RSA 77-A, RSA 77-E, RSA 77-G, RSA 78,
20 RSA 78-A, RSA 78-B, RSA 82, RSA 82-A, RSA 83-E, RSA 84-A, RSA 84-C, and RSA 400-A against
21 the business profits tax imposed by RSA 77-A; and

22 (2) Credit carryovers from overpaid taxes.

23 12 Returns for Interest and Dividends Taxes. All persons who are liable for a tax under
24 RSA 77 as of December 31, 2023, who thereafter are no longer liable for a tax under RSA 77 because
25 of the passage of this act shall make a return of such taxes due the commissioner of revenue
26 administration in such manner and on such forms as the commissioner shall prescribe in rules
27 adopted under RSA 541-A. The administrative provisions of RSA 77 shall remain in effect to permit
28 the collection of taxes upon income taxable under RSA 77 which is received by persons subject to
29 taxation under that chapter through December 31, 2023, and to permit the distribution of that
30 revenue. Persons who are liable for a tax under RSA 77 who do not report the payment of federal
31 income taxes on a calendar year basis are entitled to such proportion of the exemptions allowed in
32 RSA 77 as the reporting period bears to their taxable year.

33 13 Repeals. The following are repealed:

34 I. RSA 21-J:45, I(e), relative to reports on status of requested interest and dividends tax
35 refunds.

36 II. RSA 77-A:4-c, II(c), relative to the duty of a committee to study the taxation of
37 distributions received by investment organizations under the interest and dividends tax.

38 III. RSA 77, relative to taxation of incomes.

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- Page 3 -

1 IV. RSA 77-A:4, I, relative to an adjustment to the business profits tax for taxes under
2 RSA 77.

3 V. RSA 195-H:10, relative to exemption from RSA 77 for income and distributions from
4 qualified tuition programs.

5 VI. RSA 195-K:4, relative to the exemption from RSA 77 for the achieving a better life
6 experience program.

7 VII. RSA 261:52-a relative to notice that the interest and dividends tax may be due.

8 VIII. RSA 391:3 relative to the taxation of common trust funds under RSA 77.

9 14 Effective Date.

10 I. Section 1 of this act shall take effect January 1, 2020, and shall apply to tax years ending
11 on or after December 31, 2020.

12 II. Section 2 of this act shall take effect January 1, 2021 and shall apply to tax years ending
13 on or after December 31, 2021.

14 III. Section 3 of this act shall take effect January 1, 2022, and shall apply to tax years
15 ending on or after December 31, 2022.

16 IV. Section 4 of this act shall take effect January 1, 2023, and shall apply to tax years
17 ending on or after December 31, 2023.

18 V. The remainder of this act shall take effect January 1, 2024.

SB 404-FN-A- FISCAL NOTE
AS INTRODUCED

AN ACT phasing out the tax on interest and dividends.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
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 type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill phases out and repeals the Interest and Dividends (I&D) Tax, which is currently assessed on interest and dividend income at a rate of 5 percent. The rate would be reduced as follows:

- 4 percent effective January 1, 2020 and applicable to tax years ending on or after December 31, 2020.
- 3 percent effective January 1, 2021 and applicable to tax years ending on or after December 31, 2021.
- 2 percent effective January 1, 2022 and applicable to tax years ending on or after December 31, 2022.
- 1 percent effective January 1, 2023 and applicable to tax years ending on or after December 31, 2023.
- Tax repealed effective January 1, 2024.

The Department of Revenue Administration has no means to determine the exact fiscal impact of repealing the I&D tax because it is not able to predict future tax liabilities and credit carryforward amounts. However using tax year 2015 information, the Department is able to provide a static analysis to provide an estimated impact on future tax years. This estimated impact does not take into consideration the Department's ongoing audit and collection activities or any overpayments that might result in a refund. The tax year 2015 liability was \$83,951,757. Taxpayers reported \$16.3 million in overpayments in tax year 2015 and requested that amount be carried forward to offset any potential future liabilities. Applying each tax rate reduction to the I&D tax law as proposed in this bill to the tax year 2015 liability, the potential decrease in state general fund revenue may be as follows:

Fiscal	Tax Year	Tax Rate	Documents Due	Total Fiscal
--------	----------	----------	---------------	--------------

