

## MINUTES OF THE HOUSE TAX COMMITTEE

The meeting was called to order by Chairman Richard Carlson @ 9:00 A.M. on January 20, 2009, in Room 535-N of the Capitol.

All members were present except Representatives Melody McCray-Miller, Mario Goico, Nile Dillmore and Raj Goyle, who were excused.

## Committee staff present:

Chris Courtwright, Kansas Legislative Research Department (KLRD)  
Hank Avila, Kansas Legislative Research Department (KLRD)  
Gordon Self, Office of Revisor of Statutes  
Scott Wells, Office of Revisor of Statutes  
Kathy Beavers, Committee Assistant

## Others attending:

See attached list

## Bill Introductions:

Representative Pat George made a motion to request a bill introduction to tax exempt the Steve King Foundation. Representative Powell seconded the motion. The motion carried.

Representative Richard Carlson, Chairman, introduced and welcomed Dr. Art Hall, Director of Applied Economics, University of Kansas. Dr. Hall gave an informative presentation - "A Sketch of Taxation in the Twenty-first Century" (Attachment 1).

Dr. Hall stated that the American Institute of Certified Public Accountants has recommended ten guiding principles for crafting good tax policy. Those principles are:

- Equity and Fairness
- Certainty
- Convenience of Payment
- Economy in Collection
- Simplicity
- Neutrality
- Economic Growth and Efficiency
- Transparency and Visibility
- Minimum Tax Gap
- Appropriate Government Revenues

Dr. Hall discussed, in detail, the pros and cons of applying a flat tax versus Kansas' current tax system. and answered questions from the committee members. A copy of the New Hampshire Business Enterprise Tax Return for Corporations, Partnerships, Fiduciaries and Non-Profit Organizations was distributed (Attachment 2) to the committee members.

Chairman Richard Carlson thanked Dr. Hall for his time and expertise.

Representative Anthony Brown stated that the Financial Institutions Committee, in a joint meeting with the Senate, has invited Mr. Honnig, the President of the Federal Reserve Bank, to speak. Representative Brown invited committee members and attendees to attend the presentation. Mr. Honnig has experience in setting the interest rates in the United States. The presentation will be held Wednesday at 3:30P.M. in Room 535-N.


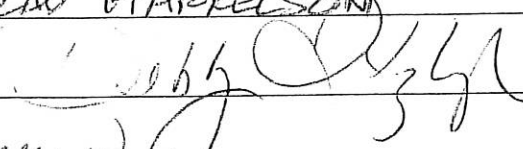

Chairman Carlson reminded the committee members of a presentation by Dr. John Leatherman, Professor in the Kansas State Department of Agriculture, at the January 21, 2009 meeting in Room 535-N.

The meeting adjourned at 10:10A.M.

# HOUSE TAXATION COMMITTEE

## SIGN IN SHEET

DATE: 1-20-09

	
RONALD RICHEY	NARFE
Ethan Patterson	Little Govt.
James Bartle	Dept. of Revenue
Tony Folsom	KDOR
John Federico	Federico Consulting
Robert Kuehnel	<del>KDOR</del>
Melissa Wangemann	KAC
Tony A. Scott	KSCPA
Art Hall	KU
Detech Hein	Hein Lau Firm
BRAD HARRISON	KFTB
	Kansas TIR
	Kansas Tax Association
Matthew Mande	Center Group
Richard Crum	KDOR
Sean Tamb	Division of the Budget

## **“Kansas Tax Modernization and Simplification Act”**

### **A Hypothetical Case Study Presented to the House Committee on Taxation Art Hall, Center for Applied Economics, KU School of Business January 20, 2009**

#### **Goal:**

Replace all (or most) state and local taxes in Kansas with a single, unified tax system, which would allow local units of government to charge surtax rates on the State-defined tax base.

#### **Implement a unified, single-rate tax on:**

1. Individual income: A modification of current Kansas adjusted gross income less a per-person exemption.
2. “Business activity” (= A business’s proportional share of value created)

<b>Estimated Tax Rates Needed for Revenue Neutral Implementation (2004)</b>		
State Tax Rate	Average (Total) Local Rate	Total Rate
4.57%	2.63%	7.19%

#### **Relevant Topics or Economic Principles:**

- Taxation represents a claim the government makes on the value of either current or future production. The only way to pay a tax is to divert current income or draw down current savings. Current income is a claim on the value of current production. Savings is a claim on the value of future production.
- Business don’t pay taxes, people do. True, businesses make tax payments, but individuals ultimately bear the burden of business taxation—often in unintended or unpredictable ways. A “business” is merely a legal construct that represents a community of people pursuing coordinated goals—investors, workers, customers.
- Public finance theory traditionally recommends a diverse balance of tax instruments—this idea is sometime referred to as the “three-legged stool”: income, sales, and property taxes. A diverse balance promotes lower tax rates and helps prevent economic distortions that might arise from too much reliance on a single tax. It also helps stabilize expected government revenues.

