

HB 568-FN-A - AS INTRODUCED

2021 SESSION

21-0287

10/05

HOUSE BILL ***568-FN-A***

AN ACT increasing exemptions to the interest and dividends tax and repealing the tax in 2025.

SPONSORS: Rep. Silber, Belk. 2; Rep. Binford, Graf. 15; Rep. Layon, Rock. 6; Rep. McGuire, Merr. 29; Rep. Potucek, Rock. 6; Rep. Mooney, Hills. 21; Rep. Baldasaro, Rock. 5; Rep. J. Osborne, Rock. 4; Sen. Ricciardi, Dist 9; Sen. Daniels, Dist 11

COMMITTEE: Ways and Means

ANALYSIS

This bill repeals the interest and dividends tax, RSA 77, effective January 1, 2025, and increases the exemptions for taxpayers each year prior to the repeal.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Twenty One

AN ACT increasing exemptions to the interest and dividends tax and repealing the tax in 2025.

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

1 1 Interest and Dividends Tax; Who Taxable. Amend RSA 77:3 to read as follows:

2 77:3 Who Taxable.

3 I. Taxable income is that income received from interest and dividends during the tax year
4 prior to the assessment date by:

5 (a) Individuals who are inhabitants or residents of this state for any part of the taxable
6 year whose gross interest and dividend income from all sources, including income from a qualified
7 investment company pursuant to RSA 77:4, V, exceeds \$2,400 during ~~[that]~~ **the** taxable period
8 **ending on or before December 31, 2021; \$4,800 during the taxable period ending December**
9 **31, 2022; \$7,200 during the taxable period ending December 31, 2023; and \$9,600 during the**
10 **taxable period ending December 31, 2024.**

11 (b) Partnerships, limited liability companies, and associations, the beneficial interest in
12 which is not represented by transferable shares, whose gross interest and dividend income from all
13 sources exceeds ~~[\$2,400]~~ **the amounts listed in subparagraph (a)** during the taxable year, but
14 not including a qualified investment company as defined in RSA 77-A:1, XXI, or a trust comprising a
15 part of an employee benefit plan, as defined in the Employee Retirement Income Security Act of
16 1974, section 3.

17 (c) Executors deriving their appointment from a court of this state whose gross interest
18 and dividend income from all sources exceeds ~~[\$2,400]~~ **the amounts listed in subparagraph (a)**
19 during the taxable year.

20 II. No person shall be subject to tax under RSA 77 solely due to its holding an ownership
21 interest in a qualified investment company as defined in RSA 77-A:1, XXI.

22 2 Exemptions. Amend RSA 77:5 to read as follows:

23 77:5 Exemptions. Each taxpayer shall have the following exemptions:

24 I. Income of \$2,400 **for the tax years ending on or before December 31, 2021; \$4,800 for**
25 **the tax year ending December 31, 2022; \$7,200 for the tax year ending December 31, 2023;**
26 **and \$9,600 for the tax year ending December 31, 2024.**

27 II. An additional \$1,200 **for the tax years ending on or before December 31, 2021;**
28 **\$2,400 for the tax year ending December 31, 2022; \$3,600 for the tax year ending December**
29 **31, 2023; and \$4,800 for the tax year ending December 31, 2024,** if either or both taxpayers are
30 65 years of age or older on the last day of the tax year.

III. An additional \$1,200 *for the tax years ending on or before December 31, 2021; \$2,400 for the tax year ending December 31, 2022; \$3,600 for the tax year ending December 31, 2023; and \$4,800 for the tax year ending December 31, 2024*, if either or both taxpayers are blind.

IV. An additional \$1,200 *for the tax years ending on or before December 31, 2021; \$2,400 for the tax year ending December 31, 2022; \$3,600 for the tax year ending December 31, 2023; and \$4,800 for the tax year ending December 31, 2024*, if either or both taxpayers are disabled, unable to work, and have not yet reached their sixty-fifth birthday.

3 Reference to Interest and Dividends Tax Deleted; 2025 Amend RSA 14-B:8, III(q) to read as follows:

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

4 Reference to Interest and Dividends Tax Deleted; 2025. Amend RSA 15-A:5, I(d)(17) to read as follows:

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

5 Reference to Interest and Dividends Tax Deleted; 2025. Amend RSA 21-J:31 to read as follows:

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

6 Reference to Interest and Dividends Tax Deleted; 2025. Amend RSA 21-J:33-a, I to read as follows:

I. If there is a substantial understatement of tax imposed under ~~[RSA 77:]~~ RSA 77-A, 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 period, there shall be added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to such understatement.

