

LEGISLATIVE BILL 302

Approved by the Governor May 17, 1979

Introduced by Revenue Committee, Carsten, 2, Chmn.;
Kelly, 35; Sieck, 24; Hefner, 19; Burrows, 30

AN ACT to amend section 77-27,119, Reissue Revised Statutes of Nebraska, 1943, relating to income tax; to mandate completion of certain information on the tax return; to require that certain information be compiled; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-27,119, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,119. (1) The Tax Commissioner shall administer and enforce the income tax imposed by sections 77-2714 to 77-27,135 and he is authorized to conduct hearings and to make such rules and regulations and to require such facts and information to be reported as he may deem necessary to enforce the income tax provisions of sections 77-2714 to 77-27,135; Provided, that such rules, regulations and reports shall not be inconsistent with the laws of this state or the laws of the United States. The Tax Commissioner may for enforcement and administrative purposes divide the state into a reasonable number of districts in which branch offices may be maintained.

(2) (a) The Tax Commissioner may prescribe the form and contents of any return or other document required to be filed under the income tax provisions of sections 77-2714 to 77-27,135; Provided, that such return or other document shall be compatible as to form and content with the return or document required by the laws of the United States; and provided further, that commencing with the taxable year 1971, the form shall have a place for where the taxpayer ~~to~~ shall designate the school district in which he lives and the county in which the district is located. The Tax Commissioner shall promulgate such rules and regulations as may be necessary to insure compliance with this requirement.

(b) The Department of Education, with the assistance and cooperation of the Department of Revenue, shall develop a uniform system for numbering all school districts in the state. Such system shall be consistent with the data processing needs of the Department of Revenue. Such system shall be fully operational by

December 31, 1980, and shall be used in all tax years thereafter for the school district identification required by subsection (2) (a) of this section.

(3) The Tax Commissioner, for the purpose of ascertaining the correctness of any return or other document required to be filed under the income tax provisions of sections 77-2714 to 77-27,135, for the purpose of determining corporate income, corporate franchise, individual income, and withholding tax due, or for the purpose of making an estimate of taxable income of any person, shall have the power to examine or to cause to have examined, by any agent or representative designated by him for that purpose, any books, papers, records or memoranda bearing upon such matters and may, by summons, require the attendance of the person responsible for rendering such return or other document, or remitting any tax, or any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his information, with power to administer oaths to such person or persons. Such examination shall be made in the case of any corporation which (a) is not incorporated or domesticated in Nebraska, (b) has gross annual sales of ten million dollars or more, and (c) is not examined by a state with which Nebraska has an agreement for the exchange of examination or audit information.

(4) The time and place of examination pursuant to the provisions of this section shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons.

(5) No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, or any person who, pursuant to this section, is permitted to inspect any report or return or to whom a copy, an abstract or a portion of any report or return is furnished, or any other person, to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing the

provisions of sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he is a party, or on behalf of any party to any action or proceeding under the provisions of sections 77-2714 to 77-27,135 when the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed (a) to prohibit the delivery to a taxpayer, his duly authorized representative, or his successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney General or other legal representatives of the state of the report or return of any taxpayer who shall bring an action to review the tax based thereon, or against whom an action or proceeding for collection of tax has been instituted, or (d) to prohibit furnishing to the Nebraska Workmen's Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court. Any person who violates the provisions of this subsection shall be guilty of a felony and shall, upon conviction thereof, be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court, together with costs of prosecution. If the offender is an officer or employee of the state, he shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

(7) Reports and returns required to be filed under income tax provisions of sections 77-2714 to 77-27,135 shall be preserved for three years and thereafter until the Tax Commissioner orders them to be destroyed.

(8) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Secretary of the Treasury of the United States or his delegates, or the proper officer of any state imposing an income tax, or the authorized representative of either

such officer, to inspect the income tax returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning an item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer but such permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by the provisions of sections 77-2714 to 77-27,135.

(9) The Tax Commissioner may permit other tax officials of this state to inspect the tax returns and reports filed under the provisions of sections 77-2714 to 77-27,135 but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the regulations of the Tax Commissioner. The Tax Commissioner may furnish to the Multistate Tax Commission any information contained in the tax returns and reports and related schedules and documents filed pursuant to the laws of this state and in the report of an audit or investigation made with respect thereto. Such information may be furnished solely for tax purposes, and the Multistate Tax Commission may make such information available to the tax officials of any other state, the District of Columbia, or the United States and its territories for tax purposes.

(10) The Tax Commissioner shall compile the school district information required by subsection (2) of this section. Insofar as it is possible, such compilation shall include, but not be limited to, the total adjusted gross income of each school district in the state. The Tax Commissioner shall promulgate such rules and regulations as may be necessary to insure that such compilation does not violate the confidentiality of any individual income tax return, nor conflict with any other provisions of state or federal law.

Sec. 2. That original section 77-27,119, Reissued Revised Statutes of Nebraska, 1943, is repealed.