Year				Year Impact
FY 2020	TY 2019	5%	3rd and 4th Quarter Estimates and Return Payments	(\$4,784,345)
	TY 2020	4%	1st and 2nd Quarter Estimates	
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	TY 2021	3%	1st and 2nd Quarter Estimates	
FY 2022	TY 2021	3%	3rd and 4th Quarter Estimates and Return Payments	(\$38,365,516)
	TY 2022	2%	1st and 2nd Quarter Estimates	
FY 2023	TY 2022	2%	3rd and 4th Quarter Estimates and Return Payments	(\$55,155,570)
	TY 2023	1%	1st and 2nd Quarter Estimates	
FY 2024	TY 2023	1%	3rd and 4th Quarter Estimates and Return Payments	(\$71,945,625)
	TY 2024	I&D Repealed	1st and 2nd Quarter Estimates	
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AGENCIES CONTACTED:

Department of Revenue Administration

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QTP 3-2

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LBAO
18-2784
12/6/17

SB 404-FN-A- FISCAL NOTE
AS INTRODUCED

AN ACT phasing out the tax on interest and dividends.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
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Expenditures	\$0	\$0	\$0	\$0
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

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FY 2022	TY 2021	3%	3rd and 4th Quarter Estimates and Return Payments	(\$38,365,516)
	TY 2022	2%	1st and 2nd Quarter Estimates	
FY 2023	TY 2022	2%	3rd and 4th Quarter Estimates and Return Payments	(\$55,155,570)
	TY 2023	1%	1st and 2nd Quarter Estimates	
FY 2024	TY 2023	1%	3rd and 4th Quarter Estimates and Return Payments	(\$71,945,625)
	TY 2024	I&D Repealed	1st and 2nd Quarter Estimates	
FY 2025	TY 2024	I&D Repealed		(\$100,265,594)
	TY 2025			

AGENCIES CONTACTED:

Department of Revenue Administration

Committee Minutes

Senate Ways and Means Committee

Sonja Caldwell 271-2117

SB 404-FN-A, phasing out the tax on interest and dividends.

Hearing Date: February 7, 2018

Members of the Committee Present: Senators Sanborn, Giuda, Daniels, D'Allesandro and Feltes

Members of the Committee Absent : None

Bill Analysis: This bill phases out the interest and dividends tax over a 5-year period and repeals the tax on January 1, 2024.

Sponsors:

Sen. Sanborn
Sen. Gannon
Sen. Innis

Sen. Avard
Sen. Giuda
Sen. Reagan

Sen. French
Sen. Gray

Who supports the bill: Greg Moore (AFP-NH), Sen. Avard, Sen. Giuda

Who opposes the bill: No one

Who is neutral on the bill: Carollynn Ward (NHDRA)

Summary of testimony presented:

Sen. Sanborn

- This bill phases out the interest and dividends tax.
- The legislature has made significant reductions in business taxes and it seems like these tax cuts solely benefit the business community.
- The vast majority of people who pay interest and dividends are of retirement age and possibly living on interest coming from their investments.
- This bill calls for a 20% reduction in the tax each year.
- Based on the \$63 million in net I & D revenue the state receives, this would amount to a \$13 million annual loss.
- He doesn't understand how DRA calculated the loss in revenue to be \$100 million from this bill.
- This supports the concept that NH is a low tax state and a state with no income tax.

Greg Moore – Americans for Prosperity

- Senior citizens who have second homes in Florida can claim residency in Florida by living

there for 6 months and one day in order to avoid paying the interest and dividends tax in NH.

Sen. Sanborn noted that the effective date in this bill was designed so that the impact wouldn't be felt until the next budget.

Carollynn Ward and Devin Rodrique - DRA

Sen. Giuda asked them to explain the fiscal note.

Ms. Ward said that Sen. Sanborn's point is well taken. They are directed to complete fiscal notes in a certain way and that is to compare certain future years to today. That resulted in the larger fiscal impact.

Sen. Sanborn asked if she meant they were compounding the potential cut and Ms. Ward said yes.

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Date Hearing Report completed: February 8, 2018

Speakers

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, February 14, 2018

THE COMMITTEE ON Ways and Means

to which was referred SB 404-FN-A

AN ACT phasing out the tax on interest and dividends.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 3-2

Senator Gary Daniels
For the Committee

Sonja Caldwell 271-2117

WAYS AND MEANS

SB 404-FN-A, phasing out the tax on interest and dividends.

