

SB3189



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3189

Introduced 2/15/2018, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

35 ILCS 5/205

from Ch. 120, par. 2-205

Amends the Illinois Income Tax. Imposes a privilege tax on partnerships and S corporations engaged in the business of conducting investment management services at the rate of 20% of the fees calculated by reference to the performance of the investment portfolio funds and not from the investment itself.

LRB100 18157 HLH 33352 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 205 as follows:

6 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

7 Sec. 205. Exempt organizations.

8 (a) Charitable, etc. organizations. The base income of an
9 organization which is exempt from the federal income tax by
10 reason of the Internal Revenue Code shall not be determined
11 under section 203 of this Act, but shall be its unrelated
12 business taxable income as determined under section 512 of the
13 Internal Revenue Code, without any deduction for the tax
14 imposed by this Act. The standard exemption provided by section
15 204 of this Act shall not be allowed in determining the net
16 income of an organization to which this subsection applies.

17 (b) Partnerships. A partnership as such shall not be
18 subject to the tax imposed by subsection 201 (a) and (b) of
19 this Act, but shall be subject to the replacement tax imposed
20 by subsection 201 (c) and (d) of this Act and shall compute its
21 base income as described in subsection (d) of Section 203 of
22 this Act. For taxable years ending on or after December 31,
23 2004, an investment partnership, as defined in Section

1 1501(a)(11.5) of this Act, shall not be subject to the tax
2 imposed by subsections (c) and (d) of Section 201 of this Act.
3 A partnership shall file such returns and other information at
4 such time and in such manner as may be required under Article 5
5 of this Act. The partners in a partnership shall be liable for
6 the replacement tax imposed by subsection 201 (c) and (d) of
7 this Act on such partnership, to the extent such tax is not
8 paid by the partnership, as provided under the laws of Illinois
9 governing the liability of partners for the obligations of a
10 partnership. Persons carrying on business as partners shall be
11 liable for the tax imposed by subsection 201 (a) and (b) of
12 this Act only in their separate or individual capacities.

13 (c) Subchapter S corporations. A Subchapter S corporation
14 shall not be subject to the tax imposed by subsection 201 (a)
15 and (b) of this Act but shall be subject to the replacement tax
16 imposed by subsection 201 (c) and (d) of this Act and shall
17 file such returns and other information at such time and in
18 such manner as may be required under Article 5 of this Act.

19 (c-5) Surcharge. Notwithstanding any provision of law to
20 the contrary and in addition to any other tax imposed under
21 this Act, beginning July 1, 2018, a privilege tax is imposed on
22 partnerships, including investment partnerships, and S
23 corporations engaged in the business of conducting investment
24 management services at the rate of 20% of the fees calculated
25 by reference to the performance of the investment portfolio
26 funds and not from the investment itself. The privilege tax

1 shall not be imposed on fees calculated by reference to the
2 total assets under management of the business engaged in
3 investment management services. Persons carrying on business
4 as partners conducting investment management services shall be
5 liable for the tax imposed by subsections 201 (a) and (b) of
6 this Act in their separate or individual capacities in
7 accordance with subsection 205 (b) of this Act.

8 For the purposes of this subsection (c-5), "investment
9 management services" means a business which is held by any
10 person if such person provides, directly or indirectly, in the
11 active conduct of a trade or business, a substantial quantity
12 of any of the following services to the business:

13 (1) advising the business (partnership, S corporation
14 or any business entity) as to the advisability of investing
15 in, purchasing, or selling any specified asset;

16 (2) managing, acquiring, or disposing of any specified
17 asset;

18 (3) arranging financing with respect to acquiring
19 specified assets; or

20 (4) any activity in support of any service described in
21 items (1) through (3) of this paragraph.

22 For the purposes of this definition, the term specified
23 asset means securities (as defined in Section 475(c)(2) of the
24 Internal Revenue Code) real estate held for rental or
25 investment, interest in partnerships, commodities (as defined
26 in Section 475(e)(2) of the Internal Revenue Code) or options

1 or derivative contracts to any of these.

2 A partner or shareholder will not be deemed to hold an
3 investment management services interest if at least 80% of the
4 average fair market value of the specified assets of business
5 during the taxable year consists of real estate.

6 (d) Combat zone, terrorist attack, and certain other
7 deaths. An individual relieved from the federal income tax for
8 any taxable year by reason of section 692 of the Internal
9 Revenue Code shall not be subject to the tax imposed by this
10 Act for such taxable year.

11 (e) Certain trusts. A common trust fund described in
12 Section 584 of the Internal Revenue Code, and any other trust
13 to the extent that the grantor is treated as the owner thereof
14 under sections 671 through 678 of the Internal Revenue Code
15 shall not be subject to the tax imposed by this Act.

16 (f) Certain business activities. A person not otherwise
17 subject to the tax imposed by this Act shall not become subject
18 to the tax imposed by this Act by reason of:

19 (1) that person's ownership of tangible personal
20 property located at the premises of a printer in this State
21 with which the person has contracted for printing, or

22 (2) activities of the person's employees or agents
23 located solely at the premises of a printer and related to
24 quality control, distribution, or printing services
25 performed by a printer in the State with which the person
26 has contracted for printing.

1 (g) A nonprofit risk organization that holds a certificate
2 of authority under Article VIID of the Illinois Insurance Code
3 is exempt from the tax imposed under this Act with respect to
4 its activities or operations in furtherance of the powers
5 conferred upon it under that Article VIID of the Illinois
6 Insurance Code.

7 (Source: P.A. 97-507, eff. 8-23-11.)