- To a certain extent, the technology of tax collection has mitigated the importance of the three-legged stool argument. Many established taxes—like property, sales, and excise taxes—have established histories because they embody administrative systems that accommodated the technology of tax collection from earlier times.
- Policy makers should keep two fundamental elements of taxation separate when evaluating tax policy: (1) the dollar amount of taxes collected and (2) the economic efficiency with which each dollar is collected. Each component matters for different economic reasons.
- The American Institute of Certified Public Accountants has recommended a list of ten guiding principles for crafting good tax policy (below). The list conforms to a long-established set of public finance concepts. These principles—with the exception of certain aspects of one, seven, and ten—deal primarily with the economic efficiency element of tax policy. Every tax instrument will influence some type of economic decision. Consequently, policy makers should implement tax instruments in a manner that minimizes tax rates. This principle is the fundamental way in which the amount of tax collected and the economic efficiency of the tax system interact to influence the overall economy (and how tax policy interacts with spending policy).

Guiding Principles from the American Institute of Certified Public Accountants:<sup>1</sup>

1. *Equity and Fairness.* Similarly situated taxpayers should be taxed similarly.
2. *Certainty.* The tax rules should clearly specify when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined.
3. *Convenience of Payment.* A tax should be due at a time or in a manner that is most likely to be convenient for the taxpayer.
4. *Economy in Collection.* The costs to collect a tax should be kept to a minimum for both the government and taxpayers.
5. *Simplicity.* The tax law should be simple so that taxpayers understand the rules and can comply with them correctly and in a cost-efficient manner.
6. *Neutrality.* The effect of the tax law on a taxpayer's decisions as to how to carry out a particular transaction or whether to engage in a transaction should be kept to a minimum.
7. *Economic Growth and Efficiency.* The tax system should not impede or reduce the productive capacity of the economy.
8. *Transparency and Visibility.* Taxpayers should know that a tax exists and how and when it is imposed upon them and others.
9. *Minimum Tax Gap.* A tax should be structured to minimize noncompliance.
10. *Appropriate Government Revenues.* The tax system should enable the government to determine how much tax revenue will likely be collected and when.

---

<sup>1</sup> American Institute of Certified Public Accountants, "Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals," 2001, pp. 9-10.

[http://www.aicpa.org/download/members/div/tax/Tax\\_Policy\\_stmt1.pdf](http://www.aicpa.org/download/members/div/tax/Tax_Policy_stmt1.pdf)

## The Hall-Rabushka “Flat Tax” as Inspiration

- In December of 1981, Stanford University economists Robert Hall and Alvin Rabushka unveiled their idea for a simple, but comprehensive, replacement for the federal income tax: The Flat Tax.
- From the book: “Our system rests on a basic administrative principle: income should be taxed exactly once as close as possible to its source. Today’s tax system violates this principle in all sorts of ways. . . . Under our plan, all income is taxed at the same rate. Equality of tax rates is a basic concept of the flat tax. Its logic is much more profound than just the simplicity of calculation with a single tax rate. Whenever different forms of income are taxed at different rates or different taxpayers face different rates, the public figures out how to take advantage of the differential. . . . In our system, all income is classified as either business income or wages (including salaries and retirement benefits). The system is airtight. Taxes on both types of income are equal. The wage tax has features to make the overall system progressive.” (Chapter 3) <http://www.hoover.org/publications/books/3602666.html>
- The business tax base:  
Gross revenue from sales  
Less: Purchases of goods, services, and materials  
Less: Wages, salaries, and pensions  
Less: Purchases of capital equipment, structures, and land  
Equals: Taxable income
- Individual tax base:  
Wages, salaries, pension or retirement distributions  
Less: Personal allowances for taxpayer and dependents  
Equals: Taxable income
- The Flat Tax base is a close approximation of Gross Domestic Product (less investment and allowances).
- The Flat Tax would work well at the national level. At the state level, the original design of the Flat Tax would work less well because of cross-border economic activity and income flows. (If a Flat Tax existed at the national level, a state could simply apply a surtax rate on the federal tax base for those residing or operating in the state.)

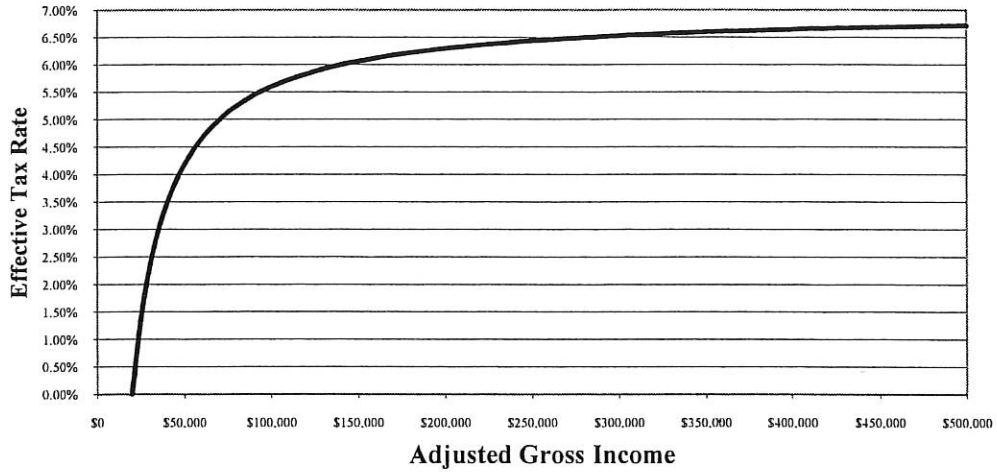
## Kansas Example: Defining the Tax Base for Individuals

<b>Tax Base for Individuals in a Unified Tax System</b>	
<b>Tax Base Item</b>	<b>Estimated 2004 Dollar Amount (Millions)</b>
Kansas Adjusted Gross Income (Current Law)	\$62,841
Less: Capital Gains	2,323
Less: Taxpayer and Per-Dependent Exemption*	6,822
Equals: Individual Tax Base	\$53,697

\* For illustration purposes, these calculations assume a \$5,000 exemption each for taxpayers and dependents.

