

E AND R AMENDMENTS TO LB 970

Introduced by Larson, 40, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 77-2701, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
6 77-27,236 and section 5 of this act shall be known and may be cited  
7 as the Nebraska Revenue Act of 1967.

8           Sec. 2. Section 77-2701.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           77-2701.01 Pursuant to section 77-2715.01, for all  
11 taxable years beginning or deemed to begin on or after January 1,  
12 1990, and before January 1, 1991, under the Internal Revenue Code  
13 of 1986, as amended, the rate of the income tax levied pursuant to  
14 section 77-2715 shall be three and forty-three-hundredths percent.  
15 Pursuant to section 77-2715.01, for all taxable years beginning or  
16 deemed to begin on or after January 1, 1991, and before January 1,  
17 2013, under the Internal Revenue Code of 1986, as amended, the rate  
18 of the income tax levied pursuant to section 77-2715 shall be three  
19 and seventy-hundredths percent. Pursuant to section 77-2715.01, for  
20 all taxable years beginning or deemed to begin on or after January  
21 1, 2013, under the Internal Revenue Code of 1986, as amended, the  
22 rates of the income tax levied pursuant to section 77-2715 shall be  
23 as provided in section 5 of this act.

1           Sec. 3. Section 77-2715.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-2715.01 (1)(a) Commencing in 1987 the Legislature  
4 shall set the ~~rate~~ rates for the income tax imposed by section  
5 77-2715 and the rate of the sales tax imposed by subsection (1)  
6 of section 77-2703. ~~The~~ For taxable years beginning or deemed to  
7 begin before January 1, 2013, the rate of the income tax set by the  
8 Legislature shall be considered the primary rate for establishing  
9 the tax rate schedules used to compute the tax.

10           (b) The Legislature shall set the rates of the sales tax  
11 and income tax so that the estimated funds available plus estimated  
12 receipts from the sales, use, income, and franchise taxes will be  
13 not less than three percent nor more than seven percent in excess  
14 of the appropriations and express obligations for the biennium for  
15 which the appropriations are made. The purpose of this subdivision  
16 is to insure that there shall be maintained in the state treasury  
17 an adequate General Fund balance, considering cash flow, to meet  
18 the appropriations and express obligations of the state.

19           (c) For purposes of this section, express obligation  
20 shall mean an obligation which has fiscal impact identifiable by a  
21 sum certain or by an established percentage or other determinative  
22 factor or factors.

23           (2) The Speaker of the Legislature and the chairpersons  
24 of the Legislature's Executive Board, Revenue Committee, and  
25 Appropriations Committee shall meet with the Tax Commissioner  
26 within ten days after July 15 and November 15 of each year  
27 and shall determine whether the rates for sales tax and income

1 tax should be changed. In making such determination they shall  
2 recalculate the requirements pursuant to the formula set forth  
3 in subsection (1) of this section, taking into consideration  
4 the appropriations and express obligations for any session,  
5 all miscellaneous claims, deficiency bills, and all emergency  
6 appropriations.

7 In the event it is determined by a majority vote that  
8 the rates must be changed as a result of a regular or special  
9 session or as a result of a change in the Internal Revenue Code  
10 of 1986 and amendments thereto, other provisions of the laws of  
11 the United States relating to federal income taxes, and the rules  
12 and regulations issued under such laws, they shall petition the  
13 Governor to call a special session of the Legislature to make  
14 whatever rate changes may be necessary.

15 Sec. 4. Section 77-2715.02, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 77-2715.02 ~~(1)~~ Whenever the primary rate is changed by  
18 the Legislature under section 77-2715.01, the Tax Commissioner  
19 shall update the rate schedules required in subsection ~~(2)~~ of this  
20 section to reflect the new primary rate and shall publish such  
21 updated schedules.

