

SB 260-FN - AS INTRODUCED

2023 SESSION

23-0983

07/04

SENATE BILL ***260-FN***

AN ACT relative to deductions under the business profits tax for compensation of members and owners.

SPONSORS: Sen. Lang, Dist 2; Rep. Mooney, Hills. 12

COMMITTEE: Ways and Means

ANALYSIS

This bill creates a deduction of fair, reasonable, and customary compensation for members and owners of businesses subject to the business profits tax.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to deductions under the business profits tax for compensation of members and owners.

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

1 1 New Paragraph; Business Profits Tax. Amend RSA 77-A:4 by inserting after paragraph XIX
2 the following new paragraph:

3 XX. A deduction of the full amount of fair, reasonable, and customary compensation for
4 members and owners of business organizations subject to taxation under RSA 77.

5 2 New Paragraph; Department of Revenue Administration; General Provisions; Rulemaking
6 Authority. Amend RSA 21-J:13 by inserting after paragraph XIV the following new paragraph:

7 XV. The implementation of a deduction for fair, reasonable, and customary compensation of
8 members and owners of businesses subject to the business profits tax established under RSA 77-A:4,
9 XX.

10 3 Effective Date. This act shall take effect July 1, 2023.

SB 260-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to deductions under the business profits tax for compensation of members and owners.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

| STATE: | Estimated Increase / (Decrease) | | | |
|------------------------|---|---|----------------------------------|--------------------------------|
| | FY 2023 | FY 2024 | FY 2025 | FY 2026 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | \$0 | Indeterminable Decrease | Indeterminable Decrease | Indeterminable Decrease |
| Expenditures | \$0 | \$0 | \$0 | \$0 |
| Funding Source: | <input checked="" type="checkbox"/> General | <input checked="" type="checkbox"/> Education | <input type="checkbox"/> Highway | <input type="checkbox"/> Other |

METHODOLOGY:

This bill allows a Business Profits Tax (BPT) deduction for the full amount of fair, reasonable, and customary compensation for members and owners of business organizations subject to the Interest and Dividends (I&D) tax. The Department of Revenue Administration states this bill would result in a decrease in BPT owed, resulting in a decrease in General Fund and Education Trust Fund revenue. The Department is not able to calculate the potential revenue decrease as it does not collect information on the compensation for members and owners of business organizations subject to the I&D tax.

The Department does note this bill may result in a double deduction for C-corporations if the C-corporation pay its shareholder-employee a reasonable compensation. The C-corporation would take a deduction of that reasonable compensation at the federal level, where that deduction would flow into the NH BPT calculation and a second deduction at the State level would be allowed.

Additionally, the Department states this bill may result in an impermissible classification of taxpayers by providing a deduction only to business organizations that have members and owners subject to the I&D tax.

The Department would need to update all necessary tax return forms and electronic management systems to reflect the changes contained in this bill; however, it is not anticipated

this will result in any additional administrative costs that could not be absorbed in the Department's operating budget.

AGENCIES CONTACTED:

Department of Revenue Administration