

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 984

Introduced by Moser, 22.

Read first time January 12, 2022

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2703 and 77-2708, Revised Statutes Cumulative Supplement, 2020;
- 3 to change sales and use tax collection fees; to provide an operative
- 4 date; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2703, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 77-2703 (1) There is hereby imposed a tax at the rate provided in
4 section 77-2701.02 upon the gross receipts from all sales of tangible
5 personal property sold at retail in this state; the gross receipts of
6 every person engaged as a public utility, as a community antenna
7 television service operator, or as a satellite service operator, any
8 person involved in the connecting and installing of the services defined
9 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every
10 person engaged as a retailer of intellectual or entertainment properties
11 referred to in subsection (3) of section 77-2701.16; the gross receipts
12 from the sale of admissions in this state; the gross receipts from the
13 sale of warranties, guarantees, service agreements, or maintenance
14 agreements when the items covered are subject to tax under this section;
15 beginning January 1, 2008, the gross receipts from the sale of bundled
16 transactions when one or more of the products included in the bundle are
17 taxable; the gross receipts from the provision of services defined in
18 subsection (4) of section 77-2701.16; and the gross receipts from the
19 sale of products delivered electronically as described in subsection (9)
20 of section 77-2701.16. Except as provided in section 77-2701.03, when
21 there is a sale, the tax shall be imposed at the rate in effect at the
22 time the gross receipts are realized under the accounting basis used by
23 the retailer to maintain his or her books and records.

24 (a) The tax imposed by this section shall be collected by the
25 retailer from the consumer. It shall constitute a part of the purchase
26 price and until collected shall be a debt from the consumer to the
27 retailer and shall be recoverable at law in the same manner as other
28 debts. The tax required to be collected by the retailer from the consumer
29 constitutes a debt owed by the retailer to this state.

30 (b) It is unlawful for any retailer to advertise, hold out, or state
31 to the public or to any customer, directly or indirectly, that the tax or

1 part thereof will be assumed or absorbed by the retailer, that it will
2 not be added to the selling, renting, or leasing price of the property
3 sold, rented, or leased, or that, if added, it or any part thereof will
4 be refunded. The provisions of this subdivision shall not apply to a
5 public utility.

6 (c) The tax required to be collected by the retailer from the
7 purchaser, unless otherwise provided by statute or by rule and regulation
8 of the Tax Commissioner, shall be displayed separately from the list
9 price, the price advertised in the premises, the marked price, or other
10 price on the sales check or other proof of sales, rentals, or leases.

11 (d) For the purpose of more efficiently securing the payment,
12 collection, and accounting for the sales tax and for the convenience of
13 the retailer in collecting the sales tax, it shall be the duty of the Tax
14 Commissioner to provide a schedule or schedules of the amounts to be
15 collected from the consumer or user to effectuate the computation and
16 collection of the tax imposed by the Nebraska Revenue Act of 1967. Such
17 schedule or schedules shall provide that the tax shall be collected from
18 the consumer or user uniformly on sales according to brackets based on
19 sales prices of the item or items. Retailers may compute the tax due on
20 any transaction on an item or an invoice basis. The rounding rule
21 provided in section 77-3,117 applies.

22 (e) The use of tokens or stamps for the purpose of collecting or
23 enforcing the collection of the taxes imposed in the Nebraska Revenue Act
24 of 1967 or for any other purpose in connection with such taxes is
25 prohibited.

26 (f) For the purpose of the proper administration of the provisions
27 of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail
28 sales tax, it shall be presumed that all gross receipts are subject to
29 the tax until the contrary is established. The burden of proving that a
30 sale of property is not a sale at retail is upon the person who makes the
31 sale unless he or she takes from the purchaser (i) a resale certificate

1 to the effect that the property is purchased for the purpose of
2 reselling, leasing, or renting it, (ii) an exemption certificate pursuant
3 to subsection (7) of section 77-2705, or (iii) a direct payment permit
4 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
5 certificate, exemption certificate, or direct payment permit shall be
6 conclusive proof for the seller that the sale was made for resale or was
7 exempt or that the tax will be paid directly to the state.

8 (g) In the rental or lease of automobiles, trucks, trailers,
9 semitrailers, and truck-tractors as defined in the Motor Vehicle
10 Registration Act, the tax shall be collected by the lessor on the rental
11 or lease price, except as otherwise provided within this section.