22 ~~(2)~~ (1) The following rate schedules are hereby  
23 established for the Nebraska individual income tax and shall be in  
24 the following form:

25 (a) For taxable years beginning or deemed to begin before  
26 January 1, 2007, income amounts for columns A and E shall be:

27 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

1                   (ii) \$0, \$4,000, \$31,000, and \$50,000, for married filing  
2 joint returns;

3                   (iii) \$0, \$3,800, \$25,000, and \$35,000, for  
4 head-of-household returns;

5                   (iv) \$0, \$2,000, \$15,500, and \$25,000, for married filing  
6 separate returns; and

7                   (v) \$0, \$500, \$4,700, and \$15,150, for estates and  
8 trusts;

9                   (b) For taxable years beginning or deemed to begin on or  
10 after January 1, 2007, and before January 1, 2013, income amounts  
11 for columns A and E shall be:

12                   (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

13                   (ii) \$0, \$4,800, \$35,000, and \$54,000, for married filing  
14 joint returns;

15                   (iii) \$0, \$4,500, \$28,000, and \$40,000, for  
16 head-of-household returns;

17                   (iv) \$0, \$2,400, \$17,500, and \$27,000, for married filing  
18 separate returns; and

19                   (v) \$0, \$500, \$4,700, and \$15,150, for estates and  
20 trusts;

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

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

25                   (e) For taxable years beginning or deemed to begin  
26 before January 1, 2003, under the Internal Revenue Code of 1986,  
27 as amended, the primary rate set by the Legislature shall be

1 multiplied by the following factors to compute the tax rates for  
2 column D. The factors for the brackets, from lowest to highest  
3 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

4 (f) For taxable years beginning or deemed to begin on  
5 or after January 1, 2003, and before January 1, 2013, under the  
6 Internal Revenue Code of 1986, as amended, the primary rate set  
7 by the Legislature shall be multiplied by the following factors to  
8 compute the tax rates for column D. The factors for the brackets,  
9 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and  
10 1.848;

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

14 (h) One rate schedule shall be established for each  
15 federal filing status.

16 ~~(3)~~ (2) The tax rate schedules shall use the format set  
17 forth in this subsection.

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

21 ~~(4)~~ (3) For taxable years beginning or deemed to  
22 begin before January 1, 2013, the tax rate applied to other federal  
23 taxes included in the computation of the Nebraska individual income  
24 tax shall be eight times the primary rate.

25 ~~(5)~~ The Tax Commissioner shall prepare, from the rate  
26 schedules, tax tables which can be used by a majority of the  
27 taxpayers to determine their Nebraska tax liability. The design of

1 the tax tables shall be determined by the Tax Commissioner. The  
2 size of the tax table brackets may change as the level of income  
3 changes. The difference in tax between two tax table brackets shall  
4 not exceed fifteen dollars. The Tax Commissioner may build the  
5 personal exemption credit and standard deduction amounts into the  
6 tax tables.

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

10 Sec. 5. (1) For taxable years beginning or deemed to  
11 begin on or after January 1, 2013, and before January 1, 2014,  
12 the following brackets and rates are hereby established for the  
13 Nebraska individual income tax:

14 Individual Income Tax Brackets and Rates

<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>	
<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>	
		<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>		
18	<u>1</u>	<u>\$0-2,399</u>	<u>\$0-4,799</u>	<u>\$0-4,499</u>	<u>\$0-2,399</u>	<u>\$0-499</u>	<u>2.46%</u>
19	<u>2</u>	<u>\$2,400-</u>	<u>\$4,800-</u>	<u>\$4,500-</u>	<u>\$2,400-</u>	<u>\$500-</u>	
20		<u>17,499</u>	<u>34,999</u>	<u>27,999</u>	<u>17,499</u>	<u>4,699</u>	<u>3.51%</u>
21	<u>3</u>	<u>\$17,500-</u>	<u>\$35,000-</u>	<u>\$28,000-</u>	<u>\$17,500-</u>	<u>\$4,700-</u>	
22		<u>26,999</u>	<u>53,999</u>	<u>39,999</u>	<u>26,999</u>	<u>15,149</u>	<u>5.01%</u>
23	<u>4</u>	<u>\$27,000</u>	<u>\$54,000</u>	<u>\$40,000</u>	<u>\$27,000</u>	<u>\$15,150</u>	
24		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.84%</u>

