

AMENDMENTS TO LB218

Introduced by Revenue.

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

3           Section 1. Section 77-103, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           77-103 Real property shall mean:

6           (1) All land;

7           (2) All buildings, improvements, and fixtures, except trade  
8 fixtures;

9           (3) All electric generation, transmission, distribution, and street  
10 lighting structures or facilities owned by a political subdivision of the  
11 state or the public power industry as defined in section 70-601;

12           (4) (3) Mobile homes, cabin trailers, and similar property, not  
13 registered for highway use, which are used, or designed to be used, for  
14 residential, office, commercial, agricultural, or other similar purposes,  
15 but not including mobile homes, cabin trailers, and similar property when  
16 unoccupied and held for sale by persons engaged in the business of  
17 selling such property when such property is at the location of the  
18 business;

19           (5) (4) Mines, minerals, quarries, mineral springs and wells, oil  
20 and gas wells, overriding royalty interests, and production payments with  
21 respect to oil or gas leases; and

22           (6) (5) All privileges pertaining to real property described in  
23 subdivisions (1) through (5) (4) of this section.

24           Sec. 2. Section 77-117, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26           77-117 Improvements on leased land shall mean any item of real  
27 property defined in subdivisions (2) through (5) (4) of section 77-103

1 which is located on land owned by a person other than the owner of the  
2 item.

3 Sec. 3. Section 77-2701.16, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

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

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

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

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

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

26 (c)(i) In the furnishing of gas, sewer, water, and electricity  
27 service, other than electricity service to a customer-generator as  
28 defined in section 70-2002, the gross income received from the furnishing  
29 of such services upon billings or statements rendered to consumers for  
30 such utility services.

31 (ii) In the furnishing of electricity service to a customer-

1 generator as defined in section 70-2002, the net energy use upon billings  
2 or statements rendered to customer-generators for such electricity  
3 service;

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

8 (e) The gross income received from the provision, installation,  
9 construction, servicing, or removal of property used in conjunction with  
10 the furnishing, installing, or connecting of any public utility services  
11 specified in subdivision (2)(a) or (b) of this section or community  
12 antenna television service or satellite service specified in subdivision  
13 (2)(d) of this section, except when acting as a subcontractor for a  
14 public utility, this subdivision does not apply to the gross income  
15 received by a contractor electing to be treated as a consumer of building  
16 materials under subdivision (2) or (3) of section 77-2701.10 for any such  
17 services performed on the customer's side of the utility demarcation  
18 point. This subdivision also does not apply to the gross income received  
19 by a political subdivision of the state or the public power industry as  
20 defined in section 70-601 for the lease or use of electric generation,  
21 transmission, distribution, or street lighting structures or facilities  
22 owned by a political subdivision of the state or the public power  
23 industry.

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

26 (a) In the furnishing of computer software, the gross income  
27 received, including the charges for coding, punching, or otherwise  
28 producing any computer software and the charges for the tapes, disks,  
29 punched cards, or other properties furnished by the seller; and

30 (b) In the furnishing of videotapes, movie film, satellite  
31 programming, satellite programming service, and satellite television

1 signal descrambling or decoding devices, the gross income received from  
2 the license, franchise, or other method establishing the charge.

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

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

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

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

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

16 (e) The gross income received for services of recreational vehicle  
17 parks;

18 (f) The gross income received for labor for repair or maintenance  
19 services performed with regard to tangible personal property the sale of  
20 which would be subject to sales and use taxes, excluding motor vehicles,  
21 except as otherwise provided in section 77-2704.26 or 77-2704.50;

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

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

28 (5) Gross receipts includes the sale of admissions. When an  
29 admission to an activity or a membership constituting an admission is  
30 combined with the solicitation of a contribution, the portion or the  
31 amount charged representing the fair market price of the admission shall

1 be considered a retail sale subject to the tax imposed by section  
2 77-2703. The organization conducting the activity shall determine the  
3 amount properly attributable to the purchase of the privilege, benefit,  
4 or other consideration in advance, and such amount shall be clearly  
5 indicated on any ticket, receipt, or other evidence issued in connection  
6 with the payment.

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

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

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

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

22 (10) Gross receipts does not include:

23 (a) The amount of any rebate granted by a motor vehicle or motorboat  
24 manufacturer or dealer at the time of sale of the motor vehicle or  
25 motorboat, which rebate functions as a discount from the sales price of  
26 the motor vehicle or motorboat; or

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

29 Sec. 4. This act becomes operative on July 1, 2019.

30 Sec. 5. Original sections 77-103, 77-117, and 77-2701.16, Reissue  
31 Revised Statutes of Nebraska, are repealed.

1           Sec. 6.   Since an emergency exists, this act takes effect when  
2   passed and approved according to law.