- From a strictly Kansas perspective, eliminating the tax on capital gains will eliminate a double tax; the economic value represented by the gain will have been taxed at the business level.
- For capital gains acquired from economic activity outside the state, the elimination has an economic-development rationale. Successful entrepreneurs and managers are the type of people who realize capital gains. Having such individuals choose Kansas will increase the odds that good businesses will form in the state.
- The distributional impact among income groups that results from eliminating the taxation of capital gains is largely offset by replacing itemized deductions with an exemption. Also, over time, the distribution of the total capital gain tax burden is more balanced across income groups than is commonly understood.
- The role of high per-person exemptions:
  - generate tax progressivity with a single tax rate,
  - holds harmless (or helps) lower-income taxpayers that either do or do not itemize
  - create proportionality at higher income levels to mitigate the adverse economic incentives created by rate brackets.

**Tax Progressivity with a 7% Tax Rate (Family of Four)**



<b>Data on Kansas Taxpayers that Take Itemized Deductions, 2004</b>			
<b>Income Group</b>	<b>Share of Total Kansas Federal Returns</b>	<b>Share of Total Returns that Itemize</b>	<b>Average Itemized Dollar Value Per-Itemized Return</b>
\$0-\$50,000	70%	15%	\$13,862
\$50,000 - \$75,000	14	51	15,608
\$75,000 - \$100,000	8	76	17,258
\$100,000 - Over	8	93	31,953
<b>Total Kansas</b>	<b>100%</b>	<b>31%</b>	<b>\$19,301</b>

Source: U.S. Internal Revenue Service

<b>Share of Kansas Tax Returns Reporting Capital Gains, 2004</b>	
<b>Kansas Income Brackets</b>	<b>Returns w/ Capital Gains</b>
\$0 - \$50,000	14.2%
\$50,000 - \$100,000	59.4
\$100,000 - Over	55.7
<b>Total</b>	<b>20.6</b>

Source: U.S. Internal Revenue Service

**Kansas Example: Defining the Tax Base for Business**

- If business is going to be taxed, an economically sound method suggests that the tax should be based on a business establishment’s proportional contribution to “business activity.” Such activity is approximately measured by an economy’s output (or gross state product). Generally, there are two ways to calculate such a measure:

Subtraction Method

Gross revenue from sales  
 Less: Purchases from other businesses  
 Equals: Taxable income (share of GDP)

Addition Method

Total compensation: employees, officers, directors  
 Plus: Payments to investors  
 Equals: Taxable income (share of GDP)

<b>Approximate Kansas Tax Base for a Business Tax, 2004</b>	
<b>Tax Base Item</b>	<b>2004 Dollar Amount (Millions)</b>
Kansas Private Sector Wage and Salary Disbursements	\$36,139
Plus: Kansas Private Sector Employer-Paid Benefits*	7,026
Plus: Kansas Private Sector Gross Operating Profits	32,734
Equals: Business Tax Base	\$75,899
* Excludes government-mandated, tax-based payments to social insurance programs.	
Source: U.S. Bureau of Economic Analysis	

<b>Estimated Tax Rate for a Single-Rate Unified Tax System</b>		
<b>Item of Taxation</b>	<b>Target Revenue (2004, \$Millions)</b>	<b>Estimated Single Tax Rate</b>
All State-Level Levies (Except K-12 School Mills)	\$5,460.3	4.21%
All State-Level Levies (Except K-12 School Mills, Alcohol, Tobacco, and Motor Fuels)	4,824.4	3.72%
State K-12 School Mills (20 Mills)	458.7	0.35%
All State and Local Levies (Except General Property Tax on Real Property)	6,405.0	4.94%
All State and Local Levies	9,322.4	7.19%

- Note: The average local surtax rate is reasonably low, but some localities would be high.
- There are good economic arguments to be made that a real estate-based tax (a sound property tax) is a better tax for local government.
- The current administrative arrangement among the state and localities related to the sales tax offers the infrastructure to manage the unified, single rate tax with local tax rate surcharges.



