

The purpose of this information release is to update taxpayers and tax preparers of the status of the Interest & Dividends Tax Class Action Refund Procedure and Claim for Class Counsel Attorneys' Fees. Questions for class counsel issues should be directed to (603) 627-8201 or other questions may be directed to (603) 271-1353.

CURRENT STATUS OF THE CLASS ACTION

The Department of Revenue Administration (DRA) is in the first stages of a process to refund taxes paid on interest from out-of-state banks and dividends on out-of-state stock banks for those taxpayers who timely filed claims for refunds for the years 1991 through 1994. The refunds are being issued as the result of a class action lawsuit that was brought against the State on the basis that the exemptions to the tax for New Hampshire Bank Interest and Dividends violated the Commerce Clause of the United States Constitution. The DRA mailed notices to taxpayers who are members of the class explaining the refund procedures and the Class Counsel Fee Petition.

The DRA will base its refund procedures on a review of the refund claims and the original tax returns filed by the Taxpayers. **Taxpayers do not have to contact the DRA to receive a refund** unless the DRA requests the submission of additional information, the original Taxpayer is deceased, or a Taxpayer's address has changed.

The DRA expects to notify most Taxpayers regarding the status of their claims by March 1, 2004.

THE REFUND

Pursuant to a Superior Court decision, as affirmed by the N.H. Supreme Court, the DRA will now issue refunds to those Taxpayers in the Class who paid a tax on interest **from out-of-state banks** and dividends **from out-of-state stock banks** during the period 1991 to 1994 and perfected refund claims. A percentage of the refund will be deducted from the Taxpayer's gross refund amount for compensation to Class Counsel in an amount to be determined by the Court at a hearing on December 10, 2003. The proposed percentage for Class Counsels' fees is 33% of each refund.

Many Taxpayers will not receive any refund because the income on which they paid tax did not include out-of-state bank interest or dividends on out-of-state stock banks.

THE REFUND PROCEDURE

The DRA will review each refund claim that has been filed for the tax years 1991 through 1994, together with the original tax returns, and classify the investment sources on which a tax was paid as either non-taxable, taxable, or as requiring additional information. The DRA will classify income as non-taxable if it was interest from an out-of-state bank account or certificate of deposit or if it was a dividend from an out-of-state stock bank.

After this review has been completed for a particular Taxpayer, the DRA will send one of three possible notices to that Taxpayer at his or her last known address:

- (1) **Notice of Refund** - If the claims and/or tax returns indicate that a tax was paid on income which is non-taxable based on the Court's decision, then the DRA will issue a notice of refund which will specify the DRA's conclusion about the amount determined to be due. If a refund is determined to be due a Taxpayer, then the refund will be transmitted to the Taxpayer twenty (20) days after the Notice of Refund is issued and no further information is needed.
- (2) **Notice that No Refund is Due** - If the DRA determines from the claims and/or returns that no refund is due the Taxpayer, then the DRA will send the Taxpayer a notice that no refund is due.
- (3) **Notice of Request for Information** - If the DRA determines that additional information is required in order to determine whether a tax was paid on out-of-state bank interest or out-of-state bank stock dividends, then it will send a notice of request for information to the Taxpayer. Within 30 days of the notice, the Taxpayer must either supply the requested information or request a 30-day automatic extension.

REQUEST FOR REDETERMINATION

The notice will include the specific information necessary to request a Redetermination of the DRA's decision regarding the amount of the refund. If a Taxpayer wishes to contest the DRA's determination of the amount of the refund due, the Taxpayer must notify the DRA with a copy to Class Counsel within thirty (30) days of the Notice Date or file a 30-day automatic extension to file a request for Redetermination. If a Taxpayer fails to file a request for Redetermination within 30 days because of accident, mistake or misfortune, a Taxpayer may file within 60 days of the notice and up to 90 days upon written request.

- The Taxpayer should include all the information he or she wants the DRA to re-consider during its review. After re-consideration of the documents submitted by the Taxpayer, the DRA will issue a Notice of Redetermination to the Taxpayer .
- If the Taxpayer contests the DRA's Redetermination, he or she must file an appeal of the DRA's Redetermination with the Merrimack County Superior Court, with a copy to the DRA and Class Counsel within thirty (30) days of the date on the Notice of Redetermination.
- Class Members who appeal to Superior Court bear responsibility for their own legal representation. Class Counsel will not provide individual representation to Taxpayers, other than to clients that they represented prior to certification of the Class.

DECEASED TAXPAYERS

If the original taxpayer is deceased, the executor, surviving spouse or claimant for the estate, must send a completed form NH-1310 in order for the refund check to be issued to a person other than the original taxpayer. The NH-1310 may be obtained from this web site.

ADDRESS CHANGES

If a Taxpayer received a Notice of Refund Procedure and Class Counsel Attorneys' Fees, then the DRA has the Taxpayer's most current address on file. If a Taxpayer's

address has changed since he or she filed a claim for refund of Interest and Dividends Tax paid for any of the tax years 1991-1994, then the Taxpayer should send written notification to the DRA of his or her current address. Written notification should be sent to the **Department of Revenue Administration Discovery Bureau, P.O. Box 299, Concord, NH 03302-0299**. The notification should include the Taxpayer's name, old address, new address, social security number or federal identification number, and be signed by the Taxpayer.

CLASS COUNSEL FEE PETITION

Questions regarding Class Counsel fees should be directed to: Judy Van Kalken, Sheehan, Phinney, Bass & Green, PA at (603) 627-8201.

Class Counsel has filed an amended petition with the Court seeking Court approval for a deduction to compensate them for the work done in this litigation from the refunds due those members of the Class entitled to a refund. The petition requests a flat percentage deduction based on the DRA's estimate of the total amount of gross refunds payable, including interest. The requested percentage is equal to 33% of each refund. A copy of the amended fee petition is available for viewing at the offices of lead Class Counsel, Michael C. Harvell, of Sheehan, Phinney, Bass & Green, PA, 1000 Elm Street, PO Box 3701, Manchester, NH 03105-3701.

Each member of the Class has the right to object to the amended petition. Objections must be made in writing and must be delivered to the Clerk, Merrimack County Superior Court, 163 North Main Street, PO Box 2880, Concord, NH 03301-2880, with a copy to Class Counsel at the address listed in the previous paragraph, on or before December 1, 2003. Class members will be heard with respect to their objections at a hearing on December 10, 2003 at 10:00 a.m. at the Merrimack County Superior Court at 163 North Main Street, Concord, New Hampshire. Failure to object by December 1, 2003, may result in a waiver of a Class member's right to contest Class Counsel's amended petition.

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the NH DRA, 45 Chenell Drive, Concord, NH 03301 or by contacting them at (603) 271-1353 or TDD Access: Relay NH 1-800-735-2964.