Ought to Pass, Vote 3-2.

Senator Gary Daniels for the committee.

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Monday, March 12, 2018

THE COMMITTEE ON Finance

to which was referred SB 404-FN-A

AN ACT phasing out the tax on interest and dividends.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 3-3

Senator Lou D'Allesandro
For the Committee

Deb Martone 271-4980

Other Referrals

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

18-2784

SB 404-FN-A, *phasing out the tax on interest and dividends.*

Senate Ways & Means

SB 404 phases out and repeals RSA 77, the Interest and Dividends (I&D) Tax, which is currently assessed on interest and dividend income at a rate of 5 percent.

The proposed bill makes the following legislative changes:

- Amends RSA 77:1 by reducing the I&D Tax rate to 4 percent effective January 1, 2020 and applicable to tax years ending on or after December 31, 2020.
- Amends RSA 77:1 by reducing the I&D Tax rate to 3 percent effective January 1, 2021 and applicable to tax years ending on or after December 31, 2021.
- Amends RSA 77:1 by reducing the I&D Tax rate to 2 percent effective January 1, 2022 and applicable to tax years ending on or after December 31, 2022.
- Amends RSA 77:1 by reducing the I&D Tax rate to 1 percent effective January 1, 2023 and applicable to tax years ending on or after December 31, 2023.
- Repeals the I&D Tax effective January 1, 2024.

There is no way for the Department of Revenue Administration to determine the exact fiscal impact of a phased reduction and then repeal of the I&D Tax. The Department has no definitive method to determine future I&D Tax liability and credit carryforward amounts.

The following chart shows the estimated fiscal impact of the proposed legislation through FY2025 using the amount of tax and credit carryforward reported for TY15. The estimated fiscal impact was calculated using the I&D Tax liability reported by taxpayers for TY15 of \$83,951,757, with \$16.3 million of requested credit carry overs on file as of November 28, 2017. The net taxable income in TY15 of \$1,679,005,460 was multiplied by each proposed new tax rate to calculate the new tax liability for each tax year. This figure was then deducted from \$83,951,757 to calculate an estimate of the revenue decrease in each tax year. Tax year revenue loss was converted to a fiscal year revenue impact based upon the Department's historical receipt of quarterly I&D Tax estimate payments.

Additionally, if the I&D tax were repealed on January 1, 2024, there would be no future liability for any outstanding credit carry overs to offset. Therefore, the Department would predict that these outstanding overpayments would result in a large amount of refund requests. As a result, to calculate the fiscal impact of repealing the I&D Tax, the Department presumes the payment of refunds of the total amount of credit carryforward reported by taxpayers on the TY15 return. Taxpayers reported \$16.3 million of I&D Tax overpayments in TY15 and requested that amount be carried forward to offset any potential future liabilities.

This analysis is a static analysis based on a single tax year and does not take into consideration the Department's ongoing audit and collection activities with respect to prior tax years.

Tax Year	I&D Tax Rate	Documents Due	I&D Impact	Total Fiscal Year Impact	Fiscal Year
TY2019	5%	1st and 2nd Quarter Estimates	0	0	FY2019
TY2019		3rd and 4th Quarter Estimates and Return Payments	0	(4,784,345)	FY2020
TY2020	4%	1st and 2nd Quarter Estimates	(4,784,345)	(21,575,461)	FY2021
TY2020		3rd and 4th Quarter Estimates and Return Payments	(12,007,194)		
TY2021	3%	1st and 2nd Quarter Estimates	(9,568,267)	(38,365,516)	FY2022
TY2021		3rd and 4th Quarter Estimates and Return Payments	(24,013,326)		
TY2022	2%	1st and 2nd Quarter Estimates	(14,352,190)	(55,155,570)	FY2023
TY2022		3rd and 4th Quarter Estimates and Return Payments	(36,019,458)		
TY2023	1%	1st and 2nd Quarter Estimates	(19,136,112)	(71,945,625)	FY2024
TY2023		3rd and 4th Quarter Estimates and Return Payments	(48,025,591)		
TY2024	I&D Tax Repealed	1st and 2nd Quarter Estimates	(23,920,034)	(100,265,594)	FY2025
TY2024		I&D Tax Repealed	(83,951,757)		
TY2025		I&D Tax Repealed	(16,313,837)		