

SB 330-FN – AS INTRODUCED

2014 SESSION

14-2792
10/03

SENATE BILL ***330-FN***

AN ACT relative to apportionment under the business profits tax of taxable income from mutual fund sales.

SPONSORS: Sen. Hosmer, Dist 7; Sen. Odell, Dist 8; Sen. D'Allesandro, Dist 20; Sen. Fuller Clark, Dist 21; Sen. Woodburn, Dist 1; Sen. Pierce, Dist 5; Rep. Muns, Rock 21

COMMITTEE: Commerce

ANALYSIS

This bill establishes the procedure for apportionment under the business profits tax of taxable income from mutual fund sales to one or more qualified investment companies with shareholders domiciled within and without this state.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to apportionment under the business profits tax of taxable income from mutual fund sales.

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

1 1 New Paragraphs; Business Profits Tax; Definitions Added. Amend RSA 77-A:1 by inserting
2 after paragraph XXIX the following new paragraphs:

3 XXX. “Management, administration, or distribution services” include: (a) the rendering of
4 investment advice directly or indirectly to a qualified investment company, making determinations
5 as to when sales and purchases of securities are to be made on behalf of the qualified investment
6 company, or the selling or purchasing of securities constituting assets of a qualified investment
7 company, and related activities; (b) clerical, fund, or shareholder accounting, participant record-
8 keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal and tax
9 services performed for a qualified investment company, but only if the provider of such service or
10 services during the taxable year in which such service or services are provided also provides or is
11 affiliated with a person that provides services described in this paragraph to any qualified
12 investment company; and (c) the services of advertising, servicing, marketing, or selling shares of a
13 qualified investment company, but, in the case of advertising, servicing, or marketing shares, only
14 where such service is performed by a person who is either engaged in the services of selling qualified
15 investment company shares or affiliated with a person that is engaged in the service of selling
16 qualified investment company shares.

17 XXXI. “Mutual fund sales” means gross income derived within the taxable year directly or
18 indirectly from the rendering of management, distribution, or administration services to a qualified
19 investment company, including gross income received directly or indirectly from trustees, sponsors,
20 and participants of employee benefit plans which have accounts in a qualified investment company.

21 XXXII. “Mutual fund service company” means any business organization doing business in
22 this state which derives more than 50 percent of its gross income from the provision directly or
23 indirectly of management, administration, or distribution services to or on behalf of a qualified
24 investment company and from trustees, sponsors, and participants of employee benefit plans which
25 have accounts in a qualified investment company.

26 2 New Paragraph; Apportionment; Mutual Fund Sales. Amend RSA 77-A:3 by inserting after
27 paragraph IV the following new paragraph:

28 V. Notwithstanding any other provision of this chapter, any mutual fund service company
29 having income from mutual fund sales to one or more qualified investment companies with
30 shareholders domiciled within and without this state shall apportion its taxable income from mutual

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1 fund sales based on a single sales factor, which shall be calculated pursuant to the provisions of this
2 paragraph. Mutual fund sales by a mutual fund service company, other than the sale of tangible
3 property, shall be apportioned to this state to the extent that shareholders of the qualified
4 investment company are domiciled in this state as follows:

5 (a) By multiplying the mutual fund service company's total dollar amount of sales of
6 such services on behalf of each qualified investment company by a fraction, the numerator of which
7 shall be the average of the number of shares owned by the qualified investment company's
8 shareholders domiciled in this state at the beginning of and at the end of the qualified investment
9 company's taxable year that ends with or within the mutual fund service company's taxable year,
10 and the denominator of which shall be the average of the number of shares owned by the qualified
11 investment company shareholders everywhere at the beginning of and at the end of the qualified
12 investment company's taxable year that ends with or within the mutual fund service company's
13 taxable year.

14 (b) A separate computation shall be made to apportion the mutual fund sales for each
15 qualified investment company, the sum of which shall equal the total mutual fund sales apportioned
16 to this state.

17 3 Effective Date. This act shall take effect July 1, 2014.

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SB 330-FN - FISCAL NOTE

AN ACT relative to apportionment under the business profits tax of taxable income from mutual fund sales.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, will have an indeterminable fiscal impact on state revenue in FY 2015 and each year thereafter. This bill will have no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:

The Department of Revenue Administration states this bill would change the apportionment under the Business Profits Tax (BPT) for mutual fund sales. The bill would require any mutual fund service company having income from mutual fund sales to one or more qualified investment companies (QICs) to apportion its taxable income from mutual fund sales based on a single sales factor to the extent that shareholders of the QIC are domiciled in this state. The Department does not have any data with respect to which businesses would qualify as mutual fund service companies, and furthermore, does not have information as to which QICs any mutual fund service company would have had income from. For these reasons, the DRA is unable to provide an estimate fiscal impact. This bill may require changes to forms and systems, the cost of which could be absorbed within the Department's current operating budget.