12 (h) In the rental or lease of automobiles, trucks, trailers,
13 semitrailers, and truck-tractors as defined in the act, for periods of
14 one year or more, the lessor may elect not to collect and remit the sales
15 tax on the gross receipts and instead pay a sales tax on the cost of such
16 vehicle. If such election is made, it shall be made pursuant to the
17 following conditions:

18 (i) Notice of the desire to make such election shall be filed with
19 the Tax Commissioner and shall not become effective until the Tax
20 Commissioner is satisfied that the taxpayer has complied with all
21 conditions of this subsection and all rules and regulations of the Tax
22 Commissioner;

23 (ii) Such election when made shall continue in force and effect for
24 a period of not less than two years and thereafter until such time as the
25 lessor elects to terminate the election;

26 (iii) When such election is made, it shall apply to all vehicles of
27 the lessor rented or leased for periods of one year or more except
28 vehicles to be leased to common or contract carriers who provide to the
29 lessor a valid common or contract carrier exemption certificate. If the
30 lessor rents or leases other vehicles for periods of less than one year,
31 such lessor shall maintain his or her books and records and his or her

1 accounting procedure as the Tax Commissioner prescribes; and

2 (iv) The Tax Commissioner by rule and regulation shall prescribe the
3 contents and form of the notice of election, a procedure for the
4 determination of the tax base of vehicles which are under an existing
5 lease at the time such election becomes effective, the method and manner
6 for terminating such election, and such other rules and regulations as
7 may be necessary for the proper administration of this subdivision.

8 (i) The tax imposed by this section on the sales of motor vehicles,
9 semitrailers, and trailers as defined in sections 60-339, 60-348, and
10 60-354 shall be the liability of the purchaser and, with the exception of
11 motor vehicles, semitrailers, and trailers registered pursuant to section
12 60-3,198, the tax shall be collected by the county treasurer as provided
13 in the Motor Vehicle Registration Act or by an approved licensed dealer
14 participating in the electronic dealer services system pursuant to
15 section 60-1507 at the time the purchaser makes application for the
16 registration of the motor vehicle, semitrailer, or trailer for operation
17 upon the highways of this state. The tax imposed by this section on motor
18 vehicles, semitrailers, and trailers registered pursuant to section
19 60-3,198 shall be collected by the Department of Motor Vehicles at the
20 time the purchaser makes application for the registration of the motor
21 vehicle, semitrailer, or trailer for operation upon the highways of this
22 state. At the time of the sale of any motor vehicle, semitrailer, or
23 trailer, the seller shall (i) state on the sales invoice the dollar
24 amount of the tax imposed under this section and (ii) furnish to the
25 purchaser a certified statement of the transaction, in such form as the
26 Tax Commissioner prescribes, setting forth as a minimum the total sales
27 price, the allowance for any trade-in, and the difference between the
28 two. The sales tax due shall be computed on the difference between the
29 total sales price and the allowance for any trade-in as disclosed by such
30 certified statement. Any seller who willfully understates the amount upon
31 which the sales tax is due shall be subject to a penalty of one thousand

1 dollars. A copy of such certified statement shall also be furnished to
2 the Tax Commissioner. Any seller who fails or refuses to furnish such
3 certified statement shall be guilty of a misdemeanor and shall, upon
4 conviction thereof, be punished by a fine of not less than twenty-five
5 dollars nor more than one hundred dollars. If the purchaser does not
6 register such motor vehicle, semitrailer, or trailer for operation on the
7 highways of this state within thirty days of the purchase thereof, the
8 tax imposed by this section shall immediately thereafter be paid by the
9 purchaser to the county treasurer or the Department of Motor Vehicles. If
10 the tax is not paid on or before the thirtieth day after its purchase,
11 the county treasurer or Department of Motor Vehicles shall also collect
12 from the purchaser interest from the thirtieth day through the date of
13 payment and sales tax penalties as provided in the Nebraska Revenue Act
14 of 1967. The county treasurer or Department of Motor Vehicles shall
15 report and remit the tax so collected to the Tax Commissioner by the
16 fifteenth day of the following month. The county treasurer, for his or
17 her collection fee, shall deduct and withhold, from all amounts required
18 to be collected under this subsection, the collection fee permitted to be
19 deducted by any retailer collecting the sales tax, all of which shall be
20 deposited in the county general fund, plus an additional amount equal to
21 one-half of one percent of all amounts in excess of six thousand dollars
22 remitted each month. Prior to January 1, 2023, fifty percent of such
23 additional amount shall be deposited in the county general fund and fifty
24 percent of such additional amount shall be deposited in the county road
25 fund. On and after January 1, 2023, seventy-five percent of such
26 additional amount shall be deposited in the county general fund and
27 twenty-five percent of such additional amount shall be deposited in the
28 county road fund. In any county with a population of one hundred fifty
29 thousand inhabitants or more, the county treasurer shall remit one dollar
30 of his or her collection fee for each of the first five thousand motor
31 vehicles, semitrailers, or trailers registered with such county treasurer