25 (2) For taxable years beginning or deemed to begin on or  
26 after January 1, 2014, the following brackets and rates are hereby  
27 established for the Nebraska individual income tax:

1                    Individual Income Tax Brackets and Rates

2	<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
3	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
4			<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
5	<u>1</u>	<u>\$0-2,999</u>	<u>\$0-5,999</u>	<u>\$0-5,599</u>	<u>\$0-2,999</u>	<u>\$0-499</u>	<u>2.46%</u>
6	<u>2</u>	<u>\$3,000-</u>	<u>\$6,000-</u>	<u>\$5,600-</u>	<u>\$3,000-</u>	<u>\$500-</u>	
7		<u>17,999</u>	<u>35,999</u>	<u>28,799</u>	<u>17,999</u>	<u>4,699</u>	<u>3.51%</u>
8	<u>3</u>	<u>\$18,000-</u>	<u>\$36,000-</u>	<u>\$28,800-</u>	<u>\$18,000-</u>	<u>\$4,700-</u>	
9		<u>28,999</u>	<u>57,999</u>	<u>42,999</u>	<u>28,999</u>	<u>15,149</u>	<u>5.01%</u>
10	<u>4</u>	<u>\$29,000</u>	<u>\$58,000</u>	<u>\$43,000</u>	<u>\$29,000</u>	<u>\$15,150</u>	
11		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.84%</u>

12                    (3) Whenever the tax brackets or tax rates are changed  
13 by the Legislature, the Tax Commissioner shall update the tax rate  
14 schedules to reflect the new tax brackets or tax rates and shall  
15 publish such updated schedules.

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

25                    (5) For taxable years beginning or deemed to begin on or  
26 after January 1, 2013, the tax rate applied to other federal taxes  
27 included in the computation of the Nebraska individual income tax  
28 shall be 29.6 percent.

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

4           Sec. 6. Section 77-2717, Revised Statutes Supplement,  
5 2011, is amended to read:

6           77-2717 (1)(a) The tax imposed on all resident estates  
7 and trusts shall be a percentage of the federal taxable income  
8 of such estates and trusts as modified in section 77-2716, plus  
9 a percentage of the federal alternative minimum tax and the  
10 federal tax on premature or lump-sum distributions from qualified  
11 retirement plans. The additional taxes shall be recomputed by (i)  
12 substituting Nebraska taxable income for federal taxable income,  
13 (ii) calculating what the federal alternative minimum tax would  
14 be on Nebraska taxable income and adjusting such calculations for  
15 any items which are reflected differently in the determination of  
16 federal taxable income, and (iii) applying Nebraska rates to the  
17 result. The federal credit for prior year minimum tax, after the  
18 recomputations required by the Nebraska Revenue Act of 1967, and  
19 the credits provided in the Nebraska Advantage Microenterprise Tax  
20 Credit Act and the Nebraska Advantage Research and Development  
21 Act shall be allowed as a reduction in the income tax due. A  
22 refundable income tax credit shall be allowed for all resident  
23 estates and trusts under the Angel Investment Tax Credit Act, the  
24 Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska  
25 Advantage Research and Development Act.

26           (b) The tax imposed on all nonresident estates and trusts  
27 shall be the portion of the tax imposed on resident estates and

1 trusts which is attributable to the income derived from sources  
2 within this state. The tax which is attributable to income derived  
3 from sources within this state shall be determined by multiplying  
4 the liability to this state for a resident estate or trust with  
5 the same total income by a fraction, the numerator of which is  
6 the nonresident estate's or trust's Nebraska income as determined  
7 by sections 77-2724 and 77-2725 and the denominator of which is  
8 its total federal income after first adjusting each by the amounts  
9 provided in section 77-2716. The federal credit for prior year  
10 minimum tax, after the recomputations required by the Nebraska  
11 Revenue Act of 1967, reduced by the percentage of the total income  
12 which is attributable to income from sources outside this state,  
13 and the credits provided in the Nebraska Advantage Microenterprise  
14 Tax Credit Act and the Nebraska Advantage Research and Development  
15 Act shall be allowed as a reduction in the income tax due. A  
16 refundable income tax credit shall be allowed for all nonresident  
17 estates and trusts under the Angel Investment Tax Credit Act, the  
18 Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska  
19 Advantage Research and Development Act.

