

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 974

Introduced by Flood, 19

Read first time January 9, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2701.24, Revised Statutes Supplement, 2005; to provide
3 a sales tax exemption relating to city or village
4 celebrations; and to repeal the original section.

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

1 Section 1. Section 77-2701.24, Revised Statutes
2 Supplement, 2005, is amended to read:

3 77-2701.24 Occasional sale means:

4 (1) A sale, but not a lease or rental, of property which
5 is the subject of any intercompany sale or transfer involving
6 any parent, subsidiary, or brother-sister company relationship
7 under section 77-2704.28 and which was either originally acquired
8 prior to June 1, 1967, or, if acquired thereafter, the seller or
9 transferor directly or indirectly has previously paid a sales or
10 use tax thereon, including:

11 (a) From one corporation to another corporation
12 pursuant to a reorganization. For purposes of this subdivision,
13 reorganization means a statutory merger or consolidation or the
14 acquisition by a corporation of substantially all of the properties
15 of another corporation when the consideration is solely all or a
16 part of the voting stock of the acquiring corporation or of its
17 parent or subsidiary corporation;

18 (b) In connection with the winding up, dissolution, or
19 liquidation of a corporation only when there is a distribution of
20 the property of such corporation to the shareholders in kind if
21 the portion of the property so distributed to the shareholder is
22 substantially in proportion to the share of stock or securities
23 held by the shareholder;

24 (c) To a corporation for the purpose of organization of
25 such corporation or the contribution of additional capital to such

1 corporation when the former owners of the property transferred
2 are immediately after the transfer in control of the corporation
3 and the stock or securities received by each is substantially in
4 proportion to his or her interest in the property prior to the
5 transfer;

6 (d) To a partnership in the organization of such
7 partnership if the former owners of the property transferred
8 are immediately after the transfer members of such partnership and
9 the interest in the partnership received by each is substantially
10 in proportion to his or her interest in the property prior to the
11 transfer;

12 (e) From a partnership to the members thereof when made
13 in kind in the dissolution of such partnership if the portion of
14 the property so distributed to the members of the partnership is
15 substantially in proportion to the interest in the partnership held
16 by the members;

17 (f) To a limited liability company in the organization of
18 such limited liability company if the former owners of the property
19 transferred are immediately after the transfer members of such
20 limited liability company and the interest in the limited liability
21 company received by each is substantially in proportion to his or
22 her interest in the property prior to the transfer;

23 (g) From a limited liability company to the members
24 thereof when made in kind in the dissolution of such limited
25 liability company if the portion of the property so distributed to

1 the members of the limited liability company is substantially in
2 proportion to the interest in the limited liability company held by
3 the members;

4 (h) From one limited liability company to another limited
5 liability company pursuant to a reorganization; or

6 (i) Any transaction between two persons that qualifies as
7 a tax-free transaction under the Internal Revenue Code;

8 (2) A sale of household goods, personal effects, and
9 services if each of the following conditions is met and if any
10 one condition is not met then the entire gross receipts shall be
11 subject to the tax imposed by section 77-2703:

12 (a) Such sales are by an individual at his or her
13 residence or if more than one individual's property is involved
14 such sales are by one of the individuals involved at the residence
15 of one of the individuals;

16 (b) Such sales do not occur at any residence for more
17 than three days during a calendar year;

18 (c) Such individual or individuals or any member of any
19 of their households does not conduct or engage in a trade or
20 business in which similar items are sold or services provided;

21 (d) Such property sold was originally acquired for and
22 used for personal use or the service provided may be performed at
23 any individual residence without specialized equipment or supplies;
24 and

25 (e) Such property is not otherwise excepted from the

1 definition of occasional sale;

2 (3) Commencing with any transaction occurring on or after
3 October 1, 1985, any sale of business or farm machinery and
4 equipment if each of the following conditions is met and if any one
5 condition is not met the entire gross receipts shall be subject to
6 the tax imposed by section 77-2703:

7 (a) Such machinery or equipment was used by the seller or
8 seller's predecessor in a sale described in subdivision (1) of this
9 section as a depreciable capital asset in connection with the farm
10 or business for a period of at least one year;

11 (b) Such property was originally acquired prior to June
12 1, 1967, or if acquired thereafter, the seller or seller's
13 predecessor in a sale described in subdivision (1) of this section
14 directly or indirectly has previously paid a sales or use tax
15 thereon; and

16 (c) Such property is not otherwise excepted from the
17 definition of occasional sale;

18 (4) Commencing October 1, 1985, a sale by an organization
19 created exclusively for religious purposes or an agent of the
20 organization for such sale if each of the following conditions is
21 met and if any one condition is not met then the entire gross
22 receipts shall be subject to the tax imposed by section 77-2703:

23 (a) All sales occur during an activity conducted by such
24 organization or, if more than one organization is involved, by one
25 of the organizations owning property being sold;

1 (b) The organization only sells property it owns or
2 provides the service during one such activity in a calendar year;
3 and

4 (c) The activity does not last longer than three
5 consecutive days; ~~and~~

6 (5) Any sale that is made in connection with the sale
7 to a single buyer of all or substantially all of a trade or
8 business if the seller or seller's predecessor in a sale described
9 in subdivision (1) of this section directly or indirectly has
10 previously paid a sales or use tax thereon. This subdivision shall
11 apply to any transaction occurring on or after October 1, 1985; and

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13 (6) Commencing October 1, 2006, a sale of an admission
14 or food for human consumption, including meals or prepared foods,
15 during a celebration declared by a city or village of this state if
16 each of the following conditions is met and if any one condition is
17 not met then the entire gross receipts shall be subject to the tax
18 imposed by section 77-2703:

19 (a) All sales occur during a celebration declared by a
20 city or village and within the area described in the declaration of
21 the celebration; and

22 (b) The city or village only declares one celebration for
23 which this exemption applies during a calendar year.

24 Commencing October 1, 1985, occasional sale does not
25 include any sale directly by or any sale which is supervised or

1 aided by an auctioneer or an agent or employee of an auctioneer.

2 Except for a sale listed in subdivision (1) of this
3 section, an occasional sale does not mean any sale of motor
4 vehicles, semitrailers, or trailers as defined in the Motor Vehicle
5 Registration Act or any sale of a motorboat as defined in section
6 37-1204.

7 Sec. 2. Original section 77-2701.24, Revised Statutes
8 Supplement, 2005, is repealed.