

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 436**

Introduced by Raikes, 25

Read first time January 16, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2715, Reissue Revised Statutes of Nebraska, and  
3 sections 77-2715.02, 77-2716.01, and 77-2717, Revised  
4 Statutes Cumulative Supplement, 2006; to change income  
5 tax calculations; to change income tax rates and  
6 schedules; to eliminate certain itemized deductions, the  
7 alternative minimum tax, and the added tax; to harmonize  
8 provisions; to provide an operative date; to repeal  
9 the original sections; and to outright repeal section  
10 77-2716.03, Revised Statutes Cumulative Supplement, 2006.  
11 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2715, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-2715 (1) A tax is hereby imposed for each taxable  
4 year on the entire income of every resident individual and  
5 on the income of every nonresident individual and partial-year  
6 resident individual which is derived from sources within this  
7 state, except that any individual who has additions to adjusted  
8 gross income pursuant to section 77-2716 of less than five thousand  
9 dollars shall not have an individual income tax liability after  
10 nonrefundable credits under the Nebraska Revenue Act of 1967 that  
11 exceeds his or her individual income tax liability before credits  
12 under the Internal Revenue Code of 1986.

13           (2) The tax for each resident individual shall be a  
14 percentage of such individual's federal adjusted gross income as  
15 modified in sections 77-2716 and 77-2716.01, plus a percentage  
16 of the federal alternative minimum tax and the federal tax  
17 on premature or lump-sum distributions from qualified retirement  
18 plans. The additional taxes shall be recomputed by (a) substituting  
19 Nebraska taxable income for federal taxable income, (b) calculating  
20 what the federal alternative minimum tax would be on Nebraska  
21 taxable income and adjusting such calculations for any items  
22 which are reflected differently in the determination of federal  
23 taxable income, and (c) applying Nebraska rates to the result. The  
24 federal credit for prior year minimum tax, after the recomputations  
25 required by the act, shall be allowed as a reduction in the income

1 tax due.

2           (3) The tax for each nonresident individual and  
3 partial-year resident individual shall be the portion of the tax  
4 imposed on resident individuals which is attributable to the  
5 income derived from sources within this state. The tax which is  
6 attributable to income derived from sources within this state shall  
7 be determined by subtracting from the liability to this state for  
8 a resident individual with the same total income the credit for  
9 personal exemptions and multiplying the result by a fraction, the  
10 numerator of which is the nonresident individual's or partial-year  
11 resident individual's Nebraska adjusted gross income as determined  
12 by section 77-2733 or 77-2733.01 and the denominator of which  
13 is his or her total federal adjusted gross income, after first  
14 adjusting each by the amounts provided in section 77-2716. If  
15 this determination attributes more or less tax than is reasonably  
16 attributable to income derived from sources within this state, the  
17 taxpayer may petition for or the Tax Commissioner may require the  
18 employment of any other method to attribute an amount of tax which  
19 is reasonable and equitable in the circumstances.

20           (4) The tax for each estate and trust, other than trusts  
21 taxed as corporations under the Internal Revenue Code of 1986,  
22 shall be as determined under section 77-2717.

23           (5) A refund shall be allowed to the extent that the  
24 income tax paid by the individual, estate, or trust for the taxable  
25 year exceeds the income tax payable, except that no refund shall be

1 made in any amount less than two dollars.

2           Sec. 2. Section 77-2715.02, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           77-2715.02 (1) Whenever the primary rate is changed by  
5 the Legislature under section 77-2715.01, the Tax Commissioner  
6 shall update the rate schedules required in subsection (2) of this  
7 section to reflect the new primary rate and shall publish such  
8 updated schedules.

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

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

13           (i) ~~\$0, \$2,400, \$17,500, and \$27,000, and \$45,000, for~~  
14 ~~single and married filing separate returns and estates and trusts;~~  
15 ~~and returns;~~

16           (ii) ~~\$0, \$4,000, \$31,000, and \$50,000, and \$90,000, for~~  
17 ~~married filing joint and head-of-household returns;~~

18           ~~(iii) \$0, \$3,800, \$25,000, and \$35,000, for~~  
19 ~~head-of-household returns;~~

20           ~~(iv) \$0, \$2,000, \$15,500, and \$25,000, for married filing~~  
21 ~~separate returns; and~~

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

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

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

3 (d) For taxable years beginning or deemed to begin ~~before~~  
4 ~~January 1, 2003,~~ on or after January 1, 2007, under the Internal  
5 Revenue Code of 1986, as amended, the primary rate set by the  
6 Legislature shall be multiplied by the following factors to compute  
7 the tax rates for column D. The factors for the brackets, ~~from~~  
8 ~~lowest to highest bracket,~~ shall be ~~.6784,~~ ~~.9432,~~ ~~1.3541,~~ and  
9 ~~1.8054,~~ shall be 1.2973 and 1.9189;

10 (e) For taxable years beginning or deemed to begin on  
11 or after January 1, 2003, and before January 1, 2007, under the  
12 Internal Revenue Code of 1986, as amended, the primary rate set  
13 by the Legislature shall be multiplied by the following factors to  
14 compute the tax rates for column D. The factors for the brackets,  
15 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and  
16 1.848;

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

20 (g) One rate schedule shall be established for each  
21 federal filing status.

