

In The Matter of the Petition of "P"

for a Declaratory Ruling

DOC #2520, Effective October 5, 1983

Pursuant to RSA 541-A:1, IV, RSA 541-A:2, I(d), and Rev 104.04, New Hampshire Code of Administrative Rules, "P" (EIN), a holding company having its principal office at New Hampshire, has petitioned the Department of Revenue Administration for a declaratory ruling with respect to the tax consequences of receiving dividends from its subsidiaries when the subsidiary banks have almost never paid a New Hampshire Business Profits Tax. The parent corporation and each of the subsidiaries files a business profits tax return as required by RSA 77-A.

Since January 1, 1973, the various subsidiary banks have had taxable income or losses while having invested in U.S. Government securities and tax-exempt municipal obligations, the income of which is excluded from gross business profits. The subsidiary banks have paid and may continue to pay dividends to the parent. As a result of the tax losses and the credit to banks for taxes paid under RSA 84, the subsidiaries have, in most instances, never paid a New Hampshire Business Profits Tax.

In view of the foregoing representations, and specifically based upon them, the Department of Revenue Administration finds the following:

1. That the clause "whose gross business profits have already been subject to taxation under this chapter", contained in RSA 77-A:4, IV requires that the earnings from which the dividends are paid be from a tax year in which the payor was subject to the business profits tax law, and does not require a tax to have been paid on the particular income.
2. Provided that the subsidiary banks have been subject to, and continue to be subject to the business profits tax, and that the dividends paid do not exceed the accumulated earnings which have been subject to taxation, the holding company, "P" , is entitled to the dividend deduction contained in RSA 77-A:4, IV.

Lloyd M. Price, Commissioner