1 on or after January 1, 2020, to the State Treasurer for credit to the
2 Department of Revenue Enforcement Fund. The Department of Motor Vehicles,
3 for its collection fee, shall deduct, withhold, and deposit in the Motor
4 Carrier Division Cash Fund the collection fee permitted to be deducted by
5 any retailer collecting the sales tax. The collection fee for the county
6 treasurer or the Department of Motor Vehicles shall be forfeited if the
7 county treasurer or department violates any rule or regulation pertaining
8 to the collection of the use tax.

9 (j)(i) The tax imposed by this section on the sale of a motorboat as
10 defined in section 37-1204 shall be the liability of the purchaser. The
11 tax shall be collected by the county treasurer at the time the purchaser
12 makes application for the registration of the motorboat. At the time of
13 the sale of a motorboat, the seller shall (A) state on the sales invoice
14 the dollar amount of the tax imposed under this section and (B) furnish
15 to the purchaser a certified statement of the transaction, in such form
16 as the Tax Commissioner prescribes, setting forth as a minimum the total
17 sales price, the allowance for any trade-in, and the difference between
18 the two. The sales tax due shall be computed on the difference between
19 the total sales price and the allowance for any trade-in as disclosed by
20 such certified statement. Any seller who willfully understates the amount
21 upon which the sales tax is due shall be subject to a penalty of one
22 thousand dollars. A copy of such certified statement shall also be
23 furnished to the Tax Commissioner. Any seller who fails or refuses to
24 furnish such certified statement shall be guilty of a misdemeanor and
25 shall, upon conviction thereof, be punished by a fine of not less than
26 twenty-five dollars nor more than one hundred dollars. If the purchaser
27 does not register such motorboat within thirty days of the purchase
28 thereof, the tax imposed by this section shall immediately thereafter be
29 paid by the purchaser to the county treasurer. If the tax is not paid on
30 or before the thirtieth day after its purchase, the county treasurer
31 shall also collect from the purchaser interest from the thirtieth day

1 through the date of payment and sales tax penalties as provided in the
2 Nebraska Revenue Act of 1967. The county treasurer shall report and remit
3 the tax so collected to the Tax Commissioner by the fifteenth day of the
4 following month. The county treasurer, for his or her collection fee,
5 shall deduct and withhold for the use of the county general fund, from
6 all amounts required to be collected under this subsection, the
7 collection fee permitted to be deducted by any retailer collecting the
8 sales tax. The collection fee shall be forfeited if the county treasurer
9 violates any rule or regulation pertaining to the collection of the use
10 tax.

11 (ii) In the rental or lease of motorboats, the tax shall be
12 collected by the lessor on the rental or lease price.

13 (k)(i) The tax imposed by this section on the sale of an all-terrain
14 vehicle as defined in section 60-103 or a utility-type vehicle as defined
15 in section 60-135.01 shall be the liability of the purchaser. The tax
16 shall be collected by the county treasurer or by an approved licensed
17 dealer participating in the electronic dealer services system pursuant to
18 section 60-1507 at the time the purchaser makes application for the
19 certificate of title for the all-terrain vehicle or utility-type vehicle.
20 At the time of the sale of an all-terrain vehicle or a utility-type
21 vehicle, the seller shall (A) state on the sales invoice the dollar
22 amount of the tax imposed under this section and (B) furnish to the
23 purchaser a certified statement of the transaction, in such form as the
24 Tax Commissioner prescribes, setting forth as a minimum the total sales
25 price, the allowance for any trade-in, and the difference between the
26 two. The sales tax due shall be computed on the difference between the
27 total sales price and the allowance for any trade-in as disclosed by such
28 certified statement. Any seller who willfully understates the amount upon
29 which the sales tax is due shall be subject to a penalty of one thousand
30 dollars. A copy of such certified statement shall also be furnished to
31 the Tax Commissioner. Any seller who fails or refuses to furnish such

