

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 829

Introduced by Erdman, 47.

Read first time January 04, 2018

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Cumulative
3 Supplement, 2016; to adopt the Property Tax Relief Act; to provide
4 for a refundable tax credit; to adjust income for tax purposes as
5 prescribed; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Sections 1 to 4 of this act shall be known and may be
2 cited as the Property Tax Relief Act.

3 Sec. 2. For purposes of the Property Tax Relief Act:

4 (1) Department means the Department of Revenue; and

5 (2) School district taxes means property taxes levied on property in
6 this state by a school district or multiple-district school system,
7 excluding any property taxes levied for bonded indebtedness and any
8 property taxes levied as a result of an override of limits on property
9 tax levies approved by voters pursuant to section 77-3444.

10 Sec. 3. For taxable years beginning or deemed to begin on or after
11 January 1, 2019, under the Internal Revenue Code of 1986, as amended,
12 there shall be allowed to each taxpayer a refundable credit against the
13 income tax imposed by the Nebraska Revenue Act of 1967 in the amount of
14 fifty percent of the school district taxes levied on the taxpayer's
15 property and paid by the taxpayer during such taxable year.

16 Sec. 4. The department may adopt and promulgate rules and
17 regulations to carry out the Property Tax Relief Act.

18 Sec. 5. Section 77-2715.07, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 77-2715.07 (1) There shall be allowed to qualified resident
21 individuals as a nonrefundable credit against the income tax imposed by
22 the Nebraska Revenue Act of 1967:

23 (a) A credit equal to the federal credit allowed under section 22 of
24 the Internal Revenue Code; and

25 (b) A credit for taxes paid to another state as provided in section
26 77-2730.

27 (2) There shall be allowed to qualified resident individuals against
28 the income tax imposed by the Nebraska Revenue Act of 1967:

29 (a) For returns filed reporting federal adjusted gross incomes of
30 greater than twenty-nine thousand dollars, a nonrefundable credit equal
31 to twenty-five percent of the federal credit allowed under section 21 of

1 the Internal Revenue Code of 1986, as amended, except that for taxable
2 years beginning or deemed to begin on or after January 1, 2015, such
3 nonrefundable credit shall be allowed only if the individual would have
4 received the federal credit allowed under section 21 of the code after
5 adding back in any carryforward of a net operating loss that was deducted
6 pursuant to such section in determining eligibility for the federal
7 credit;

8 (b) For returns filed reporting federal adjusted gross income of
9 twenty-nine thousand dollars or less, a refundable credit equal to a
10 percentage of the federal credit allowable under section 21 of the
11 Internal Revenue Code of 1986, as amended, whether or not the federal
12 credit was limited by the federal tax liability. The percentage of the
13 federal credit shall be one hundred percent for incomes not greater than
14 twenty-two thousand dollars, and the percentage shall be reduced by ten
15 percent for each one thousand dollars, or fraction thereof, by which the
16 reported federal adjusted gross income exceeds twenty-two thousand
17 dollars, except that for taxable years beginning or deemed to begin on or
18 after January 1, 2015, such refundable credit shall be allowed only if
19 the individual would have received the federal credit allowed under
20 section 21 of the code after adding back in any carryforward of a net
21 operating loss that was deducted pursuant to such section in determining
22 eligibility for the federal credit;

23 (c) A refundable credit as provided in section 77-5209.01 for
24 individuals who qualify for an income tax credit as a qualified beginning
25 farmer or livestock producer under the Beginning Farmer Tax Credit Act
26 for all taxable years beginning or deemed to begin on or after January 1,
27 2006, under the Internal Revenue Code of 1986, as amended;

28 (d) A refundable credit for individuals who qualify for an income
29 tax credit under the Angel Investment Tax Credit Act, the Nebraska
30 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
31 and Development Act, ~~or~~ the Volunteer Emergency Responders Incentive Act,

1 or the Property Tax Relief Act; and

2 (e) A refundable credit equal to ten percent of the federal credit
3 allowed under section 32 of the Internal Revenue Code of 1986, as
4 amended, except that for taxable years beginning or deemed to begin on or
5 after January 1, 2015, such refundable credit shall be allowed only if
6 the individual would have received the federal credit allowed under
7 section 32 of the code after adding back in any carryforward of a net
8 operating loss that was deducted pursuant to such section in determining
9 eligibility for the federal credit.

