

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 68**

Introduced by Schumacher, 22.

Read first time January 08, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2716 and 77-27,132, Revised Statutes Cumulative Supplement, 2014;
- 3 to eliminate step-up basis for real estate located in this state for
- 4 determination of capital gains; to provide for use of funds; to
- 5 provide an operative date; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2716, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

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

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

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

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

24 (d) There shall be added that portion of the total dividends and  
25 other income received from a regulated investment company which is  
26 attributable to obligations described in subdivision (c) of this  
27 subsection and excluded for federal income tax purposes as reported to  
28 the recipient by the regulated investment company; and

29 (e)(i) Any amount subtracted under this subsection shall be reduced  
30 by any interest on indebtedness incurred to carry the obligations or  
31 securities described in this subsection or the investment in the

1 regulated investment company and by any expenses incurred in the  
2 production of interest or dividend income described in this subsection to  
3 the extent that such expenses, including amortizable bond premiums, are  
4 deductible in determining federal taxable income.

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

8 (2) There shall be allowed a net operating loss derived from or  
9 connected with Nebraska sources computed under rules and regulations  
10 adopted and promulgated by the Tax Commissioner consistent, to the extent  
11 possible under the Nebraska Revenue Act of 1967, with the laws of the  
12 United States. For a resident individual, estate, or trust, the net  
13 operating loss computed on the federal income tax return shall be  
14 adjusted by the modifications contained in this section. For a  
15 nonresident individual, estate, or trust or for a partial-year resident  
16 individual, the net operating loss computed on the federal return shall  
17 be adjusted by the modifications contained in this section and any  
18 carryovers or carrybacks shall be limited to the portion of the loss  
19 derived from or connected with Nebraska sources.

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

26 (4) Federal adjusted gross income, or, for a fiduciary, federal  
27 taxable income shall be modified to exclude the portion of the income or  
28 loss received from a small business corporation with an election in  
29 effect under subchapter S of the Internal Revenue Code or from a limited  
30 liability company organized pursuant to the Nebraska Uniform Limited  
31 Liability Company Act that is not derived from or connected with Nebraska

1 sources as determined in section 77-2734.01.

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

6 (6) There shall be subtracted from federal taxable income a portion  
7 of the income earned by a corporation subject to the Internal Revenue  
8 Code of 1986 that is actually taxed by a foreign country or one of its  
9 political subdivisions at a rate in excess of the maximum federal tax  
10 rate for corporations. The taxpayer may make the computation for each  
11 foreign country or for groups of foreign countries. The portion of the  
12 taxes that may be deducted shall be computed in the following manner:

13 (a) The amount of federal taxable income from operations within a  
14 foreign taxing jurisdiction shall be reduced by the amount of taxes  
15 actually paid to the foreign jurisdiction that are not deductible solely  
16 because the foreign tax credit was elected on the federal income tax  
17 return;

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

20 (c) The result of the calculation in subdivision (b) of this  
21 subsection shall be subtracted from the amount of federal taxable income  
22 used in subdivision (a) of this subsection. The result of such  
23 calculation, if greater than zero, shall be subtracted from federal  
24 taxable income.

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

28 (8)(a) Federal adjusted gross income or, for corporations and  
29 fiduciaries, federal taxable income shall be reduced, to the extent  
30 included, by income from interest, earnings, and state contributions  
31 received from the Nebraska educational savings plan trust created in

1 sections 85-1801 to 85-1814.

2 (b) Federal adjusted gross income or, for corporations and  
3 fiduciaries, federal taxable income shall be reduced by any contributions  
4 as a participant in the Nebraska educational savings plan trust, to the  
5 extent not deducted for federal income tax purposes, but not to exceed  
6 five thousand dollars per married filing separate return or ten thousand  
7 dollars for any other return. With respect to a qualified rollover within  
8 the meaning of section 529 of the Internal Revenue Code from another  
9 state's plan, any interest, earnings, and state contributions received  
10 from the other state's educational savings plan which is qualified under  
11 section 529 of the code shall qualify for the reduction provided in this  
12 subdivision. For contributions by a custodian of a custodial account  
13 including rollovers from another custodial account, the reduction shall  
14 only apply to funds added to the custodial account after January 1, 2014.

