

AMENDMENTS TO LB 914

Introduced by Revenue.

1           1. Strike original section 1 and insert the following new  
2 sections:

3           Section 1. Section 21-2612, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           21-2612 (1) The members and managers of a limited  
6 liability company shall not be liable under a judgment, decree, or  
7 order of a court or in any other manner for a debt, obligation,  
8 or liability of the limited liability company. Except as otherwise  
9 specifically set forth in the Limited Liability Company Act, no  
10 member, manager, employee, or agent of a limited liability company  
11 shall be personally liable under any judgment, decree, or order of  
12 any court, agency, or other tribunal in this or any other state, or  
13 on any other basis, for any debt, obligation, or liability of the  
14 limited liability company.

15           ~~(2) The members of a limited liability company, including~~  
16 ~~members acting as managers, shall be liable in the same manner as a~~  
17 ~~corporate officer for unpaid taxes imposed upon a limited liability~~  
18 ~~company when management is reserved to the members. If management~~  
19 ~~is not reserved to the members, the managers of a limited liability~~  
20 ~~company shall be liable in the same manner as a corporate officer~~  
21 ~~for unpaid taxes imposed upon the limited liability company.~~

22           (2) Any member, manager, or employee of a limited  
23 liability company with the duty to collect, account for, or

1 pay over any taxes imposed upon a limited liability company or  
2 with the authority to decide whether the limited liability company  
3 will pay taxes imposed upon a limited liability company shall be  
4 personally liable for the payment of such taxes in the event of  
5 willful failure on his or her part to have a limited liability  
6 company perform such act. Such taxes shall be collected in the same  
7 manner as provided under section 77-1783.01.

8           Sec. 6. Section 77-1783.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           77-1783.01 (1) Any officer or employee with the duty  
11 to collect, account for, or pay over any taxes imposed upon a  
12 corporation or with the authority to decide whether the corporation  
13 will pay taxes imposed upon a corporation shall be personally  
14 liable for the payment of such taxes in the event of willful  
15 failure on his or her part to have a corporation perform such act.  
16 Such taxes shall be collected in the same manner as provided under  
17 the Uniform State Tax Lien Registration and Enforcement Act.

18           (2) Within ~~thirty~~ sixty days after the day on which the  
19 notice and demand are made for the payment of such taxes, any  
20 officer or employee seeking to challenge the Tax Commissioner's  
21 determination as to his or her personal liability for the  
22 corporation's unpaid taxes may petition for a redetermination.  
23 The petition may include a request for the redetermination of  
24 the personal liability of the corporate officer or employee, the  
25 redetermination of the amount of the corporation's unpaid taxes,  
26 or both. If a petition for redetermination is not filed within the  
27 ~~thirty-day~~ sixty-day period, the determination becomes final at the

1 expiration of the period.

2 (3) If the requirements prescribed in subsection (2)  
3 of this section are satisfied, the Tax Commissioner shall abate  
4 collection proceedings and shall grant the officer or employee an  
5 oral hearing and give him or her ten days' notice of the time  
6 and place of such hearing. The Tax Commissioner may continue the  
7 hearing from time to time as necessary.

8 (4) Any notice required under this section shall be  
9 served personally or by mail in the manner provided in section  
10 77-27,135.

11 (5) If the Tax Commissioner determines that further delay  
12 in the collection of such taxes from the officer or employee will  
13 jeopardize future collection proceedings, nothing in this section  
14 shall prevent the immediate collection of such taxes.

15 (6) For purposes of this section:

16 (a) Corporation shall mean any corporation and any other  
17 entity that is taxed as a corporation under the Internal Revenue  
18 Code;

19 (b) Taxes shall mean all taxes and additions to taxes  
20 including interest and penalties imposed under the revenue laws of  
21 this state which are administered by the Tax Commissioner; and

22 (c) Willful failure shall mean that failure which was the  
23 result of an intentional, conscious, and voluntary action.

24 2. On page 67, line 9, after the first comma insert  
25 "77-1783.01,".

26 3. Renumber the remaining sections and correct internal  
27 references so that section 77-1783.01 becomes operative on January

AM1676  
LB914  
DSH-01/28/2008

AM1676  
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DSH-01/28/2008

1 1, 2009.