20 (2) In all instances wherein a fiduciary income tax  
21 return is required under the provisions of the Internal Revenue  
22 Code, a Nebraska fiduciary return shall be filed, except that a  
23 fiduciary return shall not be required to be filed regarding a  
24 simple trust if all of the trust's beneficiaries are residents of  
25 the State of Nebraska, all of the trust's income is derived from  
26 sources in this state, and the trust has no federal tax liability.  
27 The fiduciary shall be responsible for making the return for the

1 estate or trust for which he or she acts, whether the income be  
2 taxable to the estate or trust or to the beneficiaries thereof.  
3 The fiduciary shall include in the return a statement of each  
4 beneficiary's distributive share of net income when such income is  
5 taxable to such beneficiaries.

6 (3) The beneficiaries of such estate or trust who are  
7 residents of this state shall include in their income their  
8 proportionate share of such estate's or trust's federal income and  
9 shall reduce their Nebraska tax liability by their proportionate  
10 share of the credits as provided in the Angel Investment Tax Credit  
11 Act, the Nebraska Advantage Microenterprise Tax Credit Act, and  
12 the Nebraska Advantage Research and Development Act. There shall be  
13 allowed to a beneficiary a refundable income tax credit under the  
14 Beginning Farmer Tax Credit Act for all taxable years beginning or  
15 deemed to begin on or after January 1, 2001, under the Internal  
16 Revenue Code of 1986, as amended.

17 (4) If any beneficiary of such estate or trust is a  
18 nonresident during any part of the estate's or trust's taxable  
19 year, he or she shall file a Nebraska income tax return which shall  
20 include (a) in Nebraska adjusted gross income that portion of the  
21 estate's or trust's Nebraska income, as determined under sections  
22 77-2724 and 77-2725, allocable to his or her interest in the  
23 estate or trust and (b) a reduction of the Nebraska tax liability  
24 by his or her proportionate share of the credits as provided  
25 in the Angel Investment Tax Credit Act, the Nebraska Advantage  
26 Microenterprise Tax Credit Act, and the Nebraska Advantage Research  
27 and Development Act and shall execute and forward to the fiduciary,

1 on or before the original due date of the Nebraska fiduciary  
2 return, an agreement which states that he or she will file a  
3 Nebraska income tax return and pay income tax on all income derived  
4 from or connected with sources in this state, and such agreement  
5 shall be attached to the Nebraska fiduciary return for such taxable  
6 year.

7 (5) In the absence of the nonresident beneficiary's  
8 executed agreement being attached to the Nebraska fiduciary return,  
9 the estate or trust shall remit a portion of such beneficiary's  
10 income which was derived from or attributable to Nebraska sources  
11 with its Nebraska return for the taxable year. The For taxable  
12 years beginning or deemed to begin before January 1, 2013, the  
13 amount of remittance, in such instance, shall be the highest  
14 individual income tax rate determined under section 77-2715.02  
15 multiplied by the nonresident beneficiary's share of the estate  
16 or trust income which was derived from or attributable to sources  
17 within this state. For taxable years beginning or deemed to  
18 begin on or after January 1, 2013, the amount of remittance,  
19 in such instance, shall be the highest individual income tax  
20 rate determined under section 5 of this act multiplied by the  
21 nonresident beneficiary's share of the estate or trust income which  
22 was derived from or attributable to sources within this state. The  
23 amount remitted shall be allowed as a credit against the Nebraska  
24 income tax liability of the beneficiary.

25 (6) The Tax Commissioner may allow a nonresident  
26 beneficiary to not file a Nebraska income tax return if the  
27 nonresident beneficiary's only source of Nebraska income was his or

1 her share of the estate's or trust's income which was derived from  
2 or attributable to sources within this state, the nonresident did  
3 not file an agreement to file a Nebraska income tax return, and  
4 the estate or trust has remitted the amount required by subsection  
5 (5) of this section on behalf of such nonresident beneficiary. The  
6 amount remitted shall be retained in satisfaction of the Nebraska  
7 income tax liability of the nonresident beneficiary.

