

LEGISLATIVE BILL 401

Approved by the Governor June 5, 1997

Introduced by Warner, 25; Witek, 31; Hilgert, 7; Dw. Pedersen, 39; Will, 8; Maurstad, 30; Jensen, 20; Wickersham, 49; Bruning, 3; at the request of the Governor

AN ACT relating to revenue and taxation; to amend sections 77-2715.02, 77-2716, 77-2716.01, and 79-1031, Reissue Revised Statutes of Nebraska, and section 84-612, Revised Statutes Supplement, 1996; to change income tax rate multipliers and personal exemption amounts; to provide an adjustment to income; to change a duty of the State Department of Education; to require a transfer from the Cash Reserve Fund; to harmonize provisions; to provide operative dates; and to repeal the original sections.

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

Section 1. Section 77-2715.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-2715.02. (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A and E shall be:

(i) \$0, \$2,400, \$17,000, and \$26,500, for single returns;

(ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing joint returns;

(iii) \$0, \$3,800, \$24,000, and \$35,000, for head-of-household returns;

(iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing separate returns; and

(v) \$0, \$500, \$4,700, and \$15,150, for estates and trusts;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) The Except as provided in subdivision (2)(e) of this section, the primary rate set by the Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .708, .986, 1.415, and 1.89;

(e) For tax years 1997 and 1998, the primary rate set by the Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .6784, .9432, 1.3541, and 1.8054;

(f) The amounts for column C shall be rounded to the nearest dollar, and the amounts in column D shall be rounded to hundredths of one percent; and

~~(f)~~ (g) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

|                |         |     |      |             |
|----------------|---------|-----|------|-------------|
| A              | B       | C   | D    | E           |
| Taxable income | but not | pay | plus | of the      |
| over           | over    |     |      | amount over |

(4) The tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be eight times the primary rate.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemption credit and standard deduction amounts into the tax tables.

(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.

Sec. 2. Section 77-2716, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

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

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

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

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

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

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

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

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

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

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

(8)(a) For tax years 1997 and 1998, there shall be subtracted from federal adjusted gross income an amount equal to the difference between the amount qualified for calculation of a deduction as provided in section 162(1) of the Internal Revenue Code and the amount actually allowed pursuant to section 162(1)(1) of the Internal Revenue Code.

(b) For an individual who itemized deductions on his or her federal return, the maximum amount subtracted under subdivision (8)(a) of this section shall be seven and one-half percent of federal adjusted gross income.

Sec. 3. Section 77-2716.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-2716.01. (1) Every individual shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this section multiplied by the number of exemptions allowed on the federal return. For tax year 1993, the credit amount shall be sixty-five dollars; for tax year 1994, the credit amount shall be sixty-nine dollars; for tax year 1995, the credit amount shall be sixty-nine dollars; for tax year 1996, the credit amount shall be seventy-two dollars; for tax year 1997, the credit amount shall be seventy-six dollars; for tax year 1998, the credit amount shall be ~~seventy-eight~~ eighty-eight dollars; for tax year 1999, and each year thereafter, the credit amount shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as amended. The sixty-five-dollar credit amount shall be adjusted for cumulative inflation since 1993. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. The amount allowed for each personal exemption shall be reduced, but not below zero, by five dollars for each five thousand dollars, or portion thereof, that federal adjusted gross income exceeds ninety thousand dollars for married filing joint returns, fifty-four thousand dollars for single returns, seventy-five thousand dollars for head-of-household returns, and for married filing separate returns, one-half the amount stated in this subsection for married filing joint returns. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715. For tax year 1994 and each tax year thereafter, the income levels stated in this subsection shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as amended. If any income level in this subsection is not a multiple of one thousand dollars, the amount shall be rounded to the next highest multiple of one thousand dollars.

(2) Every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction equal to the federal standard deduction for the filing status used on the federal return except as the amount is adjusted under section 77-2716.03.

(3) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in subsection (2) of this section or the amount before the federal disallowance of his or her federal itemized deductions, except for the amount deducted on the federal return for state or local income taxes paid and the amount of any adjustment required under section 77-2716.03.

Sec. 4. Section 79-1031, Reissue Revised Statutes of Nebraska, is amended to read:

79-1031. The department shall annually, on or before December 1, provide data to the Governor to enable the Governor to prepare the necessary legislation to:

(1) Appropriate an amount which will provide financial support from all state sources, including the amounts transferred pursuant to sections 79-947.01 and 79-988.01, to districts equal to forty-five percent of the estimated statewide aggregate general fund operating expenditures for Nebraska elementary and secondary public education for the ensuing school year;

(2)(a) Except as provided in subdivisions (2)(b) and (c) of this section, appropriate ~~appropriate~~ an amount of income tax revenue received to

insure that twenty percent of all income tax receipts are dedicated to the support of districts throughout the state;

(b) Appropriate an amount of income tax revenue received to insure that twenty-one and twenty-eight-hundredths percent of all income tax receipts for tax year 1997 are dedicated to the support of districts throughout the state; and

(c) Appropriate an amount of income tax revenue received to insure that twenty-one and twenty-five-hundredths percent of all income tax receipts for tax year 1998 are dedicated to the support of districts throughout the state;

(3) Appropriate an amount equal to any state aid funds which have been returned to the General Fund from an earlier appropriation due to the repayment of funds by districts; and

(4) Establish and implement a basic allowable growth rate and an allowable growth range for district budgets for the ensuing school year.

The Governor shall submit such legislation, along with any modifications made by the Governor as part of his or her annual budget request, to the Legislature.

Sec. 5. Section 84-612, Revised Statutes Supplement, 1996, is amended to read:

84-612. (1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred.

(3) Any transfers made pursuant to subsection (2) of this section shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

~~(4) On June 15, 1992, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the General Fund. Such transfer shall be reversed on June 15, 1994.~~

~~(5) On June 15, 1993, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the General Fund. Such transfer shall be reversed on June 15, 1995.~~

~~(6) On June 30, 1993, the State Treasurer shall transfer four million five hundred thousand dollars from the Cash Reserve Fund to the General Fund. Such transfer shall be reversed in the amount of two million two hundred fifty thousand dollars on June 15, 1994, and in the amount of two million two hundred fifty thousand dollars on June 15, 1995.~~

~~(7) On or before August 1, 1994, the State Treasurer shall transfer six million dollars from the Cash Reserve Fund to the Job Training Cash Fund.~~

~~(5) On June 15, 1999, the State Treasurer shall transfer forty million dollars from the Cash Reserve Fund to the General Fund.~~

Sec. 6. Sections 1 to 3 and 7 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 1997, under the Internal Revenue Code of 1986, as amended. The other sections of this act become operative on their effective date.

Sec. 7. Original sections 77-2715.02, 77-2716, and 77-2716.01, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 8. Original section 79-1031, Reissue Revised Statutes of Nebraska, and section 84-612, Revised Statutes Supplement, 1996, are repealed.