

LEGISLATIVE BILL 240

Approved by the Governor April 15, 1993

Introduced by Landis, 46, Beutler, 28, Bohlke, 33, Bromm, 23, Byars, 30, Chambers, 11, Coordsen, 32, Day, 19, Dierks, 40, Hall, 7, Hillman, 48, Janssen, 15, Lynch, 13, McKenzie, 34, Preister, 5, Rasmussen, 20, Robak, 22, Schellpeper, 18, Schimek, 27, Schmitt, 41, Warner, 25, Wesely, 26, Wickersham, 49, Will, 8, Withern, 14, at the request of the Governor

AN ACT relating to income taxation; to amend sections 77-2715, 77-2715.02, and 77-2715.07, Reissue Revised Statutes of Nebraska, 1943, section 77-2716.01, Revised Statutes Supplement, 1992, and section 77-2701, Revised Statutes Supplement, 1992, as amended by section 22, Legislative Bill 1, Ninety-second Legislature, Fourth Special Session, 1992, and section 69, Legislative Bill 138, Ninety-third Legislature, First Session, 1993; to change provisions relating to credits, tax schedules, tax calculations, exemptions, and deductions; to define terms; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-2701, Revised Statutes Supplement, 1992, as amended by section 22, Legislative Bill 1, Ninety-second Legislature, Fourth Special Session, 1992, and section 69, Legislative Bill 138, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

77-2701. Sections 77-2701 to 77-27,135 and sections 24, 25, and 34 of this act and section 70 of this act and section 6 of this act shall be known and may be cited as the Nebraska Revenue Act of 1967.

Sec. 2. That section 77-2715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715. (1) A tax is hereby imposed for each taxable year on the entire income of every resident individual and on the income of every nonresident individual and partial-year resident individual which is derived from sources within this state, except that any individual who ~~has no income tax liability under the Internal Revenue Code of 1986 and who~~ has additions to adjusted gross income pursuant to section 77-2716 of less than five thousand dollars shall not have an individual income tax liability after nonrefundable credits under the Nebraska Revenue Act of 1967 that exceeds his or her individual income tax liability before credits under the Internal Revenue Code of 1986.

(2) The tax for each resident individual shall be a

percentage of such individual's federal adjusted gross income as modified in sections 77-2716 and 77-2716.01, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (a) substituting Nebraska taxable income for federal taxable income, (b) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (c) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the act, shall be allowed as a reduction in the income tax due.

(3) The tax for each nonresident individual and partial-year resident individual shall be the portion of the tax imposed on resident individuals which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying subtracting from the liability to this state for a resident individual with the same total income the credit for personal exemptions and multiplying the result by a fraction, the numerator of which is the nonresident individual's or partial-year resident individual's Nebraska adjusted gross income as determined by section 77-2733 or 77-2733.01 and the denominator of which is his or her total federal adjusted gross income, after first adjusting each by the amounts provided in section 77-2716. If this determination attributes more or less tax than is reasonably attributable to income derived from sources within this state, the taxpayer may petition for or the Tax Commissioner may require the employment of any other method to attribute an amount of tax which is reasonable and equitable in the circumstances.

(4) A refund shall be allowed to the extent that the income tax paid by the individual for the taxable year exceeds the income tax payable, except that no refund shall be made in any amount less than two dollars.

Sec. 3. That section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.02. (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A, B, and E shall be: ~~the same as for the federal rate schedules in effect for tax year 1987~~

(i) \$0, \$2,400, \$17,000, and \$26,500, for single returns;

(ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing joint returns;

(iii) \$0, \$3,800, \$24,000, and \$35,000, for head-of-household returns; and

(iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing

separate returns;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) The primary rate set by the Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be ~~-.64, .98, 1.52, 1.87, and 1.87~~ .708, .986, 1.415, and 1.89;

(e) The amounts for column C shall be rounded to the nearest dollar, and the amounts in column D shall be rounded to hundredths of one percent; and

(f) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

A	B	C	D	E
Taxable income	but not	pay	plus	of the
over	over		amount over	

(4) The tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be ~~seven~~ eight times the primary rate.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal ~~exemptions~~ exemption credit and standard deduction amounts into the tax tables.

(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.

Sec. 4. That section 77-2715.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.07. (1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the tax imposed by sections 77-2714 to 77-27,123:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code;

(b) A credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code; and

(c) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to all individuals as a nonrefundable credit against the tax imposed by the Nebraska Revenue Act of 1967:

(a) ~~A carryover of the credit for renewable energy source~~

~~systems as provided under section 66-1047~~ A credit for personal exemptions allowed under section 77-2716.01; and

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner or each shareholder of an electing subchapter S corporation shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership or subchapter S corporation income.