**Estimated Revenue-Neutral Local Surtax Rates (2004)**

County	General Property Tax Including State School Mills	Rate to Replace Local Sales Taxes	Rate to Replace Local Vehicle Taxes
Allen	2.99%	0.69%	0.40%
Anderson	5.51%	0.60%	0.57%
Atchison	3.18%	0.72%	0.36%
Barber	7.50%	0.71%	0.62%
Barton	3.19%	0.63%	0.46%
Bourbon	2.82%	0.60%	0.40%
Brown	3.82%	0.57%	0.38%
Butler	3.42%	0.21%	0.48%
Chase	7.20%	0.43%	0.46%
Chautauqua	4.78%	0.39%	0.65%
Cherokee	2.76%	0.50%	0.33%
Cheyenne	7.34%	0.94%	0.48%
Clark	10.25%	0.06%	0.69%
Clay	4.46%	0.73%	0.52%
Cloud	4.63%	0.93%	0.53%
Coffey	9.00%	0.00%	0.15%
Comanche	11.85%	0.31%	0.60%
Cowley	3.06%	0.28%	0.38%
Crawford	2.35%	0.58%	0.30%
Decatur	6.88%	0.34%	0.63%
Dickinson	3.20%	0.56%	0.39%
Doniphan	3.15%	0.23%	0.27%
Douglas	3.00%	0.74%	0.26%
Edwards	7.12%	0.23%	0.54%
Elk	9.81%	0.52%	0.89%
Ellis	2.75%	0.65%	0.29%
Ellsworth	5.52%	0.44%	0.61%
Finney	3.91%	0.69%	0.28%
Ford	3.20%	0.80%	0.37%
Franklin	2.93%	0.68%	0.38%
Gear	2.89%	1.01%	0.39%
Gove	7.08%	0.51%	0.55%
Graham	7.52%	0.33%	0.59%
Grant	8.19%	0.26%	0.23%
Gray	4.54%	0.25%	0.43%
Greeley	9.30%	0.26%	0.56%
Greenwood	6.32%	0.38%	0.68%
Hamilton	10.77%	0.36%	0.51%
Harper	6.13%	0.41%	0.63%
Harvey	2.31%	0.30%	0.27%
Haskell	10.05%	0.20%	0.30%
Hodgeman	12.25%	0.00%	0.87%

**Estimated Revenue-Neutral Local Surtax Rates (2004)**

County	General Property Tax Including State School Mills	Rate to Replace Local Sales Taxes	Rate to Replace Local Vehicle Taxes
Jackson	2.81%	0.41%	0.40%
Jefferson	3.90%	0.23%	0.56%
Jewell	8.09%	0.27%	0.68%
Johnson	1.92%	0.51%	0.17%
Kearny	20.11%	0.19%	0.37%
Kingman	5.50%	0.01%	0.56%
Kiowa	8.29%	0.33%	0.53%
Labette	3.34%	0.84%	0.46%
Lane	7.21%	0.18%	0.58%
Leavenworth	3.28%	0.60%	0.46%
Lincoln	11.29%	0.41%	0.96%
Linn	8.14%	0.19%	0.45%
Logan	7.30%	0.44%	0.56%
Lyon	2.67%	0.55%	0.32%
Marion	4.57%	0.44%	0.47%
Marshall	3.07%	0.18%	0.33%
McPherson	2.94%	0.35%	0.28%
Meade	10.58%	0.31%	0.48%
Miami	4.10%	0.64%	0.47%
Mitchell	3.53%	0.52%	0.43%
Montgomery	3.02%	0.86%	0.40%
Morris	4.60%	0.37%	0.47%
Morton	16.18%	0.32%	0.36%
Nemaha	3.42%	0.38%	0.40%
Neosho	2.94%	0.84%	0.46%
Ness	6.90%	0.13%	0.56%
Norton	4.44%	0.16%	0.52%
Osage	4.71%	0.42%	0.61%
Osborne	6.03%	0.22%	0.64%
Ottawa	5.82%	0.34%	0.63%
Pawnee	5.84%	0.39%	0.67%
Phillips	4.29%	0.24%	0.45%
Pottawatomie	5.14%	0.20%	0.24%
Pratt	5.01%	0.67%	0.51%
Rawlins	7.90%	0.31%	0.61%
Reno	3.31%	0.73%	0.35%
Republic	6.33%	0.38%	0.59%
Rice	6.31%	0.41%	0.57%
Riley	2.72%	0.92%	0.31%
Rooks	6.25%	0.00%	0.62%
Rush	7.18%	0.13%	0.64%
Russell	6.50%	0.67%	0.69%

**Estimated Revenue-Neutral Local Surtax Rates (2004)**

County	General Property Tax Including State School Mills	Rate to Replace Local Sales Taxes	Rate to Replace Local Vehicle Taxes
Saline	2.20%	0.72%	0.25%
Scott	5.75%	0.36%	0.45%
Sedgwick	1.69%	0.31%	0.20%
Seward	3.22%	0.87%	0.24%
Shawnee	2.40%	0.65%	0.27%
Sheridan	5.21%	0.28%	0.48%
Sherman	3.94%	0.65%	0.37%
Smith	5.82%	0.11%	0.53%
Stafford	8.93%	0.27%	0.66%
Stanton	13.87%	0.21%	0.40%
Stevens	12.39%	0.21%	0.22%
Sumner	4.93%	0.31%	0.62%
Thomas	4.49%	0.51%	0.40%
Trego	9.31%	0.49%	0.78%
Wabaunsee	6.25%	0.60%	0.61%
Wallace	8.45%	0.00%	0.50%
Washington	6.86%	0.33%	0.64%
Wichita	5.87%	0.38%	0.39%
Wilson	3.14%	0.53%	0.41%
Woodson	7.73%	0.46%	0.79%
Wyandotte	2.79%	0.55%	0.31%

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION  
**BUSINESS ENTERPRISE TAX RETURN FOR CORPORATIONS,  
PARTNERSHIPS, FIDUCIARIES AND NON-PROFIT ORGANIZATIONS**

SEQUENCE # 2

YOU ARE REQUIRED TO FILE THIS RETURN IF THE GROSS RECEIPTS WERE GREATER THAN \$150,000 OR THE ENTERPRISE VALUE TAX BASE WAS GREATER THAN \$75,000.