10 (3) There shall be allowed to all individuals as a nonrefundable
11 credit against the income tax imposed by the Nebraska Revenue Act of
12 1967:

13 (a) A credit for personal exemptions allowed under section
14 77-2716.01;

15 (b) A credit for contributions to certified community betterment
16 programs as provided in the Community Development Assistance Act. Each
17 partner, each shareholder of an electing subchapter S corporation, each
18 beneficiary of an estate or trust, or each member of a limited liability
19 company shall report his or her share of the credit in the same manner
20 and proportion as he or she reports the partnership, subchapter S
21 corporation, estate, trust, or limited liability company income;

22 (c) A credit for investment in a biodiesel facility as provided in
23 section 77-27,236;

24 (d) A credit as provided in the New Markets Job Growth Investment
25 Act;

26 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
27 Revitalization Act;

28 (f) A credit to employers as provided in section 77-27,238; and

29 (g) A credit as provided in the Affordable Housing Tax Credit Act.

30 (4) There shall be allowed as a credit against the income tax
31 imposed by the Nebraska Revenue Act of 1967:

1 (a) A credit to all resident estates and trusts for taxes paid to
2 another state as provided in section 77-2730;

3 (b) A credit to all estates and trusts for contributions to
4 certified community betterment programs as provided in the Community
5 Development Assistance Act; and

6 (c) A refundable credit for individuals who qualify for an income
7 tax credit as an owner of agricultural assets under the Beginning Farmer
8 Tax Credit Act for all taxable years beginning or deemed to begin on or
9 after January 1, 2009, under the Internal Revenue Code of 1986, as
10 amended. The credit allowed for each partner, shareholder, member, or
11 beneficiary of a partnership, corporation, limited liability company, or
12 estate or trust qualifying for an income tax credit as an owner of
13 agricultural assets under the Beginning Farmer Tax Credit Act shall be
14 equal to the partner's, shareholder's, member's, or beneficiary's portion
15 of the amount of tax credit distributed pursuant to subsection (4) of
16 section 77-5211.

17 (5)(a) For all taxable years beginning on or after January 1, 2007,
18 and before January 1, 2009, under the Internal Revenue Code of 1986, as
19 amended, there shall be allowed to each partner, shareholder, member, or
20 beneficiary of a partnership, subchapter S corporation, limited liability
21 company, or estate or trust a nonrefundable credit against the income tax
22 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
23 partner's, shareholder's, member's, or beneficiary's portion of the
24 amount of franchise tax paid to the state under sections 77-3801 to
25 77-3807 by a financial institution.

26 (b) For all taxable years beginning on or after January 1, 2009,
27 under the Internal Revenue Code of 1986, as amended, there shall be
28 allowed to each partner, shareholder, member, or beneficiary of a
29 partnership, subchapter S corporation, limited liability company, or
30 estate or trust a nonrefundable credit against the income tax imposed by
31 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,

1 member's, or beneficiary's portion of the amount of franchise tax paid to
2 the state under sections 77-3801 to 77-3807 by a financial institution.

3 (c) Each partner, shareholder, member, or beneficiary shall report
4 his or her share of the credit in the same manner and proportion as he or
5 she reports the partnership, subchapter S corporation, limited liability
6 company, or estate or trust income. If any partner, shareholder, member,
7 or beneficiary cannot fully utilize the credit for that year, the credit
8 may not be carried forward or back.

9 (6) There shall be allowed to all individuals nonrefundable credits
10 against the income tax imposed by the Nebraska Revenue Act of 1967 as
11 provided in section 77-3604 and refundable credits against the income tax
12 imposed by the Nebraska Revenue Act of 1967 as provided in section
13 77-3605.

14 Sec. 6. Section 77-2717, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
17 before January 1, 2014, the tax imposed on all resident estates and
18 trusts shall be a percentage of the federal taxable income of such
19 estates and trusts as modified in section 77-2716, plus a percentage of
20 the federal alternative minimum tax and the federal tax on premature or
21 lump-sum distributions from qualified retirement plans. The additional
22 taxes shall be recomputed by (A) substituting Nebraska taxable income for
23 federal taxable income, (B) calculating what the federal alternative
24 minimum tax would be on Nebraska taxable income and adjusting such
25 calculations for any items which are reflected differently in the
26 determination of federal taxable income, and (C) applying Nebraska rates
27 to the result. The federal credit for prior year minimum tax, after the
28 recomputations required by the Nebraska Revenue Act of 1967, and the
29 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
30 and the Nebraska Advantage Research and Development Act shall be allowed
31 as a reduction in the income tax due. A refundable income tax credit

1 shall be allowed for all resident estates and trusts under the Angel
2 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
3 Credit Act, and the Nebraska Advantage Research and Development Act. A
4 nonrefundable income tax credit shall be allowed for all resident estates
5 and trusts as provided in the New Markets Job Growth Investment Act.