8 (7) For purposes of this section, unless the context  
9 otherwise requires, simple trust shall mean any trust instrument  
10 which (a) requires that all income shall be distributed currently  
11 to the beneficiaries, (b) does not allow amounts to be paid,  
12 permanently set aside, or used in the tax year for charitable  
13 purposes, and (c) does not distribute amounts allocated in the  
14 corpus of the trust. Any trust which does not qualify as a simple  
15 trust shall be deemed a complex trust.

16 (8) For purposes of this section, any beneficiary of an  
17 estate or trust that is a grantor trust of a nonresident shall be  
18 disregarded and this section shall apply as though the nonresident  
19 grantor was the beneficiary.

20 Sec. 7. Section 77-2727, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 77-2727 (1) A partnership as such shall not be subject  
23 to the income tax imposed by the Nebraska Revenue Act of 1967.  
24 Persons or their authorized representatives carrying on business  
25 as partners shall be liable for the income tax imposed by the  
26 Nebraska Revenue Act of 1967 only in their separate or individual  
27 capacities.

1           (2) The partners of such partnership who are residents  
2 of this state or corporations shall include in their incomes their  
3 proportionate share of such partnership's income.

4           (3) If any partner of such partnership is a nonresident  
5 individual during any part of the partnership's reporting year, he  
6 or she shall file a Nebraska income tax return which shall include  
7 in Nebraska adjusted gross income that portion of the partnership's  
8 Nebraska income, as determined under the provisions of sections  
9 77-2728 and 77-2729, allocable to his or her interest in the  
10 partnership and shall execute and forward to the partnership, on or  
11 before the original due date of the Nebraska partnership return,  
12 an agreement which states that he or she will file a Nebraska  
13 income tax return and pay income tax on all income derived from  
14 or attributable to sources in this state, and such agreement shall  
15 be attached to the partnership's Nebraska return for such reporting  
16 year.

17           (4)(a) Except as provided in subdivision (c) of this  
18 subsection, in the absence of the nonresident individual partner's  
19 executed agreement being attached to the Nebraska partnership  
20 return, the partnership shall remit a portion of such partner's  
21 income which was derived from or attributable to Nebraska sources  
22 with its Nebraska return for the reporting year. ~~The~~ For tax years  
23 beginning or deemed to begin before January 1, 2013, the amount  
24 of remittance, in such instance, shall be the highest individual  
25 income tax rate determined under section 77-2715.02 multiplied  
26 by the nonresident individual partner's share of the partnership  
27 income which was derived from or attributable to sources within

1 this state. For tax years beginning or deemed to begin on or  
2 after January 1, 2013, the amount of remittance, in such instance,  
3 shall be the highest individual income tax rate determined under  
4 section 5 of this act multiplied by the nonresident individual  
5 partner's share of the partnership income which was derived from or  
6 attributable to sources within this state.

7 (b) Any amount remitted on behalf of any partner shall be  
8 allowed as a credit against the Nebraska income tax liability of  
9 the partner.

10 (c) Subdivision (a) of this subsection does not apply to  
11 a publicly traded partnership as defined by section 7704(b) of the  
12 Internal Revenue Code of 1986, as amended, that is treated as a  
13 partnership for the purposes of the code and that has agreed to  
14 file an annual information return with the Department of Revenue  
15 reporting the name, address, taxpayer identification number, and  
16 other information requested by the department of each unit holder  
17 with an income in the state in excess of five hundred dollars.

18 (5) The Tax Commissioner may allow a nonresident  
19 individual partner to not file a Nebraska income tax return if the  
20 nonresident individual partner's only source of Nebraska income was  
21 his or her share of the partnership's income which was derived from  
22 or attributable to sources within this state, the nonresident did  
23 not file an agreement to file a Nebraska income tax return, and the  
24 partnership has remitted the amount required by subsection (4) of  
25 this section on behalf of such nonresident individual partner. The  
26 amount remitted shall be retained in satisfaction of the Nebraska  
27 income tax liability of the nonresident individual partner.