For the CALENDAR year **2008** or other taxable period beginning \_\_\_\_\_ and ending \_\_\_\_\_  
Mo Day Year Mo Day Year

**THIS RETURN MUST BE FILED WITH THE BT-SUMMARY.**

<b>STEP 1</b> Print or Type Name	CORPORATE, PARTNERSHIP, ESTATE, TRUST, NON-PROFIT OR LLC NAME		FEDERAL EMPLOYER IDENTIFICATION NUMBER OR DEPARTMENT IDENTIFICATION NUMBER	
	<p>If your business activities are conducted both inside and outside New Hampshire AND the business enterprise is subject to a business privilege tax, a net income tax, a franchise tax measured by net income of a capital stock or other similar taxes, whether or not it is actually imposed by another state, or is subject to the jurisdiction of another state to impose a net income tax or capital stock tax upon it, then the business enterprise must apportion its enterprise value tax base. Complete Form BET-80 to determine the values for Lines 1, 2 and 3. If you need Form BET-80 and it is not included in your booklet, it may be obtained from our web site at <a href="http://www.nh.gov/revenue">www.nh.gov/revenue</a> or by calling (603) 271-2192.</p>			
<b>STEP 2</b> Compute the Taxable Enterprise Value Tax Base	1 Dividends Paid	1		
	2 Compensation and Wages Paid or Accrued	2		
	3 Interest Paid or Accrued	3		
	4 Taxable Enterprise Value Tax Base (Sum of Lines 1, 2 and 3)			4
<b>STEP 3</b> Figure Your Tax	5 New Hampshire Business Enterprise Tax (Line 4 multiplied by .0075)			5
	6 STATUTORY CREDITS			
	(a) RSA 162-L:10. CDFA-Investment Tax Credit	6(a)		
	(b) RSA 162-N Community Reinvestment and Opportunity Credit Repealed for tax years ending on or after 7/01/07.	6(b)		
	(c) RSA 162-N. Economic Revitalization Zone Tax Credit. Effective for tax periods ending on or after 7/01/07 (see instructions).	6(c)		
	(d) RSA 162-P. Research & Development Tax Credit (unused portion, see instructions) Effective for tax periods ending on or after 9/07/07.	6(d)		
	(e) RSA 162-Q Coos County Job Creation Tax Credit	6(e)		6
7 Business Enterprise Tax Net of Statutory Credits (Line 5 minus Line 6. IF NEGATIVE, ENTER ZERO) ENTER THIS AMOUNT ON LINE 1(a) OF THE BT-SUMMARY.			7	

**STEP 1: NAME AND FEIN**

At the top of the return enter the beginning and ending dates of the taxable period if different than the calendar year.

PRINT the Corporate, Partnership, Estate, Trust, Non-Profit or LLC name and federal employer identification number or Department Identification Number, in the spaces provided. Wherever FEIN's are required, taxpayers who have been issued a DIN, shall use their DIN only, and not FEIN.

**BET-80 APPORTIONMENT**

If your business activity is conducted both inside and outside New Hampshire and is subject to tax in another state, whether or not actually imposed by the state, complete Form BET-80, BUSINESS ENTERPRISE TAX APPORTIONMENT, to determine the values for Lines 1, 2 and 3 of the Form BET.

**STEP 2: COMPUTE THE TAXABLE ENTERPRISE VALUE TAX BASE**

If business activity was both **inside and outside** NH:

Line 1 Enter the total amount from the BET-80, Line 17.  
Line 2 Enter the total amount from the BET-80, Line 24.  
Line 3 Enter the total amount from the BET-80, Line 29.  
Line 4 Enter the sum of Lines 1, 2, and 3.

If business activity was **100% inside** New Hampshire:

Line 1 Enter the total dividends paid.  
Line 2 Enter the total compensation on wages paid or accrued.  
Line 3 Enter the total interest paid or accrued.  
Line 4 Enter the sum of Lines 1, 2, and 3.

See BET Instructions and Quick Checklist.

**LINE 1: DIVIDENDS PAID**

Enter the amount of dividends paid. "Dividends" means any distribution of money or property, other than the distribution of newly issued stock of the same enterprise, to the owners of a business with respect to their ownership interest in such enterprise from accumulated revenues and profits of the enterprise. Per RSA 77-E:1, VI, the term "Dividends" does NOT include the following:

- Distributions of money or property to beneficiaries of a trust qualified under Section 401 of IRC;
- Cash or non-cash payments of life, sickness, accident, or other benefits to members or their dependents or designated beneficiaries from a voluntary employees' beneficiary association qualified under Section 501(c) (9) of the IRC;
- Distributions of money or property to participants from any common trust fund as defined under Section 584 of the IRC;
- Policyholder dividends as defined under Section 808 of the IRC, to the extent such dividends are not reduced pursuant to Section 809 of the IRC;
- Payment of interest on deposits of depositors of a mutual bank or credit union; or
- Distributions of money or property to or on behalf of beneficiaries of a trust which is either subject to taxation under Section 641 or described in Section 664 of the IRC, provided this sub-paragraph shall apply only to the extent that such trust limits its activities to personal investment activities which do not constitute business activities, and those incidental to or in support of such personal investment activities.

**LINE 2: COMPENSATION AND WAGES PAID OR ACCRUED**

Enter the amount of compensation paid or accrued, per RSA 77-E:1,V, including deferred compensation. Include all wages, salaries, fees, bonuses, commissions or other payments paid or accrued in the taxable period. This includes compensation on behalf of or for the benefit of employees, officers or directors of the business enterprise and subject to or specifically exempt from withholding under Section 3401 of the IRC.