1 certified statement shall be guilty of a misdemeanor and shall, upon
2 conviction thereof, be punished by a fine of not less than twenty-five
3 dollars nor more than one hundred dollars. If the purchaser does not
4 obtain a certificate of title for such all-terrain vehicle or utility-
5 type vehicle within thirty days of the purchase thereof, the tax imposed
6 by this section shall immediately thereafter be paid by the purchaser to
7 the county treasurer. If the tax is not paid on or before the thirtieth
8 day after its purchase, the county treasurer shall also collect from the
9 purchaser interest from the thirtieth day through the date of payment and
10 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The
11 county treasurer shall report and remit the tax so collected to the Tax
12 Commissioner by the fifteenth day of the following month. The county
13 treasurer, for his or her collection fee, shall deduct and withhold for
14 the use of the county general fund, from all amounts required to be
15 collected under this subsection, the collection fee permitted to be
16 deducted by any retailer collecting the sales tax. The collection fee
17 shall be forfeited if the county treasurer violates any rule or
18 regulation pertaining to the collection of the use tax.

19 (ii) In the rental or lease of an all-terrain vehicle or a utility-
20 type vehicle, the tax shall be collected by the lessor on the rental or
21 lease price.

22 (iii) County treasurers are appointed as sales and use tax
23 collectors for all sales of all-terrain vehicles or utility-type vehicles
24 made outside of this state to purchasers or users of all-terrain vehicles
25 or utility-type vehicles which are required to have a certificate of
26 title in this state. The county treasurer shall collect the applicable
27 use tax from the purchaser of an all-terrain vehicle or a utility-type
28 vehicle purchased outside of this state at the time application for a
29 certificate of title is made. The full use tax on the purchase price
30 shall be collected by the county treasurer if a sales or occupation tax
31 was not paid by the purchaser in the state of purchase. If a sales or

1 occupation tax was lawfully paid in the state of purchase at a rate less
2 than the tax imposed in this state, use tax must be collected on the
3 difference as a condition for obtaining a certificate of title in this
4 state.

5 (1) The Tax Commissioner shall adopt and promulgate necessary rules
6 and regulations for determining the amount subject to the taxes imposed
7 by this section so as to insure that the full amount of any applicable
8 tax is paid in cases in which a sale is made of which a part is subject
9 to the taxes imposed by this section and a part of which is not so
10 subject and a separate accounting is not practical or economical.

11 (2) A use tax is hereby imposed on the storage, use, or other
12 consumption in this state of property purchased, leased, or rented from
13 any retailer and on any transaction the gross receipts of which are
14 subject to tax under subsection (1) of this section on or after June 1,
15 1967, for storage, use, or other consumption in this state at the rate
16 set as provided in subsection (1) of this section on the sales price of
17 the property or, in the case of leases or rentals, of the lease or rental
18 prices.

19 (a) Every person storing, using, or otherwise consuming in this
20 state property purchased from a retailer or leased or rented from another
21 person for such purpose shall be liable for the use tax at the rate in
22 effect when his or her liability for the use tax becomes certain under
23 the accounting basis used to maintain his or her books and records. His
24 or her liability shall not be extinguished until the use tax has been
25 paid to this state, except that a receipt from a retailer engaged in
26 business in this state or from a retailer who is authorized by the Tax
27 Commissioner, under such rules and regulations as he or she may
28 prescribe, to collect the sales tax and who is, for the purposes of the
29 Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a
30 retailer engaged in business in this state, which receipt is given to the
31 purchaser pursuant to subdivision (b) of this subsection, shall be

1 sufficient to relieve the purchaser from further liability for the tax to
2 which the receipt refers.