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

20 (9)(a) For income tax returns filed after September 10, 2001, for  
21 taxable years beginning or deemed to begin before January 1, 2006, under  
22 the Internal Revenue Code of 1986, as amended, federal adjusted gross  
23 income or, for corporations and fiduciaries, federal taxable income shall  
24 be increased by eighty-five percent of any amount of any federal bonus  
25 depreciation received under the federal Job Creation and Worker  
26 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,  
27 under section 168(k) or section 1400L of the Internal Revenue Code of  
28 1986, as amended, for assets placed in service after September 10, 2001,  
29 and before December 31, 2005.

30 (b) For a partnership, limited liability company, cooperative,  
31 including any cooperative exempt from income taxes under section 521 of

1 the Internal Revenue Code of 1986, as amended, limited cooperative  
2 association, subchapter S corporation, or joint venture, the increase  
3 shall be distributed to the partners, members, shareholders, patrons, or  
4 beneficiaries in the same manner as income is distributed for use against  
5 their income tax liabilities.

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

10 (d) The amount of bonus depreciation added to federal adjusted gross  
11 income or, for corporations and fiduciaries, federal taxable income by  
12 this subsection shall be subtracted in a later taxable year. Twenty  
13 percent of the total amount of bonus depreciation added back by this  
14 subsection for tax years beginning or deemed to begin before January 1,  
15 2003, under the Internal Revenue Code of 1986, as amended, may be  
16 subtracted in the first taxable year beginning or deemed to begin on or  
17 after January 1, 2005, under the Internal Revenue Code of 1986, as  
18 amended, and twenty percent in each of the next four following taxable  
19 years. Twenty percent of the total amount of bonus depreciation added  
20 back by 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 each of  
24 the next four following taxable years.

25 (10) For taxable years beginning or deemed to begin on or after  
26 January 1, 2003, and before January 1, 2006, under the Internal Revenue  
27 Code of 1986, as amended, federal adjusted gross income or, for  
28 corporations and fiduciaries, federal taxable income shall be increased  
29 by the amount of any capital investment that is expensed under section  
30 179 of the Internal Revenue Code of 1986, as amended, that is in excess  
31 of twenty-five thousand dollars that is allowed under the federal Jobs

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

7 (11)(a) Federal adjusted gross income shall be reduced by  
8 contributions, up to two thousand dollars per married filing jointly  
9 return or one thousand dollars for any other return, and any investment  
10 earnings made as a participant in the Nebraska long-term care savings  
11 plan under the Long-Term Care Savings Plan Act, to the extent not  
12 deducted for federal income tax purposes.

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

21 (12) There shall be added to federal adjusted gross income for  
22 individuals, estates, and trusts any amount taken as a credit for  
23 franchise tax paid by a financial institution under sections 77-3801 to  
24 77-3807 as allowed by subsection (5) of section 77-2715.07.

25 (13) For taxable years beginning or deemed to begin on or after  
26 January 1, 2015, under the Internal Revenue Code of 1986, as amended,  
27 federal adjusted gross income shall be reduced by the amount received as  
28 benefits under the federal Social Security Act which are included in the  
29 federal adjusted gross income if:

30 (a) For taxpayers filing a married filing joint return, federal  
31 adjusted gross income is fifty-eight thousand dollars or less; or

1 (b) For taxpayers filing any other return, federal adjusted gross  
2 income is forty-three thousand dollars or less.