The compensation amount entered on Line 2 should include the amount of any compensation deduction taken under the Business Profits Tax pursuant to RSA 77-A:4,III in the taxable period. It should also include any net earnings from self-employment subject to tax under Section 1401 of the IRC to the extent it was not included in the amount of any deduction taken under the Business Profits Tax pursuant to RSA 77-A:4,III in the taxable period. Regarding partnerships, the net earnings from self-employment do include a partner's distributive share of the partnership earnings.

Payments made expressly exempt from withholding under section 3401(a) (1), (9), (10), (13), (14), (15), (16), (18), (19) and (20) of the US IRC should not be included in Line 2.

**LINE 3: INTEREST PAID OR ACCRUED**

Enter the amount of interest paid or accrued. Per RSA 77-E:1, XI, "Interest" means: all amounts paid or accrued for the use or forbearance of money or property. The term "interest" shall not include amounts paid, credited or set aside in connection with reserves by insurers to fulfill policy and contractual responsibilities to policy holders or by voluntary employees' beneficiary associations qualified under Section 501(c) (9) of the IRC to fulfill obligations to members.

**LINE 4: TAXABLE ENTERPRISE VALUE TAX BASE**

Enter the sum of Lines 1, 2 and 3.

**STEP 3: FIGURE YOUR TAX****LINE 5: NEW HAMPSHIRE BUSINESS ENTERPRISE TAX**

Multiply Line 4 by .0075.

**LINE 6: STATUTORY CREDITS**

**CDFA Credit (Investment Tax Credit RSA 162-L:10 & RSA 77-A:5,XI).** Enter the amount of any CDFA Investment Tax Credit claimed pursuant to RSA 162-L:10. The amount of the credit shall not exceed the lesser of the total Business Enterprise Tax liability or \$200,000 for tax periods ending prior to July 1, 1999 or \$1,000,000 for tax periods ending after June 30, 1999. If you also claim this credit on your BPT or other tax forms(s) the combined total shall not exceed \$200,000 for tax periods ending prior to July 1, 1999 or \$1,000,000 for tax periods ending after June 30, 1999.

**Community Reinvestment and Opportunity Zone Tax Credit ("CROP").** RSA 162-N:7 CROP Zone Tax Credit was repealed for tax years ending on or after 7/1/07. The law provided that the credit shall be available for tax liabilities arising during the 5 consecutive tax periods following the signing of the agreement. As a result, although the law was repealed, the carry forwards may be available.

**Economic Revitalization Zone (ERZ) Tax Credit.** The ERZ may be utilized as a credit against BET or BPT. The ERZ Credits applied first against BPT shall not be available as a credit against BET. ERZ Credit applied first against BET shall be considered BET paid and available as a credit against BPT only to the extent it is a credit against BET. The NH Department of Resources and Economic Development (DRED) awards the ERZ Credit pursuant to RSA 162-N.

**Research & Development Tax Credit** enter the unused amount of BPT credit awarded by the Department with taxpayer's application (Form DP-165) pursuant to RSA 162-P.

**Coos County Job Creation Tax Credit** enter the amount taken (DRED Form CJCTC-1A application) as authorized by Department of Resources & Economic Development (DRED) by RSA 162-Q.

Enter the sum of 6(a) through 6(e) on Line 6.

**LINE 7: NEW HAMPSHIRE BUSINESS ENTERPRISE TAX BALANCE DUE**

Enter the amount of Line 5 minus Line 6. IF NEGATIVE, ENTER ZERO.

**ENTER THE AMOUNT FROM LINE 7 ON LINE 1(a) OF THE BT-SUMMARY.**

---

**- DIVIDENDS -**

*"Dividends" means any distribution of money or property, other than the distribution of newly issued stock, to owners of the business enterprise with respect to their ownership interest in such enterprise from the accumulated revenues and profits of the enterprise.*

**Dividends Subject to Tax**

- All property transferred from the accumulated profits of a business enterprise to an owner with respect to the owner's ownership interest.
- All personal expenditures made by a business enterprise on behalf of an owner which have not been properly reported as compensation or loans for federal income tax purposes.
- Forgiveness of an owner's indebtedness to the business enterprise, unless reported as compensation or interest to the individual and included in those elements of the Enterprise Value Tax Base.
- Automatic re-investment of property distributed from accumulated profits into additional stock.

**Non-Taxable Dividends**

- Amounts deducted under RSA 77-A:4, III for personal services of the proprietor or partner. (also see the compensation section).
- Distribution in liquidation or in complete redemption of an owner's interest.
- Any deemed dividend election that may be made by members of an affiliated group.
- Cash or non-cash payments of life, sickness, accident, or other benefits to members or their dependents or designated beneficiaries from VEBA'S (Voluntary Employees' Beneficiary Association) qualified under Section 501(c)(9) of the IRC.
- Distributions of money or property to participants from any common trust fund as defined under Section 584 of the IRC.
- Life insurance dividends.
- Payments of interest on deposits of depositors of a mutual bank or credit union.
- Distributions of money or property to or on behalf of beneficiaries of a trust which is either subject to taxation under Section 641 or 664 of the IRC.
- Patronage dividends.
- Distributions of money or property to beneficiaries of a trust qualified under Section 401 of the IRC.
- Policy holder dividends as defined under Section 808 of the IRC, to extent such dividends are not reduced pursuant to Section 809 of the IRC.

