

New Hampshire Department of Revenue Administration  
109 Pleasant Street, Concord, NH 03301

**TECHNICAL INFORMATION RELEASE**  
**TIR 2009-008 Date July 16, 2009**

**Distributions from Limited Liability Companies, Partnerships and Associations Subject to Interest and Dividends Tax**

A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.). Questions should be directed to Central Taxpayer Services at (603) 271-2191.

The Legislature passed and Governor Lynch signed HB2, which has enacted changes to the Interest and Dividends Tax law, RSA 77, that make all distributions from Limited Liability Companies ("LLCs"), Partnerships and Associations subject to the Interest and Dividends Tax to the same extent that distributions from Corporations are subject to the tax. The following summarizes some important features of the changes in the law and the Department's plans to implement those changes:

- Distributions from LLCs, partnerships and associations will only be subject to the Interest and Dividends Tax to the same extent that distributions to corporate shareholders are taxable as dividends.
- A distribution that is a return of capital is not subject to taxation.
- In order to determine whether a distribution is a return of capital, the entity must first determine its accumulated profits.
- Accumulated profits is determined for LLCs, partnerships, associations and S corporations in a manner that is equivalent to a calculation made by a C Corporation of its earnings and profits under the Internal Revenue Code of 1986, as amended.
- The compensation deduction as provided in RSA 77-A:4,III shall be considered a reduction in revenue of an LLC or partnership in the same way that compensation paid by a corporation is a reduction in "earnings and profits". As a consequence, the value of personal services of a partner or member of an LLC to the partnership or LLC is not subject to taxation.
- Liquidating distributions are not subject to taxation.
- LLCs, partnerships and associations that have non-transferable shares and were, under prior law, required to file and pay the Interest and Dividends Tax will no longer be required to file returns or pay the tax. Rather, the members, partners, and owners will pay the Interest and Dividends tax on the distributions from these entities.
- Pursuant to Section 279 of HB2 (Chapter 144, Laws of 2009), the changes to RSA 77 are effective for calendar year/tax years beginning on or after January 1, 2009. All distributions made during the year are subject to the tax based on the calculation of earnings and profits for the entire tax year.
- Rulemaking to provide further clarification of the application of the changes to the law will be initiated by the Department of Revenue Administration shortly. If you would like to receive notice of the rulemaking in order to participate in the public hearings or provide written comment, you may provide your contact information by e-mail: [gbartlett@rev.state.nh.us](mailto:gbartlett@rev.state.nh.us) or call 603-271-0606.

***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 N.H. Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301 or by contacting them at (603) 271-2191.***