6 (ii) For taxable years beginning or deemed to begin on or after
7 January 1, 2014, the tax imposed on all resident estates and trusts shall
8 be a percentage of the federal taxable income of such estates and trusts
9 as modified in section 77-2716, plus a percentage of the federal tax on
10 premature or lump-sum distributions from qualified retirement plans. The
11 additional taxes shall be recomputed by substituting Nebraska taxable
12 income for federal taxable income and applying Nebraska rates to the
13 result. The credits provided in the Nebraska Advantage Microenterprise
14 Tax Credit Act and the Nebraska Advantage Research and Development Act
15 shall be allowed as a reduction in the income tax due. A refundable
16 income tax credit shall be allowed for all resident estates and trusts
17 under the Angel Investment Tax Credit Act, the Nebraska Advantage
18 Microenterprise Tax Credit Act, ~~and~~ the Nebraska Advantage Research and
19 Development Act, and the Property Tax Relief Act. A nonrefundable income
20 tax credit shall be allowed for all resident estates and trusts as
21 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,
22 the New Markets Job Growth Investment Act, the School Readiness Tax
23 Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

24 (b) The tax imposed on all nonresident estates and trusts shall be
25 the portion of the tax imposed on resident estates and trusts which is
26 attributable to the income derived from sources within this state. The
27 tax which is attributable to income derived from sources within this
28 state shall be determined by multiplying the liability to this state for
29 a resident estate or trust with the same total income by a fraction, the
30 numerator of which is the nonresident estate's or trust's Nebraska income
31 as determined by sections 77-2724 and 77-2725 and the denominator of

1 which is its total federal income after first adjusting each by the
2 amounts provided in section 77-2716. The federal credit for prior year
3 minimum tax, after the recomputations required by the Nebraska Revenue
4 Act of 1967, reduced by the percentage of the total income which is
5 attributable to income from sources outside this state, and the credits
6 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
7 Nebraska Advantage Research and Development Act shall be allowed as a
8 reduction in the income tax due. A refundable income tax credit shall be
9 allowed for all nonresident estates and trusts under the Angel Investment
10 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
11 ~~and the Nebraska Advantage Research and Development Act,~~ and the Property
12 Tax Relief Act. A nonrefundable income tax credit shall be allowed for
13 all nonresident estates and trusts as provided in the Nebraska Job
14 Creation and Mainstreet Revitalization Act, the New Markets Job Growth
15 Investment Act, the School Readiness Tax Credit Act, the Affordable
16 Housing Tax Credit Act, and section 77-27,238.

17 (2) In all instances wherein a fiduciary income tax return is
18 required under the provisions of the Internal Revenue Code, a Nebraska
19 fiduciary return shall be filed, except that a fiduciary return shall not
20 be required to be filed regarding a simple trust if all of the trust's
21 beneficiaries are residents of the State of Nebraska, all of the trust's
22 income is derived from sources in this state, and the trust has no
23 federal tax liability. The fiduciary shall be responsible for making the
24 return for the estate or trust for which he or she acts, whether the
25 income be taxable to the estate or trust or to the beneficiaries thereof.
26 The fiduciary shall include in the return a statement of each
27 beneficiary's distributive share of net income when such income is
28 taxable to such beneficiaries.

29 (3) The beneficiaries of such estate or trust who are residents of
30 this state shall include in their income their proportionate share of
31 such estate's or trust's federal income and shall reduce their Nebraska

1 tax liability by their proportionate share of the credits as provided in
2 the Angel Investment Tax Credit Act, the Nebraska Advantage
3 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
4 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
5 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
6 Credit Act, the Affordable Housing Tax Credit Act, the Property Tax
7 Relief Act, and section 77-27,238. There shall be allowed to a
8 beneficiary a refundable income tax credit under the Beginning Farmer Tax
9 Credit Act for all taxable years beginning or deemed to begin on or after
10 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

11 (4) If any beneficiary of such estate or trust is a nonresident
12 during any part of the estate's or trust's taxable year, he or she shall
13 file a Nebraska income tax return which shall include (a) in Nebraska
14 adjusted gross income that portion of the estate's or trust's Nebraska
15 income, as determined under sections 77-2724 and 77-2725, allocable to
16 his or her interest in the estate or trust and (b) a reduction of the
17 Nebraska tax liability by his or her proportionate share of the credits
18 as provided in the Angel Investment Tax Credit Act, the Nebraska
19 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
20 and Development Act, the Nebraska Job Creation and Mainstreet
21 Revitalization Act, the New Markets Job Growth Investment Act, the School
22 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
23 Property Tax Relief Act, and section 77-27,238 and shall execute and
24 forward to the fiduciary, on or before the original due date of the
25 Nebraska fiduciary return, an agreement which states that he or she will
26 file a Nebraska income tax return and pay income tax on all income
27 derived from or connected with sources in this state, and such agreement
28 shall be attached to the Nebraska fiduciary return for such taxable year.

