

LEGISLATIVE TAX UPDATE

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In this issue we provide an update on the proposed legislative bills we initially discussed in our *Tax E-News* of February 9 2009. We will discuss 2 additional bills not originally included that have since been considered by the Legislature. You should also consider periodically reviewing the list of introduced bills on the [Legislature's Web Page](#) for any new legislation that may be introduced or amendments to some of the bills we discuss in this newsletter.

INITIAL REVIEW OF PROPOSED LEGISLATION

The new proposed bills being reviewed are [HB 2](#), which is relative to state fees, revenues and expenditures, and [SB 5](#), which would prohibit retailers from disclosing private customer information to foreign states' Departments of Revenue for purposes of enforcing their Sales and Use Taxes. There are a number of tax provisions within HB 2 that we will address in the following paragraphs before updating the list of bills included in our February 9th newsletter.

[HB 2](#) An Act relative to state fees, funds, revenues and expenditures.

This bill is frequently called the "the trailer bill" as it is part of the budget process and addresses many issues associated with the actual budget bill. The bill currently has 197 sections and only a limited number of these have tax implications. The House of Representatives has passed this bill and the Senate Finance Committee held a hearing on it on April 15th. We will address the sections impacting the various New Hampshire Tax statutes.

Sections 2 & 3 – Raises the tobacco tax on cigarettes to \$1.68 per pack of 20 cigarettes with the other size packs changing proportionally. The effective date of this change is July 1,

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2009. Businesses will be required to file an inventory of the product on hand within 20 days of passage. The language in these sections is similar to the language contained in **HB 638** which the House Ways & Means Committee continues to hold in the committee.

Section 4 – Creates new subsections within RSA 77, Taxation of Income, better known as the Interest & Dividends Tax, to tax gambling winnings on any gambling activity whether in-state or out-of-state. A payor must register with the Department of Revenue Administration (“DRA”) and must withhold the tax when making a payout of \$600 or more. The withheld tax is then sent to the DRA by the tenth day of the following month. The rate of tax is 10%. The tax applies to resident and non-resident individuals. The resident individual would be taxed on winnings from all sources whereas the non-resident individual would be taxed on New Hampshire sourced winnings. The effective date is July 1, 2009.

Section 7 – Increases the Meals & Rentals Tax to 8 ¾% effective July 1, 2009.

Section 140 through 144 – Increases the rate of the road toll levy (RSA 260) in steps over a number of years with the increases going into a New Hampshire road and bridge account. The language in these sections is similar to the provisions of **HB 644** which the House Ways & Means Committee is currently retaining in the committee.

Sections 176 through 178 – Adds snuff and cigars, excluding “premium cigars” to the list of products subject to the Tobacco Tax, RSA 78. The rate of tax on tobacco products other than cigarettes would equal to 48.59% of the wholesale price. The effective date of the changes is July 1, 2009. The language in these sections is similar to the provisions of **HB 568** which the House Ways & Means Committee is currently retaining in the committee.

Sections 181 through 185 – These sections amend the current New Hampshire Estate Tax, RSA 87. The reenacted provisions create an 8% estate tax on the gross value of a decedent’s estate that is greater than \$2,000,000. The first \$2,000,000 is exempt from the tax. The tax is payable 9 months after the date of death. The estates affected by the new provisions are all estates of decedents dying after January 1, 2010 and to any “...estate of any decedent with respect to which the United States estate tax had not been paid on January 1, 2010.”

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Sections 186 through 193 – Increases the exemption under the Interest & Dividends Tax (RSA 77) to \$5,000 per taxpayer. Married individuals filing a joint return will have a \$10,000 exemption on the return. The legislation adds as a class of taxable income the capital gain that is reported on Schedule D of the taxpayer's federal income tax return. If a capital gain is also subject to RSA 77-A it will be exempted from RSA 77 and taxed under RSA 77-A. The legislation repeals the following provisions within RSA 77:

- I. RSA 77:4, IV relative to the exemption of dividends declared by a corporation to be a return of capital;
- II. RSA 77:4-c relative to sale or exchange of transferable share not taxable; and
- III. RSA 77:7 relative to capital distributions.

These sections have an effective date for taxable periods ending on or after January 1, 2010.

SB 5 is being considered by the Legislature to protect the confidentiality of customer information in the hands of New Hampshire businesses in instances in which a foreign state Department of Revenue seeks to enforce the collection of its Sales and Use Tax by New Hampshire businesses. The House Commerce and Consumer Affairs Committee is reviewing the legislation and had a hearing on April 28, 2009. The effective date would be upon its passage.

UPDATE REVIEW OF PROPOSED LEGISLATION¹

SB 83 An Act establishing a committee to study net operating loss carry forward provisions under the business profits and business enterprise taxes.

This bill was tabled by the Senate on March 25, 2009.

HB 256 An Act relative to the New Hampshire accountancy act.

The bill makes numerous changes to the current accountancy law under RSA 309-B. The bill was amended and passed by the House of Representatives and was introduced in the Senate on March 18, 2009 and referred to the Senate Executive Departments and Administration Committee. A hearing was held on April 28, 2009.

The following bills have been retained by the House of Representatives' committees they were assigned to originally. The retained bills could be used during the remainder of the legislative session for additional legislative proposals through amendments to

¹The proposed legislation outlined in this update were initially discussed in the [February 9, 2009 issue of Tax E-News](#)



the original title and the bill's contents. Many of the provisions from the original bills were included within HB 2 which we discussed at the beginning of the newsletter.

[HB 664](#) An Act relative to taxation of capital gains under the interest and dividends tax.

[HB 691](#) An Act relative to the New Hampshire estate tax.

[HB 642](#) An Act establishing a flat rate education income tax and relative to the statewide enhanced education tax and certain other taxes.

[HB 568](#) An Act relative to the taxation of tobacco products other than cigarettes.

[HB 638](#) An Act increasing the tobacco tax and dedicating certain tobacco tax revenues to the comprehensive cancer plan fund.

[HB 644](#) An Act increasing the rate of the road toll, establishing the New Hampshire road and bridge account and limiting the use of road toll revenues.

[HB 124](#) An Act relative to the rate of the gas tax.

The following bills have been voted Inexpedient to Legislate.

[HB 241](#) An Act increasing the interest & dividends tax exemption for income eligible persons 65 years of age and older.

[HB 533](#) An Act reducing the rates of the business profits tax and business enterprise tax.

[HB 543](#) An Act establishing an inheritance tax on property received by collateral heirs.

[HB 583](#) An Act establishing an income tax to adequately fund public education and relative to the employment of teachers.

[HB 584](#) An Act establishing an income tax for the purpose of paying college tuition for emergency first responders, law enforcement officers and dependents of first responders and law enforcement officers.

[HB 628](#) An Act establishing tangible personal property inventory and use taxes.

[HB 412](#) An Act relative to the research and development tax credit.



[HB 221](#) An Act requiring discounts on cash purchases of tobacco tax stamps.

[HB 227](#) An Act relative to payment for tobacco products purchased by retailers.

[HB 166](#) An Act increasing the beer tax.

[HB 581](#) An Act increasing the road toll and designating the increase for the highway and bridge betterment accounts.

Our next update on the 2009 Legislative Session will likely be in early July when we will cover the legislation that was enacted and signed into law. If any significant changes occur on this legislation, we may provide a special update on some of the legislation later in May or in June.

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