1           (6) For purposes of this section, any partner that is  
2 a grantor trust of a nonresident shall be disregarded and this  
3 section shall apply as though the nonresident grantor was the  
4 partner.

5           Sec. 8. Section 77-2734.01, Revised Statutes Cumulative  
6 Supplement, 2010, is amended to read:

7           77-2734.01 (1) Residents of Nebraska who are shareholders  
8 of a small business corporation having an election in effect under  
9 subchapter S of the Internal Revenue Code or who are members  
10 of a limited liability company organized pursuant to the Limited  
11 Liability Company Act or the Nebraska Uniform Limited Liability  
12 Company Act shall include in their Nebraska taxable income, to  
13 the extent includable in federal gross income, their proportionate  
14 share of such corporation's or limited liability company's federal  
15 income adjusted pursuant to this section. Income or loss from such  
16 corporation or limited liability company conducting a business,  
17 trade, profession, or occupation shall be included in the Nebraska  
18 taxable income of a shareholder or member who is a resident of this  
19 state to the extent of such shareholder's or member's proportionate  
20 share of the net income or loss from the conduct of such business,  
21 trade, profession, or occupation within this state, determined  
22 under subsection (2) of this section. A resident of Nebraska  
23 shall include in Nebraska taxable income fair compensation for  
24 services rendered to such corporation or limited liability company.  
25 Compensation actually paid shall be presumed to be fair unless  
26 it is apparent to the Tax Commissioner that such compensation is  
27 materially different from fair value for the services rendered or

1 has been manipulated for tax avoidance purposes.

2 (2) The income of any small business corporation having  
3 an election in effect under subchapter S of the Internal Revenue  
4 Code or limited liability company organized pursuant to the Limited  
5 Liability Company Act or the Nebraska Uniform Limited Liability  
6 Company Act that is derived from or connected with Nebraska sources  
7 shall be determined in the following manner:

8 (a) If the small business corporation is a member of a  
9 unitary group, the small business corporation shall be deemed to  
10 be doing business within this state if any part of its income  
11 is derived from transactions with other members of the unitary  
12 group doing business within this state, and such corporation  
13 shall apportion its income by using the apportionment factor  
14 determined for the entire unitary group, including the small  
15 business corporation, under sections 77-2734.05 to 77-2734.15;

16 (b) If the small business corporation or limited  
17 liability company is not a member of a unitary group and is subject  
18 to tax in another state, it shall apportion its income under  
19 sections 77-2734.05 to 77-2734.15; and

20 (c) If the small business corporation or limited  
21 liability company is not subject to tax in another state, all of  
22 its income is derived from or connected with Nebraska sources.

23 (3) Nonresidents of Nebraska who are shareholders of  
24 such corporations or members of such limited liability companies  
25 shall file a Nebraska income tax return and shall include in  
26 Nebraska adjusted gross income their proportionate share of the  
27 corporation's or limited liability company's Nebraska income as

1 determined under subsection (2) of this section.

2 (4) The nonresident shareholder or member shall execute  
3 and forward to the corporation or limited liability company before  
4 the filing of the corporation's or limited liability company's  
5 return an agreement which states he or she will file a Nebraska  
6 income tax return and pay the tax on the income derived from or  
7 connected with sources in this state, and such agreement shall  
8 be attached to the corporation's or limited liability company's  
9 Nebraska return for such taxable year.

10 (5) ~~In~~ For taxable years beginning or deemed to begin  
11 before January 1, 2013, in the absence of the nonresident  
12 shareholder's or member's executed agreement being attached to  
13 the Nebraska return, the corporation or limited liability company  
14 shall remit with the return an amount equal to the highest  
15 individual income tax rate determined under section 77-2715.02  
16 multiplied by the nonresident shareholder's or member's share of  
17 the corporation's or limited liability company's income which was  
18 derived from or attributable to this state. For taxable years  
19 beginning or deemed to begin on or after January 1, 2013, in  
20 the absence of the nonresident shareholder's or member's executed  
21 agreement being attached to the Nebraska return, the corporation  
22 or limited liability company shall remit with the return an amount  
23 equal to the highest individual income tax rate determined under  
24 section 5 of this act multiplied by the nonresident shareholder's  
25 or member's share of the corporation's or limited liability  
26 company's income which was derived from or attributable to this  
27 state. The amount remitted shall be allowed as a credit against the

