

PRESS RELEASE FOR IMMEDIATE RELEASE

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In response to questions that have been raised concerning the Department's proposed Interest and Dividends Tax rules; specifically rule Rev. 902.07, the Department is issuing this statement.

In the Special Session of 2010 the Legislature amended who is taxable under the Interest and Dividends Tax with the intention of returning the statute to the way it had been prior to changes made in the 2009 Legislative Session. That language appears below and is identical to the language in RSA 77:3, I(b) as it existed prior to the 2009 legislative changes.

Taxation of Interest and Dividends; Who Taxable. Amend RSA 77:3, I(b) to read as follows:

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

As can be seen from this statutory language, limited liability companies, which are not represented by transferable share(s), are again taxpayers under RSA Chapter 77. This is exactly as they had been under RSA Chapter 77 from 1993 through the 2009 Legislative Session.

The proposed Rev 902.07 reflects the status quo prior to the 2009 Legislative Session. While Rev 902.07, as it existed prior to 2009, included the term "LLC" in some sections, it did not in others. To be consistent it should have been included in other sections as well because the authorizing statute required it. The current proposed rules correct this clerical oversight but do not expand or otherwise change the intent or application of the rules as they existed before 2009. The Department's proposed rules treat all taxpayers similarly under the Interest and Dividends tax statute and are fully consistent with the Department's statutory authority.

The proposed rules have been posted on the Department's website for the past month and were the subject of a public hearing last week. To date, the Department has received no substantive criticism of the rules.