

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____	Rule Number _____	Rev 901, Rev 902, Rev 903 (various)
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<p>1. Agency Name & Address:</p> <p>New Hampshire Department of Revenue Administration 109 Pleasant Street, PO Box 457 Concord, NH 03302-0457</p>	<p>2. RSA Authority: <u>RSA 21-J:13, I</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <table style="width: 100%;"> <tr> <td>Adoption</td> <td style="text-align: center;"><u>X</u></td> </tr> <tr> <td>Amendment</td> <td style="text-align: center;"><u> </u></td> </tr> <tr> <td>Repeal</td> <td style="text-align: center;"><u>X</u></td> </tr> <tr> <td>Readoption</td> <td style="text-align: center;"><u> </u></td> </tr> <tr> <td>Readoption w/amendment</td> <td style="text-align: center;"><u>X</u></td> </tr> </table>	Adoption	<u>X</u>	Amendment	<u> </u>	Repeal	<u>X</u>	Readoption	<u> </u>	Readoption w/amendment	<u>X</u>
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Repeal	<u>X</u>										
Readoption	<u> </u>										
Readoption w/amendment	<u>X</u>										

5. Short Title: **Interest and Dividends Tax**

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Chapter Rev 900, is being amended to effectuate the amendments to RSA 77, Interest and Dividends Tax, passed by the Legislature in SSHB 1 (Chapter Law 1:50-54, Special Session Laws of 2010), which repealed the amendments to RSA 77 relating to distributions from limited liability companies, partnerships and associations that were enacted in Chapter Law:144:275-280, Laws of 2009. The effect of the amendments and repeals to these rules is to effectuate the amendments to RSA 77 that do the following: 1) eliminate the taxation of distributions from limited liability companies, partnerships and associations with shares that are not transferable; 2) make partnerships, limited liability companies, and associations the beneficial interests in which are not represented by transferable shares subject to the tax; and 3) eliminates debt-financed by the entity as an element of accumulated profits. Under the amendment to Rev 902.08, accumulated profits will be calculated in the same manner that it was prior to the amendments to Rev 900 in Document # 9658, which were effective 2-24-2010.

6. (b) Brief description of the groups affected:

Individuals, Limited Liability Companies, Partnerships, Trusts and Associations subject to the Interest & Dividends Tax under RSA 77.

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6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATUTE
Rev 901.01	RSA 77:4
Rev 901.02	RSA 77:3, I(b)
Rev 901.03	RSA 77:4, III
Rev 901.05	RSA 21-J:13,I
Rev 901.06 (Repealed)	RSA 21-J:13,I
Rev 901.07 (formerly Rev 901.08)	RSA 77:4
Rev 901.10 (Repealed)	RSA 21-J:13,I
Rev 901.18 (formerly Rev 901.21)	RSA 21-J:13,I
Rev 901.19	RSA 77:14-a; RSA 77:14-c
Rev 901.20 (Repealed)	RSA 77:14-a; RSA 77:14-c
Rev 902.06	RSA 21-J:13,I, RSA 77:12
Rev 902.07	RSA 21-J:13,I, RSA 77:14a-d
Rev 902.08	RSA 21-J:13,I
Rev 902.09	RSA 21-J:13,I
Rev 903.05	RSA 21-J:13,I,
Rev 903.06	RSA 21-J:13,I
Rev 903.07 (Repealed)	RSA 21-J:13,I
Rev 903.10 (Repealed)	RSA 21-J:13,I
Rev 903.11 (Repealed)	RSA 21-J:13,I

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Katherine M. Deverell** Title: **Administrative Secretary**
Address: **109 Pleasant Street, PO Box 457** Phone #: **603.271.8264**
Concord, NH 03302-0457 Fax#: **603.271.6121**
E-mail: **Katherine.Deverell@rev.state.nh.us**
TTY/TDD Access: Relay NH 1-800-735-2964 or
dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, November 1, 2010**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, October 22, 2010 @ 10:00 am.**

Place: **New Hampshire Department of Revenue Administration
Medical and Surgical Building
109 Pleasant Street
Concord, NH 03302**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **10:122** , dated **9/20/2010**

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules. Any costs or benefits related to the rules are attributable to RSA 77.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules. Any costs or benefits associated with these rules are mandated by RSA 77.

- A. To State general or State special funds:

None.

- B. To State citizens and political subdivisions:

None.

- C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule does not mandate fees, or additional local expenditures on a political subdivision of the state and therefore does not violate Part I, Article 28-a of the NH Constitution.

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INSTRUCTIONS FOR THE RULEMAKING NOTICE FORM

The first unnumbered item to the left of the form is labeled "Notice Number" and shall be left blank. The number of each notice will be assigned by the Division of Administrative Rules.

The second unnumbered item to the right of the form is the rule number of the proposed rule(s) in the codification scheme described in Part 1 of Chapter 4 in the Drafting and Procedure Manual for Administrative Rules (Manual). The number shall be correctly identified, such as Agr 501.03(e) and not Agr 501.03 if only paragraph (e) is being filed. A summary may be used, such as "Agr 502, various sections," if there is not enough space to list all the rules.