3 (b) Every retailer engaged in business in this state and selling,
4 leasing, or renting property for storage, use, or other consumption in
5 this state shall, at the time of making any sale, collect any tax which
6 may be due from the purchaser and shall give to the purchaser, upon
7 request, a receipt therefor in the manner and form prescribed by the Tax
8 Commissioner.

9 (c) The Tax Commissioner, in order to facilitate the proper
10 administration of the use tax, may designate such person or persons as he
11 or she may deem necessary to be use tax collectors and delegate to such
12 persons such authority as is necessary to collect any use tax which is
13 due and payable to the State of Nebraska. The Tax Commissioner may
14 require of all persons so designated a surety bond in favor of the State
15 of Nebraska to insure against any misappropriation of state funds so
16 collected. The Tax Commissioner may require any tax official, city,
17 county, or state, to collect the use tax on behalf of the state. All
18 persons designated to or required to collect the use tax shall account
19 for such collections in the manner prescribed by the Tax Commissioner.
20 Nothing in this subdivision shall be so construed as to prevent the Tax
21 Commissioner or his or her employees from collecting any use taxes due
22 and payable to the State of Nebraska.

23 (d) All persons designated to collect the use tax and all persons
24 required to collect the use tax shall forward the total of such
25 collections to the Tax Commissioner at such time and in such manner as
26 the Tax Commissioner may prescribe. ~~Such For all use taxes collected~~
27 ~~prior to October 1, 2002, such collectors of the use tax shall deduct and~~
28 ~~withhold from the amount of taxes collected two and one-half percent of~~
29 ~~the first three thousand dollars remitted each month and one-half of one~~
30 ~~percent of all amounts in excess of three thousand dollars remitted each~~
31 ~~month as reimbursement for the cost of collecting the tax. For use taxes~~

1 ~~collected on and after October 1, 2002,~~ such collectors of the use tax
2 shall deduct and withhold from the amount of taxes collected two and one-
3 half percent of the first six ~~three~~ thousand dollars remitted each month
4 as reimbursement for the cost of collecting the tax. Any such deduction
5 shall be forfeited to the State of Nebraska if such collector violates
6 any rule, regulation, or directive of the Tax Commissioner.

7 (e) For the purpose of the proper administration of the Nebraska
8 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
9 presumed that property sold, leased, or rented by any person for delivery
10 in this state is sold, leased, or rented for storage, use, or other
11 consumption in this state until the contrary is established. The burden
12 of proving the contrary is upon the person who purchases, leases, or
13 rents the property.

14 (f) For the purpose of the proper administration of the Nebraska
15 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
16 of property to an advertising agency which purchases the property as an
17 agent for a disclosed or undisclosed principal, the advertising agency is
18 and remains liable for the sales and use tax on the purchase the same as
19 if the principal had made the purchase directly.

20 Sec. 2. Section 77-2708, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
23 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
24 monthly on or before the twentieth day of the month next succeeding each
25 monthly period unless otherwise provided pursuant to the Nebraska Revenue
26 Act of 1967.

27 (b)(i) On or before the twentieth day of the month following each
28 monthly period or such other period as the Tax Commissioner may require,
29 a return for such period, along with all taxes due, shall be filed with
30 the Tax Commissioner in such form and content as the Tax Commissioner may
31 prescribe and containing such information as the Tax Commissioner deems

1 necessary for the proper administration of the Nebraska Revenue Act of
2 1967. The Tax Commissioner, if he or she deems it necessary in order to
3 insure payment to or facilitate the collection by the state of the amount
4 of sales or use taxes due, may require returns and payment of the amount
5 of such taxes for periods other than monthly periods in the case of a
6 particular seller, retailer, or purchaser, as the case may be. The Tax
7 Commissioner shall by rule and regulation require reports and tax
8 payments from sellers, retailers, or purchasers depending on their yearly
9 tax liability. Except as required by the streamlined sales and use tax
10 agreement, annual returns shall be required if such sellers', retailers',
11 or purchasers' yearly tax liability is less than nine hundred dollars,
12 quarterly returns shall be required if their yearly tax liability is nine
13 hundred dollars or more and less than three thousand dollars, and monthly
14 returns shall be required if their yearly tax liability is three thousand
15 dollars or more. The Tax Commissioner shall have the discretion to allow
16 an annual return for seasonal retailers, even when their yearly tax
17 liability exceeds the amounts listed in this subdivision.