Sec. 5. That section 77-2716.01, Revised Statutes Supplement, 1992, be amended to read as follows:

77-2716.01. (1) Every individual shall be allowed to subtract from ~~federal adjusted gross income~~ his or her income tax liability an amount for personal exemptions. ~~For tax year 1987, the amount allowed to be subtracted shall be one thousand one hundred dollars~~ The amount allowed to be subtracted shall be ~~the credit amount for the year as provided in this section~~ multiplied by the number of exemptions allowed on the federal return. ~~For tax year 1993, the credit amount shall be sixty-five dollars; for tax year 1994, the credit amount shall be sixty-nine dollars; for tax year 1995, the credit amount shall be sixty-nine dollars; for tax year 1996, the credit amount shall be seventy-two dollars; for tax year 1997, the credit amount shall be seventy-six dollars; for tax year 1998, the credit amount shall be seventy-eight dollars; for tax year 1999, and each year thereafter, the credit amount shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as amended. The sixty-five-dollar credit amount shall be adjusted for cumulative inflation since 1993. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. The amount allowed for each personal exemption shall be reduced, but not below zero, by five dollars for each five thousand dollars, or portion thereof, that federal adjusted gross income exceeds ninety thousand dollars for married filing joint returns, fifty-four thousand dollars for single returns, seventy-five thousand dollars for head-of-household returns, and for married filing separate returns, one-half the amount stated in this subsection for married filing joint returns. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715. For tax year 1988, the amount allowed to be subtracted shall be one thousand one hundred thirty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1989, the amount allowed to be subtracted shall be one thousand one hundred eighty dollars multiplied by the number of exemptions allowed on the federal return. For tax year 1990~~ 1994 ~~and each tax year thereafter, the amount to be subtracted~~ the income levels stated in this subsection shall be the amount of the exemption for tax year 1989 ~~adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as amended. If any amount to be subtracted~~ income level in this subsection ~~is not a multiple of ten~~ one thousand ~~dollars, the amount shall be rounded to the next lowest highest multiple of ten~~ one thousand ~~dollars. The amount shall then be~~

~~multiplied by the number of exemptions allowed on the federal return.~~

(2) Every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction equal to the federal standard deduction for the filing status used on the federal return except as the amount is adjusted under section 6 of this act.

(3) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in subsection (2) of this section or ~~at the amount before the federal disallowance~~ of his or her federal itemized deductions, except for the amount deducted on the federal return for state or local income taxes paid and the amount of any adjustment required under section 6 of this act.

Sec. 6. (1) Any taxpayer whose federal adjusted gross income is larger than the threshold amount determined under section 68 of the Internal Revenue Code of 1986, as amended, for the disallowance of itemized deductions shall calculate the amount of the excess and make the following adjustments.

(2) The amount of the federal standard deduction actually allowed shall be reduced by one dollar for every ten dollars of the excess calculated in subsection (1) of this section. The standard deduction shall not be reduced below zero.

(3) For the purposes of calculating the adjustment in subsection (4) of this section, the following definitions shall be used:

(a) Protected deductions shall be those itemized deductions excepted from the federal disallowance under section 68 of the Internal Revenue Code of 1986, as amended; and

(b) Disallowable deductions shall be all itemized deductions other than protected deductions and the deduction for state and local income taxes.

(4) The amount of itemized deductions shall be reduced to the sum of the protected deductions plus the greater of:

(a) Twenty percent of the disallowable deductions; or

(b) The disallowable deductions reduced by the following amounts:

(i) An amount calculated as one dollar for every ten dollars of the excess calculated in subsection (1) of this section, multiplied by a fraction, the numerator of which is disallowable deductions minus charitable contributions and the denominator of which is disallowable deductions; and

(ii) An amount calculated as one dollar for every thirty-three and one-third dollars of the excess calculated in subsection (1) of this section, multiplied by a fraction, the numerator of which is charitable contributions and the denominator of which is disallowable deductions.

(5) After making the adjustments provided for in subsections (2) and (4) of this section, the tax liability shall be increased by an amount determined under this subsection. The amount shall be

calculated by multiplying the maximum individual tax rate by ten percent of the excess calculated in subsection (1) of this section and subtracting the amount of the tax from the tax tables on ten percent of the excess from the result. The difference shall be the increase in the tax liability. If taxable income is less than ten percent of the excess, the calculation in this subsection shall be made using taxable income.

Sec. 7. This act shall be operative for all taxable years beginning or deemed to begin on or after January 1, 1993, under the Internal Revenue Code of 1986, as amended.

Sec. 8. That original sections 77-2715, 77-2715.02, and 77-2715.07, Reissue Revised Statutes of Nebraska, 1943, section 77-2716.01, Revised Statutes Supplement, 1992, and section 77-2701, Revised Statutes Supplement, 1992, as amended by section 22, Legislative Bill 1, Ninety-second Legislature, Fourth Special Session, 1992, and section 69, Legislative Bill 138, Ninety-third Legislature, First Session, 1993, are repealed.