Item 1 is the name and address of the agency with rulemaking authority. This is the individual or group named in the RSA passage delegating authority, which is cited in Item 2. However, where an individual rulemaker is involved, such as a Commissioner, Division Director, or Bureau Chief, the name of the office may be used, such as "Department of," "Division of," or "Bureau of."

Item 2 shall be a citation to the specific statutory passage indicating RSA chapter, section, and paragraph delegating the agency rulemaking authority, for example: RSA 309-A:2, III, not RSA 309-A.

Item 3 shall cite the Federal authority, if applicable.

Item 4 shall be checked to indicate the type(s) of rulemaking action proposed. Five types are listed, as described below:

(a) "Adoption" means that a new section, part, or chapter is being inserted or an expired one is being reinstated. The term only applies to the insertion of whole sections, parts, and chapters, but does not apply to insertions of text less than an entire section.

(b) "Amendment" means that a subdivision in a section of an existing rule (that is, a currently effective text) is being changed, either by insertion or deletion of text, but the text of that entire section is not intended to be readopted and has not been included for readoption. The term applies only to insertion or deletion of text at the level of a paragraph or lower, and does not apply to insertions of whole sections, parts, and chapters.

(c) "Repeal" means to eliminate an entire section or sections of an existing rule with no rule in its place or with a rule on a different subject area instead.

(d) "Readoption" means that an existing rule is being adopted again without change.

(e) "Readoption with amendment" means that a section or a larger unit of an existing rule is being changed, and the entire text of that section, or larger unit, of the existing rule is being included for purposes of readoption.

Item 5 is a "short title", and shall be a brief description of the subject matter in key words and not merely repeat the rule number affected. The rule's "short title" is a quick way of identifying what the rule is about.

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Item 6 is the summary and analysis required by RSA 541-A:6, I(f) and (g) and the identification required by RSA 541-A:3-a, which shall include at least the following:

(a) A summary of what the rule says and the effect of the rule on those regulated, clarifying any ambiguity due to multiple rulemaking actions in one proposal;

(b) A brief description of groups affected; and

(c) The specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

The agency shall number the paragraphs in its analysis of Items 6(a), 6(b), and 6(c) to correspond to the above.

It shall also be clear from the context in the summary and analysis in Item 6(a) what the consequences would be if the rule were not adopted.

See Section 2.4 of Chapter 3 in the Manual. Item 6(c) is not the rulemaking authority under Item 2 or Item 3. Item 6(c) contains the specific section(s) or provisions of the RSA or federal statute or regulation, that the rule is meant to implement. For example, authority to adopt rules pursuant to RSA 541-A on license procedures could be in one RSA section, but a provision requiring that a person obtain a license (implemented by rules on license procedures) might be in a different section. The citation under Item 2 would be the same as in Item 6(c) only if the RSA rulemaking authority and the specific RSA provision being implemented are in the same RSA section or provision.

A list of cross-references will be necessary in Item 6(c) if different portions of the rule relate to different sections or provisions of state or federal statutes or regulations. Pursuant to RSA 541-A:3-a, III:

General references to the name or title of a state or federal statute or regulation shall not suffice for the purposes of this section. To the extent that specific provisions of the proposed rule are designed to implement different sections or provisions of state or federal statutes or regulations, the agency shall reference the state or federal statutes or regulation with the provision of the proposed rule that is intended to implement that statute or regulation.

Item 6(c) may be submitted as an attached cross-reference table on a separate sheet if necessary. The same information must be submitted as an appendix to the rules. See Section 2.5 of Chapter 3 in the Manual.

Item 7 shall identify the name, title, address, telephone and fax numbers, and e-mail address, of a person in the agency who can supply copies of the proposed rule and answer questions about it including requests to accommodate persons with disabilities in the rulemaking process.

Item 8 shall be the deadline for submission of materials in writing or, if practicable for the agency, in electronic format (such as fax, e-mail, or on diskette). Pursuant to RSA 541-A:11, I, this deadline shall be at least 10 days after the public hearing(s), but if the rule is proposed by a group, such as a board or

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commission, that agency may specify a shorter period in the notice provided that the deadline is not earlier than the scheduled conclusion of the public hearing(s). Specify the electronic format, if any, that is practicable for your agency.

Item 9 shall be the date, time, and place of the agency's public hearing(s) required by RSA 541-A:11, I. Pursuant to RSA 541-A:6, I, the agency shall give at least 20 days notice of the hearing. The notice period shall begin on the day after the date of publication in the Rulemaking Register. Therefore the date of the first hearing shall be no earlier than 3 weeks after the Friday publication date of the Rulemaking Register containing the notice.

Item 10 shall consist of the fiscal impact statement prepared by the Legislative Budget Assistant. When it receives the fiscal impact statement, the agency shall either retype this as part of the notice form and shall not amend it, or submit the original document as received from the Legislative Budget Assistant, provided the agency keeps a photocopy for its own records.

Item 11 shall contain a statement which the agency shall prepare. Pursuant to RSA 541-A:6, I(j), it is the statement that the proposed rule does not violate Part I, Article 28-a of the N.H. Constitution. It shall contain the agency's concise rationale, in compliance with Section 2.4 of Chapter 3 in the Manual, why it does not.