

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 749

Introduced by Cornett, 45.

Read first time January 04, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2701.16, Reissue Revised Statutes of Nebraska; to
3 exempt indoor tanning services from sales and use taxes;
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 77-2701.16, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 77-2701.16 (1) Gross receipts means the total amount of
4 the sale or lease or rental price, as the case may be, of the retail
5 sales of retailers.

6 (2) Gross receipts of every person engaged as a public
7 utility specified in this subsection, as a community antenna
8 television service operator, or as a satellite service operator or
9 any person involved in connecting and installing services defined in
10 subdivision (2)(a), (b), or (d) of this section means:

11 (a)(i) In the furnishing of telephone communication
12 service, other than mobile telecommunications service as described in
13 section 77-2703.04, the gross income received from furnishing
14 ancillary services, except for conference bridging services, and
15 intrastate telecommunications services, except for value-added,
16 nonvoice data service; and

17 (ii) In the furnishing of mobile telecommunications
18 service as described in section 77-2703.04, the gross income received
19 from furnishing mobile telecommunications service that originates and
20 terminates in the same state to a customer with a place of primary
21 use in Nebraska;

22 (b) In the furnishing of telegraph service, the gross
23 income received from the furnishing of intrastate telegraph services;

24 (c) In the furnishing of gas, electricity, sewer, and
25 water service, the gross income received from the furnishing of such

1 services upon billings or statements rendered to consumers for such
2 utility services;

3 (d) In the furnishing of community antenna television
4 service or satellite service, the gross income received from the
5 furnishing of such community antenna television service as regulated
6 under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite
7 service; and

8 (e) The gross income received from the provision,
9 installation, construction, servicing, or removal of property used in
10 conjunction with the furnishing, installing, or connecting of any
11 public utility services specified in subdivision (2)(a) or (b) of
12 this section or community antenna television service or satellite
13 service specified in subdivision (2)(d) of this section, except when
14 acting as a subcontractor for a public utility, this subdivision does
15 not apply to the gross income received by a contractor electing to be
16 treated as a consumer of building materials under subdivision (2) or
17 (3) of section 77-2701.10 for any such services performed on the
18 customer's side of the utility demarcation point.

19 (3) Gross receipts of every person engaged in selling,
20 leasing, or otherwise providing intellectual or entertainment
21 property means:

22 (a) In the furnishing of computer software, the gross
23 income received, including the charges for coding, punching, or
24 otherwise producing any computer software and the charges for the
25 tapes, disks, punched cards, or other properties furnished by the

1 seller; and

2 (b) In the furnishing of videotapes, movie film,
3 satellite programming, satellite programming service, and satellite
4 television signal descrambling or decoding devices, the gross income
5 received from the license, franchise, or other method establishing
6 the charge.

7 (4) Gross receipts for providing a service means:

8 (a) The gross income received for building cleaning and
9 maintenance, pest control, and security;

10 (b) The gross income received for motor vehicle washing,
11 waxing, towing, and painting;

12 (c) The gross income received for computer software
13 training;

14 (d) The gross income received for installing and applying
15 tangible personal property if the sale of the property is subject to
16 tax. If any or all of the charge for installation is free to the
17 customer and is paid by a third-party service provider to the
18 installer, any tax due on that part of the activation commission,
19 finder's fee, installation charge, or similar payment made by the
20 third-party service provider shall be paid and remitted by the third-
21 party service provider;

22 (e) The gross income received for services of
23 recreational vehicle parks;

24 (f) The gross income received for labor for repair or
25 maintenance services performed with regard to tangible personal

1 property the sale of which would be subject to sales and use taxes,
2 excluding motor vehicles, except as otherwise provided in section
3 77-2704.26 or 77-2704.50;

4 (g) The gross income received for animal specialty
5 services except (i) veterinary services, (ii) specialty services
6 performed on livestock as defined in section 54-183, and (iii) animal
7 grooming performed by a licensed veterinarian or a licensed
8 veterinary technician in conjunction with medical treatment; and

9 (h) The gross income received for detective services.

10 (5) Gross receipts includes the sale of admissions which
11 means the right or privilege to have access to or to use a place or
12 location. An admission includes a membership that allows access to or
13 use of a place or location, but which membership does not include the
14 right to hold office, vote, or change the policies of the
15 organization. An admission does not include indoor tanning services.
16 When an admission to an activity or a membership constituting an
17 admission pursuant to this subsection is combined with the
18 solicitation of a contribution, the portion or the amount charged
19 representing the fair market price of the admission shall be
20 considered a retail sale subject to the tax imposed by section
21 77-2703. The organization conducting the activity shall determine the
22 amount properly attributable to the purchase of the privilege,
23 benefit, or other consideration in advance, and such amount shall be
24 clearly indicated on any ticket, receipt, or other evidence issued in
25 connection with the payment.

1 (6) Gross receipts includes the sale of live plants
2 incorporated into real estate except when such incorporation is
3 incidental to the transfer of an improvement upon real estate or the
4 real estate.

5 (7) Gross receipts includes the sale of any building
6 materials annexed to real estate by a person electing to be taxed as
7 a retailer pursuant to subdivision (1) of section 77-2701.10.

8 (8) Gross receipts includes the sale of and recharge of
9 prepaid calling service and prepaid wireless calling service.

10 (9) Gross receipts includes the retail sale of digital
11 audio works, digital audiovisual works, digital codes, and digital
12 books delivered electronically if the products are taxable when
13 delivered on tangible storage media. A sale includes the transfer of
14 a permanent right of use, the transfer of a right of use that
15 terminates on some condition, and the transfer of a right of use
16 conditioned upon the receipt of continued payments.

17 (10) Gross receipts does not include:

18 (a) The amount of any rebate granted by a motor vehicle
19 or motorboat manufacturer or dealer at the time of sale of the motor
20 vehicle or motorboat, which rebate functions as a discount from the
21 sales price of the motor vehicle or motorboat; or

22 (b) The price of property or services returned or
23 rejected by customers when the full sales price is refunded either in
24 cash or credit.

25 Sec. 2. This act becomes operative on October 1, 2012.

1 Sec. 3. Original section 77-2701.16, Reissue Revised
2 Statutes of Nebraska, is repealed.