**- COMPENSATION -**

*"Compensation" means all wages, salaries, fees, bonuses, commissions or other payments paid or accrued in the taxable period on behalf of employees, officers or directors of the business enterprise and subject to, or specifically exempt from, withholding under IRC 3401.*

**Compensation Subject to Tax**

- Wages subject to federal income tax withholding.
- Contributions on behalf of employees to qualified pension, profit-sharing and stock bonus plans.
- Contributions on behalf of employees to annuity or deferred-payment plans.
- Fringe benefits provided to and included in gross income of employees for federal income tax purposes.
- Imputed interest on a below market compensation related loan between employer and employee.
- The "Compensation for Personal Services" deduction taken on the New Hampshire BPT return by a proprietorship, partnership, or limited liability company pursuant to RSA 77-A:4, III.
- The remainder, if any, of the guaranteed payments to partners reduced by the New Hampshire BPT Compensation for Personal Services deduction.
- Other payments, including the payment of debts, expenses or other liabilities pursuant to Rev 2402.01.

**Non-taxable Compensation**

- Payment for independent contractors where no employer/employee relationship exists.
- Payments in the form of or for the following services:
  - Members of the armed forces
  - Ministers
  - Paper boys and girls under the age of 18
  - Volunteers of Peace Corps
  - Group term life insurance on the life of an employee
  - Moving expenses
  - Non-cash or cash tips to an employee if not deductible by the employer
  - Educational assistance
  - Scholarships
  - Medical reimbursements.
- Health Insurance.
- Taxpayer's distributive share of net earnings from a trade or business conducted by another business enterprise.
- Self-employment income retained for use in enterprise but not deducted under RSA 77-A:4, III.

**- INTEREST -**

*"Interest" means all amounts paid or accrued for the use or forbearance of money or property.*

**Interest Subject to Tax**

- Interest paid or accrued not reduced by interest income or other fee income and without regard to any federal deductibility limitation or federal capitalization requirements.
- Property transferred by a business enterprise not classified as interest, but the substance of the transaction indicates that the payment was made in lieu of interest.

**Non-taxable Interest**

- Amount paid, credited or set aside in connection with reserves by insurers to fulfill policy and contractual responsibilities to policy holders.
- Amount paid by VEBA's (Voluntary Employees' Benefit Associations) qualified under Section 501(c)(9) of the IRC to fulfill obligations to members.

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION  
**BUSINESS ENTERPRISE TAX APPORTIONMENT**

For the CALENDAR year **2008** or other taxable period beginning \_\_\_\_\_ and ending \_\_\_\_\_  
Mo Day Year Mo Day Year SEQUENCE # 3

NAME				FEDERAL EMPLOYER IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER OR DEPARTMENT IDENTIFICATION NUMBER	
<b>SECTION I - APPORTIONMENT FACTORS</b> See General Instructions					
<b>Compensation and Wages Factor</b>	1 New Hampshire Compensation and Wages Paid or Accrued	1			
	2 Everywhere Compensation and Wages Paid or Accrued	2			
	3 COMPENSATION FACTOR (Line 1 divided by Line 2) Enter this amount on Line 21 below. Express to six decimal places	3	•		
<b>Interest Factor</b>	4 Average of New Hampshire Property	4			
	5 Average of Everywhere Property	5			
	6 INTEREST FACTOR (Line 4 divided by Line 5) Enter this amount on Line 26 below. Express to six decimal places	6	•		
<b>Dividend Factor</b>	7 New Hampshire Sales	7			
	8 Everywhere Sales	8			
	9 Sales Factor (Line 7 divided by Line 8). Express to six decimal places.	9	•		
	10 Subtotal (Sum of Lines 3, 6 and 9)	10	•		
	11 DIVIDEND FACTOR Enter Line 10 divided by the number of factors in the subtotal. Enter this amount on Line 15 below. Express to six decimal places.	11	•		
<b>SECTION II - BUSINESS ENTERPRISE TAX BASE APPORTIONMENT</b> See General Instructions					
<b>Dividend Apportionment</b>	12 Dividends Paid	12			
	13 LESS: Dividend Deduction	13			
	14 Subtotal (Line 12 minus Line 13)	14			
	15 Dividend Apportionment Factor (From Line 11 above)	15	•		
	16 Taxable Dividends (Line 14 multiplied by Line 15) (If negative, show in parenthesis)	16			
	17 TOTAL TAXABLE DIVIDENDS (From Line 16.) IF NEGATIVE, ENTER ZERO. Enter this amount on Line 1, Form BET or Form BET-PROP	17			
	<b>Compensation and Wages Apportionment</b>	18 Everywhere Compensation and Wages Paid or Accrued	18		
19 LESS: Retained Compensation		19			
20 Subtotal (Line 18 minus Line 19)		20			
21 Compensation Apportionment Factor (From Line 3 above)		21	•		
22 Taxable Compensation (Line 20 multiplied by Line 21)		22			
23 LESS: Dividend Offset		23			
24 TOTAL TAXABLE COMPENSATION (Line 22 minus Line 23) Enter this amount on Line 2, Form BET or Form BET-PROP		24			
<b>Interest Apportionment</b>	25 Interest Paid or Accrued	25			
	26 Interest Apportionment Factor (From Line 6 above)	26	•		
	27 Taxable Interest (Line 25 multiplied by Line 26)	27			
	28 LESS: Dividend Offset	28			
	29 TOTAL TAXABLE INTEREST (Line 27 minus Line 28) Enter this amount on Line 3, Form BET or Form BET-PROP	29			



NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION  
BUSINESS ENTERPRISE TAX APPORTIONMENT**WHO MUST APPORTION**

A business enterprise must apportion its enterprise value tax base if:

- Its business activities are conducted both inside and outside New Hampshire, AND
- The business enterprise is subject to a business privilege tax, a net income tax, a franchise tax based upon net income, or a capital stock tax in another state, or is subject to the jurisdiction of another state to impose a net income tax or capital stock tax upon it, whether or not it is actually imposed by the other state.