18 The Tax Commissioner may adopt and promulgate rules and regulations
19 to allow annual, semiannual, or quarterly returns for any retailer making
20 monthly remittances or payments of sales and use taxes by electronic
21 funds transfer or for any retailer remitting tax to the state pursuant to
22 the streamlined sales and use tax agreement. Such rules and regulations
23 may establish a method of determining the amount of the payment that will
24 result in substantially all of the tax liability being paid each quarter.
25 At least once each year, the difference between the amount paid and the
26 amount due shall be reconciled. If the difference is more than ten
27 percent of the amount paid, a penalty of fifty percent of the unpaid
28 amount shall be imposed.

29 (ii) For purposes of the sales tax, a return shall be filed by every
30 retailer liable for collection from a purchaser and payment to the state
31 of the tax, except that a combined sales tax return may be filed for all

1 licensed locations which are subject to common ownership. For purposes of
2 this subdivision, common ownership means the same person or persons own
3 eighty percent or more of each licensed location. For purposes of the use
4 tax, a return shall be filed by every retailer engaged in business in
5 this state and by every person who has purchased property, the storage,
6 use, or other consumption of which is subject to the use tax, but who has
7 not paid the use tax due to a retailer required to collect the tax.

8 (iii) The Tax Commissioner may require that returns be signed by the
9 person required to file the return or by his or her duly authorized agent
10 but need not be verified by oath.

11 (iv) A taxpayer who keeps his or her regular books and records on a
12 cash basis, an accrual basis, or any generally recognized accounting
13 basis which correctly reflects the operation of the business may file the
14 sales and use tax returns required by the Nebraska Revenue Act of 1967 on
15 the same accounting basis that is used for the regular books and records,
16 except that on credit, conditional, and installment sales, the retailer
17 who keeps his or her books on an accrual basis may report such sales on
18 the cash basis and pay the tax upon the collections made during each
19 month. If a taxpayer transfers, sells, assigns, or otherwise disposes of
20 an account receivable, he or she shall be deemed to have received the
21 full balance of the consideration for the original sale and shall be
22 liable for the remittance of the sales tax on the balance of the total
23 sale price not previously reported, except that such transfer, sale,
24 assignment, or other disposition of an account receivable by a retailer
25 to a subsidiary shall not be deemed to require the retailer to pay the
26 sales tax on the credit sale represented by the account transferred prior
27 to the time the customer makes payment on such account. If the subsidiary
28 does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a
29 surety bond in favor of the State of Nebraska to insure payment of the
30 tax and any interest and penalty imposed thereon under this section in an
31 amount not less than two times the amount of tax payable on outstanding

1 accounts receivable held by the subsidiary as of the end of the prior
2 calendar year. Failure to obtain either a sales tax permit or a surety
3 bond in accordance with this section shall result in the payment on the
4 next required filing date of all sales taxes not previously remitted.
5 When the retailer has adopted one basis or the other of reporting credit,
6 conditional, or installment sales and paying the tax thereon, he or she
7 will not be permitted to change from that basis without first having
8 notified the Tax Commissioner.

9 (c) Except as provided in the streamlined sales and use tax
10 agreement, the taxpayer required to file the return shall deliver or mail
11 any required return together with a remittance of the net amount of the
12 tax due to the office of the Tax Commissioner on or before the required
13 filing date. Failure to file the return, filing after the required filing
14 date, failure to remit the net amount of the tax due, or remitting the
15 net amount of the tax due after the required filing date shall be cause
16 for a penalty, in addition to interest, of ten percent of the amount of
17 tax not paid by the required filing date or twenty-five dollars,
18 whichever is greater, unless the penalty is being collected under
19 subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a
20 county treasurer or the Department of Motor Vehicles, in which case the
21 penalty shall be five dollars.

22 (d) The taxpayer shall deduct and withhold, from the taxes otherwise
23 due from him or her on his or her tax return, two and one-half percent of
24 the first six ~~three~~ thousand dollars remitted each month to reimburse
25 himself or herself for the cost of collecting the tax. Taxpayers filing a
26 combined return as allowed by subdivision (1)(b)(ii) of this subsection
27 shall compute such collection fees on the basis of the receipts and
28 liability of each licensed location.