3 (14) For taxable years beginning or deemed to begin on or after  
4 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an  
5 individual may make a one-time election within two calendar years after  
6 the date of his or her retirement from the military to exclude income  
7 received as a military retirement benefit by the individual to the extent  
8 included in federal adjusted gross income and as provided in this  
9 subsection. The individual may elect to exclude forty percent of his or  
10 her military retirement benefit income for seven consecutive taxable  
11 years beginning with the year in which the election is made or may elect  
12 to exclude fifteen percent of his or her military retirement benefit  
13 income for all taxable years beginning with the year in which he or she  
14 turns sixty-seven years of age. For purposes of this subsection, military  
15 retirement benefit means retirement benefits that are periodic payments  
16 attributable to service in the uniformed services of the United States  
17 for personal services performed by an individual prior to his or her  
18 retirement.

19 (15) Federal adjusted gross income shall be modified by determining  
20 the gain on the sale of real estate located in this state using the basis  
21 of the real estate in the hands of the decedent and not using the basis  
22 prescribed in section 1014 or 2032A of the code.

23 Sec. 2. Section 77-27,132, Revised Statutes Cumulative Supplement,  
24 2014, is amended to read:

25 77-27,132 (1) There is hereby created a fund to be designated the  
26 Revenue Distribution Fund which shall be set apart and maintained by the  
27 Tax Commissioner. Revenue not required to be credited to the General Fund  
28 or any other specified fund may be credited to the Revenue Distribution  
29 Fund. Credits and refunds of such revenue shall be paid from the Revenue  
30 Distribution Fund. The balance of the amount credited, after credits and  
31 refunds, shall be allocated as provided by the statutes creating such

1 revenue.

2 (2) The Tax Commissioner shall pay to a depository bank designated  
3 by the State Treasurer all amounts collected under the Nebraska Revenue  
4 Act of 1967. The Tax Commissioner shall present to the State Treasurer  
5 bank receipts showing amounts so deposited in the bank, and of the  
6 amounts so deposited the State Treasurer shall:

7 (a) For transactions occurring on or after October 1, 2014, and  
8 before October 1, 2019, credit to the Game and Parks Commission Capital  
9 Maintenance Fund all of the proceeds of the sales and use taxes imposed  
10 pursuant to section 77-2703 on the sale or lease of motorboats as defined  
11 in section 37-1204, personal watercraft as defined in section 37-1204.01,  
12 all-terrain vehicles as defined in section 60-103, and utility-type  
13 vehicles as defined in section 60-135.01;

14 (b) Credit to the Highway Trust Fund all of the proceeds of the  
15 sales and use taxes derived from the sale or lease for periods of more  
16 than thirty-one days of motor vehicles, trailers, and semitrailers,  
17 except that the proceeds equal to any sales tax rate provided for in  
18 section 77-2701.02 that is in excess of five percent derived from the  
19 sale or lease for periods of more than thirty-one days of motor vehicles,  
20 trailers, and semitrailers shall be credited to the Highway Allocation  
21 Fund; and

22 (c) For transactions occurring on or after July 1, 2013, and before  
23 July 1, 2033, of the proceeds of the sales and use taxes derived from  
24 transactions other than those listed in subdivisions (2)(a) and (b) of  
25 this section from a sales tax rate of one-quarter of one percent, credit  
26 monthly eighty-five percent to the State Highway Capital Improvement Fund  
27 and fifteen percent to the Highway Allocation Fund- ; and

28 (d) Credit the proceeds of the income tax derived from the  
29 modification to federal adjusted gross income pursuant to subsection (15)  
30 of section 77-2716 to the Property Tax Credit Cash Fund.

31 The balance of all amounts collected under the Nebraska Revenue Act

1 of 1967 shall be credited to the General Fund.

2       Sec. 3. This act becomes operative for all taxable years beginning  
3 or deemed to begin on or after January 1, 2016, under the Internal  
4 Revenue Code of 1986, as amended.

5       Sec. 4. Original sections 77-2716 and 77-27,132, Revised Statutes  
6 Cumulative Supplement, 2014, are repealed.