

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 206

Introduced by von Gillern, 4; Jacobson, 42; Linehan, 39; Murman, 38;
Riepe, 12.

Read first time January 10, 2023

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2727 and 77-2775, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to the taxation of partnerships; to harmonize
4 provisions; to repeal the original sections; and to declare an
5 emergency.

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

1 Section 1. Section 77-2727, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2727 (1) Except as provided in subsection (5) of section 77-2775,
4 a A partnership as such shall not be subject to the income tax imposed by
5 the Nebraska Revenue Act of 1967. Persons or their authorized
6 representatives carrying on business as partners shall be liable for the
7 income tax imposed by the Nebraska Revenue Act of 1967 only in their
8 separate or individual capacities.

9 (2) The partners of such partnership who are residents of this state
10 or corporations shall include in their incomes their proportionate share
11 of such partnership's income.

12 (3) If any partner of such partnership is a nonresident individual
13 during any part of the partnership's reporting year, he or she shall file
14 a Nebraska income tax return which shall include in Nebraska adjusted
15 gross income that portion of the partnership's Nebraska income, as
16 determined under the provisions of sections 77-2728 and 77-2729,
17 allocable to his or her interest in the partnership and shall execute and
18 forward to the partnership, on or before the original due date of the
19 Nebraska partnership return, an agreement which states that he or she
20 will file a Nebraska income tax return and pay income tax on all income
21 derived from or attributable to sources in this state, and such agreement
22 shall be attached to the partnership's Nebraska return for such reporting
23 year.

24 (4)(a) Except as provided in subdivision (c) of this subsection, in
25 the absence of the nonresident individual partner's executed agreement
26 being attached to the Nebraska partnership return, the partnership shall
27 remit a portion of such partner's income which was derived from or
28 attributable to Nebraska sources with its Nebraska return for the
29 reporting year. For tax years beginning or deemed to begin before January
30 1, 2013, the amount of remittance, in such instance, shall be the highest
31 individual income tax rate determined under section 77-2715.02 multiplied

1 by the nonresident individual partner's share of the partnership income
2 which was derived from or attributable to sources within this state. For
3 tax years beginning or deemed to begin on or after January 1, 2013, the
4 amount of remittance, in such instance, shall be the highest individual
5 income tax rate determined under section 77-2715.03 multiplied by the
6 nonresident individual partner's share of the partnership income which
7 was derived from or attributable to sources within this state.

8 (b) Any amount remitted on behalf of any partner shall be allowed as
9 a credit against the Nebraska income tax liability of the partner.

10 (c) Subdivision (a) of this subsection does not apply to a publicly
11 traded partnership as defined by section 7704(b) of the Internal Revenue
12 Code of 1986, as amended, that is treated as a partnership for the
13 purposes of the code and that has agreed to file an annual information
14 return with the Department of Revenue reporting the name, address,
15 taxpayer identification number, and other information requested by the
16 department of each unit holder with an income in the state in excess of
17 five hundred dollars.

18 (5) The Tax Commissioner may allow a nonresident individual partner
19 to not file a Nebraska income tax return if the nonresident individual
20 partner's only source of Nebraska income was his or her share of the
21 partnership's income which was derived from or attributable to sources
22 within this state, the nonresident did not file an agreement to file a
23 Nebraska income tax return, and the partnership has remitted the amount
24 required by subsection (4) of this section on behalf of such nonresident
25 individual partner. The amount remitted shall be retained in satisfaction
26 of the Nebraska income tax liability of the nonresident individual
27 partner.

28 (6) For purposes of this section, any partner that is a grantor
29 trust of a nonresident shall be disregarded and this section shall apply
30 as though the nonresident grantor was the partner.

31 Sec. 2. Section 77-2775, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-2775 (1) If the amount of a taxpayer's federal adjusted gross
3 income, taxable income, or tax liability reported on his or her federal
4 income tax return for any taxable year is changed or corrected by the
5 Internal Revenue Service or other competent authority or as the result of
6 a renegotiation of a contract or subcontract with the United States, the
7 taxpayer shall report such change or correction in federal adjusted gross
8 income, taxable income, or tax liability within sixty days after the
9 final determination of such change, correction, or renegotiation.

10 (2) Whenever the amount of a taxpayer's income which is taxable in
11 any state for any taxable year or any tax credits allowable in such state
12 are changed or corrected in a way material to the tax liability owed to
13 this state by the agency having authority to examine returns filed with
14 such state or any other competent authority or whenever an amended return
15 is filed by any taxpayer with a change or correction material to the tax
16 liability owed to this state with another state, such change or
17 correction shall be reported to the Tax Commissioner within sixty days
18 after the final change or correction or filing of the amended return. The
19 Tax Commissioner shall by rule and regulation provide the nature of any
20 change or correction which must be reported.

21 (3) The taxpayer shall report all changes or corrections required to
22 be reported under this section by filing an amended income tax return and
23 shall give such information as the Tax Commissioner may require. The
24 taxpayer shall concede the accuracy of any change or correction or state
25 why it is erroneous.

26 (4) Any taxpayer filing an amended federal income tax return shall
27 also file within sixty days thereafter an amended income tax return under
28 the Nebraska Revenue Act of 1967 and shall give such information as the
29 Tax Commissioner may require. For any amended federal income tax return
30 requesting a credit or refund, the amended Nebraska income tax return
31 shall be filed within sixty days after the taxpayer has received proof of

1 federal acceptance of the credit or refund or within the time for filing
2 an amended Nebraska income tax return that would otherwise be applicable
3 notwithstanding the amended federal income tax return, whichever is
4 later.

5 (5) Notwithstanding the foregoing, any partnership that is required
6 to file an amended return pursuant to this section shall be allowed, at
7 the partnership's election, to file an amended Nebraska income tax return
8 and to pay all Nebraska income tax associated with such amended return,
9 determined after taking into consideration offsetting positive and
10 negative adjustments of partnership items, at the top individual tax rate
11 set forth in section 77-2715.03 as if the partnership were an individual.
12 For a partnership making an election pursuant to this subsection and
13 paying the tax arising from the amended return, (a) the partners of such
14 electing partnership shall not be required to file amended Nebraska
15 income tax returns for the year of the election and shall not be required
16 to pay Nebraska income tax, penalties, or interest arising as a result of
17 such amended return and (b) the basis, and other tax items in the hands
18 of the partner, arising from the partner's interest in the partnership
19 shall be determined as if the election under this subsection had not been
20 made and shall be determined in a similar manner as set forth for federal
21 income tax purposes.

22 Sec. 3. Original sections 77-2727 and 77-2775, Reissue Revised
23 Statutes of Nebraska, are repealed.

24 Sec. 4. Since an emergency exists, this act takes effect when
25 passed and approved according to law.