



Business and Industry Association
New Hampshire's Statewide Chamber of Commerce

**Testimony of Jim Roche,
President, Business & Industry Association
Re: hearing on rules to extend the interest and dividends tax to
distributions from LLCs and partnerships
December 16, 2009**

Commissioner Clougherty, members of the DRA staff, thank you for the opportunity to testify. For the record, my name is Jim Roche and I'm president of the Business and Industry Association, New Hampshire's statewide chamber of commerce. I'm here this morning with Karl Heafield, managing principal for Baker Newman Noyes, and chair of BIA's Fiscal Policy committee. Karl is a key member of a working group of BIA member business attorneys, CPAs and small business owners who are providing expert guidance to the BIA during the rulemaking process for this very complex and controversial business tax matter.

Before Karl provides comments regarding specific issues and concerns the BIA has with the proposed rules, I want to take a moment to comment on the public policy process which has led us all to this point. The legislative language extending the interest and dividends tax to distributions from LLCs and partnerships to close a "tax loophole" was added to House Bill 2 at the last possible moment, in the middle of the night, and was voted on and approved by House and Senate budget conferees **before** the public ever had a chance to see the language.

This is an appalling way to craft public policy. The lack of input from the business community—particularly small businesses owners most impacted by the law—tax practitioners and the general public is, in large measure, the reason why there continues to be so much confusion, angst, misinformation, and misunderstanding over this matter.

For the record, the BIA never supported this tax law change. And we were one of the only business groups, and certainly the most vocal, to raise concerns at the time of its introduction. Commissioner Clougherty, I understand that your agency is required to respond to tax legislation passed by the legislature and signed into law, and I further understand that the hearing today is intended to provide feedback regarding specifics within the proposed rules. However, unless this process successfully resolves the significant concerns of the business community, the BIA will lead the effort to repeal this law when the legislature reconvenes in January.

Thank you for your patience, and now I would like to ask Karl Heafield to present BIA's specific concerns with language of the proposed rules. Once he has concluded we would be happy to address any questions you may have.