7 Reference to Interest and Dividends Tax Deleted; 2025. Amend RSA 21-J:46, III to read as follows:

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1 III. This section shall apply only to tax returns and associated payments under ~~[RSA 77:]~~
2 RSA 77-A^[5] and RSA 77-E.

3 8 References to Interest and Dividends Tax Deleted; 2025. Amend RSA 71-C:4, I and II to read
4 as follows:

5 I. On or before December 15 of every fiscal year the commissioner of the department of
6 revenue administration shall certify in a report to the general court and the governor an analysis of
7 each of the past fiscal year's tax expenditures as identified in RSA 71-C:2, and other credits allowed
8 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,
9 RSA 84-A, RSA 84-C, and RSA 400-A.

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

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

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

14 (1) Other credits allowed under ~~[RSA 77:]~~ RSA 77-A, RSA 77-E, RSA 77-G, RSA 78,
15 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
16 the business profits tax imposed by RSA 77-A; and

17 (2) Credit carryovers from overpaid taxes.

18 9 Education Tax Credit Scholarship Organizations; 2025. Amend RSA 77-G:3 to read as follows:

19 77-G:3 Contributions to Scholarship Organizations. For each contribution made to a scholarship
20 organization, a business organization, business enterprise, or individual may claim a credit equal to
21 85 percent of the contribution against the business profits tax due pursuant to RSA 77-A, against the
22 business enterprise tax due pursuant to RSA 77-E, ~~[against the tax on interest and dividends under~~
23 ~~RSA 77:]~~ or apportioned against each provided the total credit granted shall not exceed the
24 maximum education tax credit allowed. Credits provided under this chapter shall not be deemed
25 taxes paid for the purposes of RSA 77-A:5, X. The department of revenue administration shall not
26 grant the credit without a scholarship receipt. No business organization, business enterprise, or
27 individual shall direct, assign, or restrict any contribution to a scholarship organization for the use
28 of a particular student or nonpublic school. No business organization, business enterprise, or
29 individual shall receive more than 10 percent of the aggregate amount of tax credits permitted in
30 RSA 77-G:4.

31 10 Education Tax Credit Scholarship Organizations; 2025. Amend RSA 77-G:5, I, (i)(2) to read
32 as follows:

33 (2) Not knowingly award a scholarship to any lineal descendant or equivalent step-
34 person of any proprietor, partner, or member of any business organization, business enterprise, or
35 individual making a contribution to a scholarship organization and claiming a credit against the
36 business profits tax^[5] **or** business enterprise tax, ~~[or tax on interest and dividends,]~~ nor any lineal
37 descendant or equivalent step-person of any officer, director, or owner of more than a 5 percent

interest in any business organization, business enterprise, or individual making a contribution to a scholarship organization and claiming a credit against the business profits tax[.] **or** business enterprise tax, ~~or tax on interest and dividends,~~ nor any employee who is among the highest-paid 20 percent of paid employees in any business organization, business enterprise, or individual making a contribution to a scholarship organization and claiming a credit against the business profits tax[.] **or** business enterprise tax[.] ~~or tax on interest and dividends~~.

11 Issuance of Electric Rate Reduction Bonds; 2025. Amend RSA 369-B:5, VI to read as follows:

VI. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and as the exercise of such powers shall constitute the performance of an essential public function, neither any electric utility, any affiliate of any electric utility, any financing entity, nor any collection or other agent of any of the foregoing shall be required to pay any taxes or assessments upon or in respect of any revenues or property received, acquired, transferred, or used by any electric utility, any affiliate of any electric utility, any financing entity, or any collection or other agent of any of the foregoing under the provisions of this chapter or upon or in respect of the income therefrom, and any rate reduction bonds shall be treated as notes or bonds of a political subdivision of the state ~~for purposes of RSA 77~~.