29 (e) A retailer that makes sales into Nebraska using a multivendor
30 marketplace platform is relieved of its obligation to collect and remit
31 sales taxes to Nebraska with regard to any sales taxes collected and

1 remitted by the multivendor marketplace platform. Such a retailer must
2 include all sales into Nebraska in its gross receipts in its return, but
3 may claim credit for any sales taxes collected and remitted by the
4 multivendor marketplace platform with respect to such retailer's sales.
5 Such retailer is liable for the sales tax due on sales into Nebraska as
6 provided in section 77-2704.35.

7 (f) A multivendor marketplace platform is relieved of its obligation
8 to collect and remit the correct amount of state and local sales taxes to
9 Nebraska to the extent that the multivendor marketplace platform can
10 establish that the error was due to insufficient or incorrect information
11 given to the multivendor marketplace platform by the seller and relied on
12 by the multivendor marketplace platform. This subdivision shall not apply
13 if the multivendor marketplace platform and the seller are related
14 persons under either section 267(b) or (c) or section 707(b) of the
15 Internal Revenue Code of 1986 or if the seller is also the multivendor
16 marketplace platform operator.

17 (2)(a) If the Tax Commissioner determines that any sales or use tax
18 amount, penalty, or interest has been paid more than once, has been
19 erroneously or illegally collected or computed, or has been paid and the
20 purchaser qualifies for a refund under section 77-2708.01, the Tax
21 Commissioner shall set forth that fact in his or her records and the
22 excess amount collected or paid may be credited on any sales, use, or
23 income tax amounts then due and payable from the person under the
24 Nebraska Revenue Act of 1967. Any balance may be refunded to the person
25 by whom it was paid or his or her successors, administrators, or
26 executors.

27 (b) No refund shall be allowed unless a claim therefor is filed with
28 the Tax Commissioner by the person who made the overpayment or his or her
29 attorney, executor, or administrator within three years from the required
30 filing date following the close of the period for which the overpayment
31 was made, within six months after any determination becomes final under

1 section 77-2709, or within six months from the date of overpayment with
2 respect to such determinations, whichever of these three periods expires
3 later, unless the credit relates to a period for which a waiver has been
4 given. Failure to file a claim within the time prescribed in this
5 subsection shall constitute a waiver of any demand against the state on
6 account of overpayment.

7 (c) Every claim shall be in writing on forms prescribed by the Tax
8 Commissioner and shall state the specific amount and grounds upon which
9 the claim is founded. No refund shall be made in any amount less than two
10 dollars.

11 (d) The Tax Commissioner shall allow or disallow a claim within one
12 hundred eighty days after it has been filed. A request for a hearing
13 shall constitute a waiver of the one-hundred-eighty-day period. The
14 claimant and the Tax Commissioner may also agree to extend the one-
15 hundred-eighty-day period. If a hearing has not been requested and the
16 Tax Commissioner has neither allowed nor disallowed a claim within either
17 the one hundred eighty days or the period agreed to by the claimant and
18 the Tax Commissioner, the claim shall be deemed to have been allowed.

19 (e) Within thirty days after disallowing any claim in whole or in
20 part, the Tax Commissioner shall serve notice of his or her action on the
21 claimant in the manner prescribed for service of notice of a deficiency
22 determination.

23 (f) Within thirty days after the mailing of the notice of the Tax
24 Commissioner's action upon a claim filed pursuant to the Nebraska Revenue
25 Act of 1967, the action of the Tax Commissioner shall be final unless the
26 taxpayer seeks review of the Tax Commissioner's determination as provided
27 in section 77-27,127.

28 (g) Upon the allowance of a credit or refund of any sum erroneously
29 or illegally assessed or collected, of any penalty collected without
30 authority, or of any sum which was excessive or in any manner wrongfully
31 collected, interest shall be allowed and paid on the amount of such

1 credit or refund at the rate specified in section 45-104.02, as such rate
2 may from time to time be adjusted, from the date such sum was paid or
3 from the date the return was required to be filed, whichever date is
4 later, to the date of the allowance of the refund or, in the case of a
5 credit, to the due date of the amount against which the credit is
6 allowed, but in the case of a voluntary and unrequested payment in excess
7 of actual tax liability or a refund under section 77-2708.01, no interest
8 shall be allowed when such excess is refunded or credited.

