

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1038

Introduced by Janssen, 15.

Read first time January 17, 2008

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2716, Revised Statutes Supplement, 2007; to change an
3 income tax adjustment relating to interest and dividends;
4 to provide an operative date; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2716, Revised Statutes Supplement,
2 2007, is amended to read:

3 77-2716 (1) The following adjustments to federal adjusted
4 gross income or, for corporations and fiduciaries, federal taxable
5 income shall be made for interest or dividends received:

6 (a) There shall be subtracted interest or dividends
7 received by the owner of obligations ~~of~~ issued on or after January
8 1, 2009, of this state, the United States and its territories and
9 possessions or of any authority, commission, or instrumentality of
10 the United States to the extent includable in gross income for
11 federal income tax purposes but exempt from state income taxes
12 under the laws of the United States;

13 (b) There shall be subtracted that portion of the
14 total dividends and other income received from a regulated
15 investment company which is attributable to obligations described
16 in subdivision (a) of this subsection as reported to the recipient
17 by the regulated investment company;

18 (c) There shall be added interest or dividends received
19 by the owner of obligations of the District of Columbia, other
20 states of the United States, or their political subdivisions,
21 authorities, commissions, or instrumentalities to the extent
22 excluded in the computation of gross income for federal income
23 tax purposes except that such interest or dividends shall not be
24 added if received by a corporation which is a regulated investment
25 company;

1 (d) There shall be added that portion of the total
2 dividends and other income received from a regulated investment
3 company which is attributable to obligations described in
4 subdivision (c) of this subsection and excluded for federal
5 income tax purposes as reported to the recipient by the regulated
6 investment company; and

7 (e) (i) Any amount subtracted under this subsection shall
8 be reduced by any interest on indebtedness incurred to carry the
9 obligations or securities described in this subsection or the
10 investment in the regulated investment company and by any expenses
11 incurred in the production of interest or dividend income described
12 in this subsection to the extent that such expenses, including
13 amortizable bond premiums, are deductible in determining federal
14 taxable income.

15 (ii) Any amount added under this subsection shall be
16 reduced by any expenses incurred in the production of such income
17 to the extent disallowed in the computation of federal taxable
18 income.

19 (2) There shall be allowed a net operating loss derived
20 from or connected with Nebraska sources computed under rules
21 and regulations adopted and promulgated by the Tax Commissioner
22 consistent, to the extent possible under the Nebraska Revenue
23 Act of 1967, with the laws of the United States. For a resident
24 individual, estate, or trust, the net operating loss computed
25 on the federal income tax return shall be adjusted by the

1 modifications contained in this section. For a nonresident
2 individual, estate, or trust or for a partial-year resident
3 individual, the net operating loss computed on the federal return
4 shall be adjusted by the modifications contained in this section
5 and any carryovers or carrybacks shall be limited to the portion of
6 the loss derived from or connected with Nebraska sources.

7 (3) There shall be subtracted from federal adjusted gross
8 income for all taxable years beginning on or after January 1, 1987,
9 the amount of any state income tax refund to the extent such refund
10 was deducted under the Internal Revenue Code, was not allowed in
11 the computation of the tax due under the Nebraska Revenue Act of
12 1967, and is included in federal adjusted gross income.

13 (4) Federal adjusted gross income, or, for a fiduciary,
14 federal taxable income shall be modified to exclude the portion of
15 the income or loss received from a small business corporation with
16 an election in effect under subchapter S of the Internal Revenue
17 Code or from a limited liability company organized pursuant to the
18 Limited Liability Company Act that is not derived from or connected
19 with Nebraska sources as determined in section 77-2734.01.

20 (5) There shall be subtracted from federal adjusted gross
21 income or, for corporations and fiduciaries, federal taxable income
22 dividends received or deemed to be received from corporations which
23 are not subject to the Internal Revenue Code.

24 (6) There shall be subtracted from federal taxable income
25 a portion of the income earned by a corporation subject to the

1 Internal Revenue Code of 1986 that is actually taxed by a foreign
2 country or one of its political subdivisions at a rate in excess
3 of the maximum federal tax rate for corporations. The taxpayer may
4 make the computation for each foreign country or for groups of
5 foreign countries. The portion of the taxes that may be deducted
6 shall be computed in the following manner:

7 (a) The amount of federal taxable income from operations
8 within a foreign taxing jurisdiction shall be reduced by the amount
9 of taxes actually paid to the foreign jurisdiction that are not
10 deductible solely because the foreign tax credit was elected on the
11 federal income tax return;

12 (b) The amount of after-tax income shall be divided by
13 one minus the maximum tax rate for corporations in the Internal
14 Revenue Code; and

15 (c) The result of the calculation in subdivision (b) of
16 this subsection shall be subtracted from the amount of federal
17 taxable income used in subdivision (a) of this subsection. The
18 result of such calculation, if greater than zero, shall be
19 subtracted from federal taxable income.

20 (7) Federal adjusted gross income shall be modified to
21 exclude any amount repaid by the taxpayer for which a reduction
22 in federal tax is allowed under section 1341(a)(5) of the Internal
23 Revenue Code.

24 (8) (a) Federal adjusted gross income or, for corporations
25 and fiduciaries, federal taxable income shall be reduced, to the

1 extent included, by income from interest, earnings, and state
2 contributions received from the Nebraska educational savings plan
3 trust created in sections 85-1801 to 85-1814.