**NEED HELP?**

Questions regarding apportionment under the New Hampshire Business Enterprise Tax should be directed to: NH DRA, Central Taxpayer Services, PO Box 457, Concord, New Hampshire 03302-0457. Telephone: (603) 271-2191. Individuals with hearing or speech impairments may call TDD Access: Relay NH 1-800-735-2964.

**LINE-BY-LINE INSTRUCTIONS****NAME & IDENTIFICATION NUMBER**

At the top of the return enter the beginning and ending dates of the taxable period if different from the calendar year. PRINT the taxpayer's name, federal employer identification number, social security number, or department identification number in the spaces provided. Social security numbers are required pursuant to the authority granted by 42 U.S.C.S., Section 405. Wherever social security numbers or federal employer identification numbers are required, taxpayers who have been issued a DIN, shall use their DIN only, and not their SSN or FEIN.

**SECTION I APPORTIONMENT FACTORS****COMPENSATION AND WAGES FACTOR****LINE 1 & 2**

Enter on Line 1 the "New Hampshire" compensation and wages paid or accrued. Enter on Line 2 the "EVERYWHERE" compensation and wages paid or accrued.

"Compensation and wages" includes all wages, salaries, fees, bonuses, commissions or other payments paid or accrued, including deferred compensation, in the taxable period. This includes compensation on behalf of or for the benefit of employees, officers or directors of the business enterprise and subject to or specifically exempt from withholding under Internal Revenue Code (IRC) Section 3401. Payments made expressly exempt from withholding under IRC Sections 3401(a) (1), (9), (10), (13), (14), (15), (16), (18), (19), and (20) should not be included. **For Proprietorships and Partnerships:** The compensation amount entered on Line 18 should include the amount of any compensation deduction taken under the Business Profits Tax pursuant to RSA 77-A:4, III in the taxable period. The remainder, if any, of the guaranteed payments to partners reduced by the New Hampshire BPT Compensation for Personal Services deduction. It should also include any net earnings from self-employment subject to tax under IRC Section 1401 to the extent it was not included in the amount of any deduction taken under the Business Profits Tax pursuant to RSA 77-A:4, III in the taxable period.

**LINE 3**

Enter on Line 3 the amount of Line 1 divided by Line 2. Express this amount as a decimal to six places.

**INTEREST FACTOR****LINES 4 & 5**

Enter on Line 4 the average value of beginning and ending "New Hampshire" real and tangible personal property owned and employed. Enter on Line 5 the average value of beginning and ending "EVERYWHERE" real and tangible personal property owned and employed. Property includes all

real and tangible personal property owned and employed by the business enterprise during the taxable period in the regular course of its trade or business. Leasehold improvements are treated as property owned by the business enterprise. Real and tangible personal property which is rented or leased is NOT included in the Business Enterprise Tax interest factor.

"Real and tangible personal property" includes land, buildings, improvements, equipment, merchandise or manufacturing inventories, leasehold improvements and other similar property that reflects the enterprise's business activities. Property shall be included if it is actually used or is available for or capable of being used during the taxable period in the regular course of the trade or business of the enterprise. Property or equipment under construction during the taxable period, except inventoriable goods in process, shall be excluded until such property is actually used or available for use by the business enterprise in its regular trade or business.

**Valuation of Owned Property:** Property owned by the business enterprise must be valued at its original cost. "Original cost" is the basis of the property for federal income tax purposes at the time of acquisition, prior to any federal adjustments, and adjusted by subsequent sale, exchange, abandonment, etc. Inventory is included in accordance with the valuation method used for federal income tax purposes.

**Average Value of Owned Property:** The beginning and ending cost of owned property is used to determine the average cost for the property. Where fluctuations in values exist during the period or where property is acquired or disposed of during the period, a monthly average shall be used to prevent distortions. "Beginning of Period" means the start of the taxable period or when available for use.

**LINE 6**

Enter on Line 6 the amount of Line 4 divided by Line 5. Express this amount as a decimal to six places.

**DIVIDEND FACTOR****LINES 7 & 8**

Enter on Line 7 the "New Hampshire" sales. Enter on Line 8 the "EVERYWHERE" sales. Sales include:

- sales less returns and allowances,
- interest, rents and royalties,
- dividends which are not eligible for the dividend deduction under RSA 77-E:3, II and III,
- capital gain income,
- net gains or losses, and
- other income unless the other income is properly includible as a reduction of an expense or allowance.

**LINE 9**

Enter on Line 9 the amount of Line 7 divided by Line 8. Express this amount as a decimal to six places.

**LINE 10**

Enter on Line 10 the sum of the Lines 3, 6 and 9.

**LINE 11**

Enter on Line 11 the amount of Line 10 divided by 3. Express this amount as a decimal to six places. If there are only two "EVERYWHERE" factors, then divide by 2; if only one "EVERYWHERE" factor, divide by 1.