12 Repeals; Interest and Dividends Taxation; 2025. The following are repealed:

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

II. RSA 77, relative to taxation of incomes.

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

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

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

VI. RSA 195-K:4 relative to exemption from RSA 77 for income and distributions in the ABLE savings account program.

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

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

13 Returns for Interest and Dividends Taxes. All persons who are liable for a tax under RSA 77 as of December 31, 2024, who thereafter are no longer liable for a tax under RSA 77 because of the passage of this act shall make a return of such taxes due the commissioner of revenue administration in such manner and on such forms as the commissioner shall prescribe in rules adopted under RSA 541-A. The administrative provisions of RSA 77 shall remain in effect to permit the collection of taxes upon income taxable under RSA 77 which is received by persons subject to

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1 taxation under that chapter through December 31, 2024, and to permit the distribution of that
2 revenue. Persons who are liable for a tax under RSA 77 who do not report the payment of federal
3 income taxes on a calendar year basis are entitled to such proportion of the exemptions allowed in
4 RSA 77 as the reporting period bears to their taxable year.

5 14 Application; Repeal of RSA 77. Paragraph II of section 12 of this act shall apply to taxable
6 periods beginning after December 31, 2024.

7 15 Effective Date.

8 I. Sections 3-12 of this act shall take effect January 1, 2025.

9 II. The remainder of this act shall take effect July 1, 2021.

HB 568-FN-A- FISCAL NOTE
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AN ACT increasing exemptions to the interest and dividends tax and repealing the tax in 2025.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	☒ General	☐ Education	☐ Highway	☐ Other

METHODOLOGY:

The proposed bill would increase the Interest and Dividends tax exemptions for several taxable periods and effective January 1, 2025, repeals the tax altogether. The table below shows current law and changes contained in this bill for taxable years 2022 through 2024:

Exemption	Current Law	Applicable to Taxable Period Ending			Taxable Period After
		12/31/2022	12/31/2023	12/31/2024	12/31/2024
Gross I&D threshold requirements (RSA 77:3, I)	\$2,400	\$4,800	\$7,200	\$9,600	I&D Tax Repealed
Income exemption (RSA 77:5,I)	\$2,400	\$4,800	\$7,200	\$9,600	I&D Tax Repealed
65 yrs of age or older exemption (RSA 77:5, II)	\$1,200	\$2,400	\$3,600	\$4,800	I&D Tax Repealed
Blind exemption (RSA 77:5,III)	\$1,200	\$2,400	\$3,600	\$4,800	I&D Tax Repealed
Disabled exemption (RSA 77:5,IV)	\$1,200	\$2,400	\$3,600	\$4,800	I&D Tax Repealed

The Department of Revenue Administration is not able to determine the exact impact of increasing the Interest and Dividends Tax exemptions or repealing the tax as the Department has no definitive method of determining future tax liabilities or credit carryforward amounts. The Department is able to provide an estimate of the fiscal impact of this bill.

In calculating the estimated fiscal impact, the Department uses the following data/assumptions:

- TY 2019 liabilities reported by taxpayers of \$113,810,116 as the starting point for revenue.
- Exemptions actually claimed in TY 2019 to estimate the future fiscal impact.
- When calculating revenue for FY 2021 and forward the following revenue splits are used: 5% is attributable to 2 tax years prior, 68% is attributable to 1 tax year prior, and 27% is attributable to the current tax year

Based on the following data/assumptions, the table below provides an estimate of this bill's fiscal impact, which may be overstated or understated for future fiscal years depending on whether actual revenue is more or less than the reported TY 2019 liabilities:

Fiscal Year	TY2019 Liability	Estimated Revenue	Year-Over-Year Difference	Cumulative Fiscal Impact
2022	\$113,810,116	\$110,916,352	\$(2,893,764)	\$(2,893,764)
2023	\$113,810,116	\$101,555,739	\$(9,360,613)	\$(12,254,377)
2024	\$113,810,116	\$94,192,937	\$(7,362,802)	\$(19,617,179)
2025	\$113,810,116	\$65,606,507	\$(28,586,430)	\$(48,203,609)
2026	\$113,810,116	\$4,473,213	\$(61,133,294)	\$(109,336,903)
2027	\$113,810,116	\$0	\$(4,473,213)	\$(113,810,116)

The estimated fiscal impact does not take into account any overpayments/credit carryforwards taxpayers might use or when they would use these overpayment credit carryforwards to address a tax liability. It is also unknown when a taxpayer would request a refund of any overpayments/credit carryforwards. The use of overpayments/credit carryforwards or a refund request will further increase any revenue loss.

The audit and collection functions of the Department could result in an indeterminable amount of Interest and Dividends Tax revenue being collected after the tax is repealed.

The Department would need to update all necessary tax return forms and electronic management systems impact by this bill. However the Department states the bill would not result in any additional administrative costs that could not be absorbed in the Department's operating budget.

AGENCIES CONTACTED:

Department of Revenue Administration