

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 416**

Introduced by Kauth, 31.

Read first time January 12, 2023

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2733, Reissue Revised Statutes of Nebraska; to change provisions
- 3 relating to the taxation of nonresident income; to provide an
- 4 operative date; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2733, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 77-2733 (1) The income of a nonresident individual derived from  
4 sources within this state shall be the sum of the following:

5 (a) The net amount of items of income, gain, loss, and deduction  
6 entering into his or her federal taxable income which are derived from or  
7 connected with sources in this state including (i) his or her  
8 distributive share of partnership income and deductions determined under  
9 section 77-2729, (ii) his or her share of small business corporation or  
10 limited liability company income determined under section 77-2734.01, and  
11 (iii) his or her share of estate or trust income and deductions  
12 determined under section 77-2725; and

13 (b) The portion of the modifications described in section 77-2716  
14 which relates to income derived from sources in this state, including any  
15 modifications attributable to him or her as a partner.

16 (2) Items of income, gain, loss, and deduction derived from or  
17 connected with sources within this state are those items attributable to:

18 (a) The ownership or disposition of any interest in real or tangible  
19 personal property in this state;

20 (b) A business, trade, profession, or occupation carried on in this  
21 state; and

22 (c) Any lottery prize awarded in a lottery game conducted pursuant  
23 to the State Lottery Act.

24 (3) Income from intangible personal property including annuities,  
25 dividends, interest, and gains from the disposition of intangible  
26 personal property shall constitute income derived from sources within  
27 this state only to the extent that such income is from property employed  
28 in a business, trade, profession, or occupation carried on in this state.

29 (4) Deductions with respect to capital losses, net long-term capital  
30 gains, and net operating losses shall be based solely on income, gains,  
31 losses, and deductions derived from or connected with sources in this

1 state, under rules and regulations to be prescribed by the Tax  
2 Commissioner, but otherwise shall be determined in the same manner as the  
3 corresponding federal deductions.

4 (5) If a business, trade, profession, or occupation is carried on  
5 partly within and partly without this state, the items of income and  
6 deduction derived from or connected with sources within this state shall  
7 be determined by apportionment under rules and regulations to be  
8 prescribed by the Tax Commissioner.

9 (6) Compensation paid by the United States for service in the armed  
10 forces of the United States performed by a nonresident individual shall  
11 not constitute income derived from sources within this state.

12 (7) Compensation paid by a resident estate or trust for services by  
13 a nonresident fiduciary shall constitute income derived from sources  
14 within this state.

15 (8) Compensation paid by a business, trade, or profession shall  
16 constitute income derived from sources within this state if:

17 (a) The individual's service is performed entirely within this  
18 state;

19 (b) The individual's service is performed both within and without  
20 this state, but the service performed without this state is incidental to  
21 the individual's service within this state;

22 ~~(c) The individual's service is performed without this state, but~~  
23 ~~the service performed without this state is related to the transactions~~  
24 ~~and activity of the business, trade, or profession carried on within this~~  
25 ~~state; or~~

26 (c) The individual is a nonresident and the individual's service is  
27 performed without this state for his or her convenience, but the service  
28 is directly related to a business, trade, or profession carried on within  
29 this state and, except for the individual's convenience, the service  
30 could have been performed within this state, provided that such  
31 individual must be present, in connection with such business, trade, or

1 profession, within this state for more than thirty days during the  
2 taxable year in which the compensation is earned; or

3 (d) Some of the service is performed in this state and (i) the base  
4 of operations or, if there is no base of operations, the place from which  
5 the service is directed or controlled is in this state or (ii) the base  
6 of operations or the place from which the service is directed or  
7 controlled is not in any state in which some part of the service is  
8 performed, but the individual's residence is in this state.

9 Sec. 2. This act becomes operative for all taxable years beginning  
10 or deemed to begin on or after January 1, 2024, under the Internal  
11 Revenue Code of 1986, as amended.

12 Sec. 3. Original section 77-2733, Reissue Revised Statutes of  
13 Nebraska, is repealed.