4 (b) Federal adjusted gross income or, for corporations
5 and fiduciaries, federal taxable income shall be reduced, to the
6 extent not deducted for federal income tax purposes, by the amount
7 of any gift, grant, or donation made to the Nebraska educational
8 savings plan trust for deposit in the endowment fund of the trust.

9 (c) Federal adjusted gross income or, for corporations
10 and fiduciaries, federal taxable income shall be reduced by any
11 contributions as a participant in the Nebraska educational savings
12 plan trust, to the extent not deducted for federal income tax
13 purposes, but not to exceed two thousand five hundred dollars per
14 married filing separate return or five thousand dollars for any
15 other return.

16 (d) Federal adjusted gross income or, for corporations
17 and fiduciaries, federal taxable income shall be increased by
18 the amount resulting from the cancellation of a participation
19 agreement refunded to the taxpayer as a participant in the Nebraska
20 educational savings plan trust to the extent previously deducted as
21 a contribution to the trust.

22 (9) (a) For income tax returns filed after September 10,
23 2001, for taxable years beginning or deemed to begin before January
24 1, 2006, under the Internal Revenue Code of 1986, as amended,
25 federal adjusted gross income or, for corporations and fiduciaries,

1 federal taxable income shall be increased by eighty-five percent
2 of any amount of any federal bonus depreciation received under
3 the federal Job Creation and Worker Assistance Act of 2002 or the
4 federal Jobs and Growth Tax Act of 2003, under section 168(k) or
5 section 1400L of the Internal Revenue Code of 1986, as amended,
6 for assets placed in service after September 10, 2001, and before
7 December 31, 2005.

8 (b) For a partnership, limited liability company,
9 cooperative, including any cooperative exempt from income taxes
10 under section 521 of the Internal Revenue Code of 1986, as amended,
11 limited cooperative association, subchapter S corporation, or
12 joint venture, the increase shall be distributed to the partners,
13 members, shareholders, patrons, or beneficiaries in the same
14 manner as income is distributed for use against their income tax
15 liabilities.

16 (c) For a corporation with a unitary business having
17 activity both inside and outside the state, the increase shall be
18 apportioned to Nebraska in the same manner as income is apportioned
19 to the state by section 77-2734.05.

20 (d) The amount of bonus depreciation added to federal
21 adjusted gross income or, for corporations and fiduciaries, federal
22 taxable income by this subsection shall be subtracted in a
23 later taxable year. Twenty percent of the total amount of bonus
24 depreciation added back by this subsection for tax years beginning
25 or deemed to begin before January 1, 2003, under the Internal

1 Revenue Code of 1986, as amended, may be subtracted in the first
2 taxable year beginning or deemed to begin on or after January 1,
3 2005, under the Internal Revenue Code of 1986, as amended, and
4 twenty percent in each of the next four following taxable years.
5 Twenty percent of the total amount of bonus depreciation added back
6 by this subsection for tax years beginning or deemed to begin on or
7 after January 1, 2003, may be subtracted in the first taxable year
8 beginning or deemed to begin on or after January 1, 2006, under the
9 Internal Revenue Code of 1986, as amended, and twenty percent in
10 each of the next four following taxable years.

11 (10) For taxable years beginning or deemed to begin on
12 or after January 1, 2003, and before January 1, 2006, under the
13 Internal Revenue Code of 1986, as amended, federal adjusted gross
14 income or, for corporations and fiduciaries, federal taxable income
15 shall be increased by the amount of any capital investment that is
16 expensed under section 179 of the Internal Revenue Code of 1986,
17 as amended, that is in excess of twenty-five thousand dollars that
18 is allowed under the federal Jobs and Growth Tax Act of 2003.
19 Twenty percent of the total amount of expensing added back by
20 this subsection for tax years beginning or deemed to begin on or
21 after January 1, 2003, may be subtracted in the first taxable year
22 beginning or deemed to begin on or after January 1, 2006, under the
23 Internal Revenue Code of 1986, as amended, and twenty percent in
24 each of the next four following tax years.

25 (11)(a) Federal adjusted gross income shall be reduced

1 by contributions, up to two thousand dollars per married filing
2 jointly return or one thousand dollars for any other return, and
3 any investment earnings made as a participant in the Nebraska
4 long-term care savings plan under the Long-Term Care Savings Plan
5 Act, to the extent not deducted for federal income tax purposes.

6 (b) Federal adjusted gross income shall be increased by
7 the withdrawals made as a participant in the Nebraska long-term
8 care savings plan under the act by a person who is not a qualified
9 individual or for any reason other than transfer of funds to a
10 spouse, long-term care expenses, long-term care insurance premiums,
11 or death of the participant, including withdrawals made by reason
12 of cancellation of the participation agreement or termination of
13 the plan, to the extent previously deducted as a contribution or as
14 investment earnings.

15 (12) There shall be added to federal adjusted gross
16 income for individuals, estates, and trusts any amount taken as
17 a credit for franchise tax paid by a financial institution under
18 sections 77-3801 to 77-3807 as allowed by subsection (5) of section
19 77-2715.07.

20 Sec. 2. This act becomes operative for all taxable years
21 beginning or deemed to begin on or after January 1, 2009, under the
22 Internal Revenue Code of 1986, as amended.

23 Sec. 3. Original section 77-2716, Revised Statutes
24 Supplement, 2007, is repealed.