1 Nebraska income tax liability of the shareholder or member.

2           (6) The Tax Commissioner may allow a nonresident  
3 individual shareholder or member to not file a Nebraska income  
4 tax return if the nonresident individual shareholder's or member's  
5 only source of Nebraska income was his or her share of the small  
6 business corporation's or limited liability company's income which  
7 was derived from or attributable to sources within this state, the  
8 nonresident did not file an agreement to file a Nebraska income  
9 tax return, and the small business corporation or limited liability  
10 company has remitted the amount required by subsection (5) of this  
11 section on behalf of such nonresident individual shareholder or  
12 member. The amount remitted shall be retained in satisfaction of  
13 the Nebraska income tax liability of the nonresident individual  
14 shareholder or member.

15           (7) A small business corporation or limited liability  
16 company return shall be filed only if one or more of the  
17 shareholders of the corporation or members of the limited liability  
18 company are not residents of the State of Nebraska or if such  
19 corporation or limited liability company has income derived from  
20 sources outside this state.

21           (8) For purposes of this section, any shareholder or  
22 member of the corporation or limited liability company that is  
23 a grantor trust of a nonresident shall be disregarded and this  
24 section shall apply as though the nonresident grantor was the  
25 shareholder or member.

26           Sec. 9. Section 77-2734.02, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   77-2734.02 (1) Except as provided in subsection (2) of  
2 this section, a tax is hereby imposed ~~for each taxable year~~ on the  
3 taxable income of every corporate taxpayer that is doing business  
4 in this state:

5                   (a) For taxable years beginning or deemed to begin  
6 before January 1, 2013, at a rate equal to one hundred fifty and  
7 eight-tenths percent of the primary rate imposed on individuals  
8 under section 77-2701.01 on the first one hundred thousand dollars  
9 of taxable income and at the rate of two hundred eleven percent of  
10 such rate on all taxable income in excess of one hundred thousand  
11 dollars. The resultant rates shall be rounded to the nearest one  
12 hundredth of one percent; and-

13                   (b) For taxable years beginning or deemed to begin on  
14 or after January 1, 2013, at a rate equal to 5.58 percent on the  
15 first one hundred thousand dollars of taxable income and at the  
16 rate of 7.81 percent on all taxable income in excess of one hundred  
17 thousand dollars.

18                   For corporate taxpayers with a fiscal year that does not  
19 coincide with the calendar year, the individual rate used for this  
20 subsection shall be the rate in effect on the first day, or the day  
21 deemed to be the first day, of the taxable year.

22                   (2) An insurance company shall be subject to taxation  
23 at the lesser of the rate described in subsection (1) of this  
24 section or the rate of tax imposed by the state or country in which  
25 the insurance company is domiciled if the insurance company can  
26 establish to the satisfaction of the Tax Commissioner that it is  
27 domiciled in a state or country other than Nebraska that imposes

1 on Nebraska domiciled insurance companies a retaliatory tax against  
2 the tax described in subsection (1) of this section.

3 (3) For a corporate taxpayer that is subject to tax in  
4 another state, its taxable income shall be the portion of the  
5 taxpayer's federal taxable income, as adjusted, that is determined  
6 to be connected with the taxpayer's operations in this state  
7 pursuant to sections 77-2734.05 to 77-2734.15.

8 (4) Each corporate taxpayer shall file only one income  
9 tax return for each taxable year.

10 Sec. 10. Original sections 77-2701, 77-2701.01,  
11 77-2715.01, 77-2715.02, 77-2727, and 77-2734.02, Reissue Revised  
12 Statutes of Nebraska, section 77-2734.01, Revised Statutes  
13 Cumulative Supplement, 2010, and section 77-2717, Revised Statutes  
14 Supplement, 2011, are repealed.

15 2. On page 1, line 2, strike "77-2001,"; and in line 6  
16 strike "to terminate the inheritance tax;".