9 (h) No suit or proceeding shall be maintained in any court for the
10 recovery of any amount alleged to have been erroneously or illegally
11 determined or collected unless a claim for refund or credit has been duly
12 filed.

13 (i) The Tax Commissioner may recover any refund or part thereof
14 which is erroneously made and any credit or part thereof which is
15 erroneously allowed by issuing a deficiency determination within one year
16 from the date of refund or credit or within the period otherwise allowed
17 for issuing a deficiency determination, whichever expires later.

18 (j)(i) Credit shall be allowed to the retailer, contractor, or
19 repairperson for sales or use taxes paid pursuant to the Nebraska Revenue
20 Act of 1967 on any deduction taken that is attributed to bad debts not
21 including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as
22 such section existed on January 1, 2003. However, the amount calculated
23 pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges
24 or interest; sales or use taxes charged on the purchase price;
25 uncollectible amounts on property that remains in the possession of the
26 seller until the full purchase price is paid; and expenses incurred in
27 attempting to collect any debt and repossessed property.

28 (ii) Bad debts may be deducted on the return for the period during
29 which the bad debt is written off as uncollectible in the claimant's
30 books and records and is eligible to be deducted for federal income tax
31 purposes. A claimant who is not required to file federal income tax

1 returns may deduct a bad debt on a return filed for the period in which
2 the bad debt is written off as uncollectible in the claimant's books and
3 records and would be eligible for a bad debt deduction for federal income
4 tax purposes if the claimant was required to file a federal income tax
5 return.

6 (iii) If a deduction is taken for a bad debt and the debt is
7 subsequently collected in whole or in part, the tax on the amount so
8 collected must be paid and reported on the return filed for the period in
9 which the collection is made.

10 (iv) When the amount of bad debt exceeds the amount of taxable sales
11 for the period during which the bad debt is written off, a refund claim
12 may be filed within the otherwise applicable statute of limitations for
13 refund claims. The statute of limitations shall be measured from the due
14 date of the return on which the bad debt could first be claimed.

15 (v) If filing responsibilities have been assumed by a certified
16 service provider, the service provider may claim, on behalf of the
17 retailer, any bad debt allowance provided by this section. The certified
18 service provider shall credit or refund the full amount of any bad debt
19 allowance or refund received to the retailer.

20 (vi) For purposes of reporting a payment received on a previously
21 claimed bad debt, any payments made on a debt or account are applied
22 first proportionally to the taxable price of the property or service and
23 the sales tax thereon, and secondly to interest, service charges, and any
24 other charges.

25 (vii) In situations in which the books and records of the party
26 claiming the bad debt allowance support an allocation of the bad debts
27 among the member states in the streamlined sales and use tax agreement,
28 the state shall permit the allocation.

29 (3) Beginning July 1, 2020, if a refund claim under this section
30 involves a refund of a tax imposed under the Local Option Revenue Act or
31 section 13-319, 13-2813, or 77-6403 and the amount of such tax to be

1 refunded is at least five thousand dollars, the Tax Commissioner shall
2 notify the affected city, village, county, or municipal county of such
3 claim within twenty days after receiving the claim. If the Tax
4 Commissioner allows the claim and the refund of such tax is at least five
5 thousand dollars, the Tax Commissioner shall notify the affected city,
6 village, county, or municipal county of such refund and shall give the
7 city, village, county, or municipal county the option of having such
8 refund deducted from its tax proceeds in one lump sum or in twelve equal
9 monthly installments. The city, village, county, or municipal county
10 shall make its selection and shall certify the selection to the Tax
11 Commissioner within twenty days after receiving notice of the refund. The
12 Tax Commissioner shall then deduct such refund from the applicable tax
13 proceeds in accordance with the selection when he or she deducts refunds
14 pursuant to section 13-324, 13-2814, 77-27,144, or 77-6403, whichever is
15 applicable.

16 Sec. 3. This act becomes operative on October 1, 2022.

17 Sec. 4. Original sections 77-2703 and 77-2708, Revised Statutes
18 Cumulative Supplement, 2020, are repealed.