29 (5) In the absence of the nonresident beneficiary's executed
30 agreement being attached to the Nebraska fiduciary return, the estate or
31 trust shall remit a portion of such beneficiary's income which was

1 derived from or attributable to Nebraska sources with its Nebraska return
2 for the taxable year. For taxable years beginning or deemed to begin
3 before January 1, 2013, the amount of remittance, in such instance, shall
4 be the highest individual income tax rate determined under section
5 77-2715.02 multiplied by the nonresident beneficiary's share of the
6 estate or trust income which was derived from or attributable to sources
7 within this state. For taxable years beginning or deemed to begin on or
8 after January 1, 2013, the amount of remittance, in such instance, shall
9 be the highest individual income tax rate determined under section
10 77-2715.03 multiplied by the nonresident beneficiary's share of the
11 estate or trust income which was derived from or attributable to sources
12 within this state. The amount remitted shall be allowed as a credit
13 against the Nebraska income tax liability of the beneficiary.

14 (6) The Tax Commissioner may allow a nonresident beneficiary to not
15 file a Nebraska income tax return if the nonresident beneficiary's only
16 source of Nebraska income was his or her share of the estate's or trust's
17 income which was derived from or attributable to sources within this
18 state, the nonresident did not file an agreement to file a Nebraska
19 income tax return, and the estate or trust has remitted the amount
20 required by subsection (5) of this section on behalf of such nonresident
21 beneficiary. The amount remitted shall be retained in satisfaction of the
22 Nebraska income tax liability of the nonresident beneficiary.

23 (7) For purposes of this section, unless the context otherwise
24 requires, simple trust shall mean any trust instrument which (a) requires
25 that all income shall be distributed currently to the beneficiaries, (b)
26 does not allow amounts to be paid, permanently set aside, or used in the
27 tax year for charitable purposes, and (c) does not distribute amounts
28 allocated in the corpus of the trust. Any trust which does not qualify as
29 a simple trust shall be deemed a complex trust.

30 (8) For purposes of this section, any beneficiary of an estate or
31 trust that is a grantor trust of a nonresident shall be disregarded and

1 this section shall apply as though the nonresident grantor was the
2 beneficiary.

3 Sec. 7. Section 77-2734.03, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
6 1997, any (i) insurer paying a tax on premiums and assessments pursuant
7 to section 77-908 or 81-523, (ii) electric cooperative organized under
8 the Joint Public Power Authority Act, or (iii) credit union shall be
9 credited, in the computation of the tax due under the Nebraska Revenue
10 Act of 1967, with the amount paid during the taxable year as taxes on
11 such premiums and assessments and taxes in lieu of intangible tax.

12 (b) For taxable years commencing on or after January 1, 1997, any
13 insurer paying a tax on premiums and assessments pursuant to section
14 77-908 or 81-523, any electric cooperative organized under the Joint
15 Public Power Authority Act, or any credit union shall be credited, in the
16 computation of the tax due under the Nebraska Revenue Act of 1967, with
17 the amount paid during the taxable year as (i) taxes on such premiums and
18 assessments included as Nebraska premiums and assessments under section
19 77-2734.05 and (ii) taxes in lieu of intangible tax.

20 (c) For taxable years commencing or deemed to commence prior to, on,
21 or after January 1, 1998, any insurer paying a tax on premiums and
22 assessments pursuant to section 77-908 or 81-523 shall be credited, in
23 the computation of the tax due under the Nebraska Revenue Act of 1967,
24 with the amount paid during the taxable year as assessments allowed as an
25 offset against premium and related retaliatory tax liability pursuant to
26 section 44-4233.

27 (2) There shall be allowed to corporate taxpayers a tax credit for
28 contributions to community betterment programs as provided in the
29 Community Development Assistance Act.

30 (3) There shall be allowed to corporate taxpayers a refundable
31 income tax credit under the Beginning Farmer Tax Credit Act for all

1 taxable years beginning or deemed to begin on or after January 1, 2001,
2 under the Internal Revenue Code of 1986, as amended.

3 (4) The changes made to this section by Laws 2004, LB 983, apply to
4 motor fuels purchased during any tax year ending or deemed to end on or
5 after January 1, 2005, under the Internal Revenue Code of 1986, as
6 amended.

7 (5) There shall be allowed to corporate taxpayers refundable income
8 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
9 ~~and the Nebraska Advantage Research and Development Act, and the Property~~
10 Tax Relief Act.

11 (6) There shall be allowed to corporate taxpayers a nonrefundable
12 income tax credit for investment in a biodiesel facility as provided in
13 section 77-27,236.

14 (7) There shall be allowed to corporate taxpayers a nonrefundable
15 income tax credit as provided in the Nebraska Job Creation and Mainstreet
16 Revitalization Act, the New Markets Job Growth Investment Act, the School
17 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and
18 section 77-27,238.

19 Sec. 8. Original sections 77-2715.07, 77-2717, and 77-2734.03,
20 Revised Statutes Cumulative Supplement, 2016, are repealed.