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

24	A	B	C	D	E
1	Taxable income	but not	pay	plus	of the

2           over                   over                   amount over

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

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

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

18                  Sec. 3. Section 77-2716.01, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20                  77-2716.01 (1) Every individual shall be allowed to  
21 subtract from his or her income tax liability an amount for  
22 personal exemptions. ~~The~~ For tax year 2007, the amount allowed to  
23 be subtracted shall be ~~the credit amount for the year as provided~~  
24 ~~in this section~~ three hundred dollars multiplied by the number of  
1 exemptions allowed on the federal return. ~~For tax year 1993, the~~

2 ~~credit amount shall be sixty-five dollars; for tax year 1994, the~~  
3 ~~credit amount shall be sixty-nine dollars; for tax year 1995, the~~  
4 ~~credit amount shall be sixty-nine dollars; for tax year 1996, the~~  
5 ~~credit amount shall be seventy-two dollars; for tax year 1997, the~~  
6 ~~credit amount shall be eighty-six dollars; for tax year 1998, the~~  
7 ~~credit amount shall be eighty-eight dollars; for tax year 1999, and~~  
8 ~~each~~ Each year thereafter, the credit amount shall be adjusted for  
9 inflation by the method provided in section 151 of the Internal  
10 Revenue Code of 1986, as amended. ~~The eighty-eight-dollar credit~~  
11 ~~amount shall be adjusted for cumulative inflation since 1998. If~~  
12 any credit amount is not an even dollar amount, the amount shall  
13 be rounded to the nearest dollar. For nonresident individuals and  
14 partial-year resident individuals, the personal exemption credit  
15 shall be subtracted as specified in subsection ~~(3)~~ (1) of section  
16 77-2715.

17 ~~(2)(a)~~ (2) For tax years beginning or deemed to begin  
18 before January 1, 2003, under the Internal Revenue Code of 1986,  
19 as amended, every individual who did not itemize deductions on  
20 his or her federal return on or after January 1, 2007, under  
21 the Internal Revenue Code of 1986, as amended, every individual  
22 shall be allowed to subtract from federal adjusted gross income  
23 a standard deduction equal to the federal standard deduction for  
24 the filing status used on the federal return except as the amount  
25 is adjusted under section 77-2716.03. six thousand one hundred  
1 dollars for single and married filing separate returns and twelve

2 thousand two hundred dollars for married filing joint returns and  
3 head-of-household returns.

4           ~~(b)~~ For tax years beginning or deemed to begin on or  
5 after January 1, 2003, and before January 1, 2004, under the  
6 Internal Revenue Code of 1986, as amended, every individual who  
7 did not itemize deductions on his or her federal return shall be  
8 allowed to subtract from federal adjusted gross income a standard  
9 deduction based on the filing status used on the federal return  
10 except as the amount is adjusted under section 77-2716.03. The  
11 standard deduction shall be the smaller of the federal standard  
12 deduction actually allowed or (i) for single taxpayers four  
13 thousand seven hundred fifty dollars, (ii) for head of household  
14 taxpayers seven thousand dollars, (iii) for married filing jointly  
15 taxpayers seven thousand nine hundred fifty dollars, and (iv) for  
16 married filing separately taxpayers three thousand nine hundred  
17 seventy-five dollars. Taxpayers who are allowed additional federal  
18 standard deduction amounts because of age or blindness shall be  
19 allowed an increase in the Nebraska standard deduction for each  
20 additional amount allowed on the federal return. The additional  
21 amounts shall be for married taxpayers, nine hundred fifty dollars,  
22 and for single or head of household taxpayers, one thousand one  
23 hundred fifty dollars. amount shall be one thousand one hundred  
24 fifty dollars.

25           ~~(e)~~ (3) For tax years beginning or deemed to begin on  
1 or after January 1, 2004, 2007, the standard deduction amounts,



2 including the additional standard deduction amounts, in subdivision  
3 (2)(b) of this section shall be adjusted for inflation by the  
4 method provided in section 151 of the Internal Revenue Code of  
5 1986, as amended. If any amount is not a multiple of ten dollars,  
6 the amount shall be rounded to the next highest multiple of ten  
7 dollars. ~~except that the standard deduction for the married~~  
8 ~~filing separately taxpayers may be a multiple of five dollars.~~

9 ~~(3) Every individual who itemized deductions on his or~~  
10 ~~her federal return shall be allowed to subtract from federal~~  
11 ~~adjusted gross income the greater of either the standard deduction~~  
12 ~~allowed in subsection (2) of this section or his or her federal~~  
13 ~~itemized deductions, except for the amount for state or local~~  
14 ~~income taxes included in federal itemized deductions before any~~  
15 ~~federal disallowance.~~

16 Sec. 4. Section 77-2717, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 77-2717 (1)(a) The tax imposed on all resident estates  
19 and trusts shall be a percentage of the federal taxable income  
20 of such estates and trusts as modified in section 77-2716, plus  
21 a percentage of the federal alternative minimum tax and the  
22 federal tax on premature or lump-sum distributions from qualified  
23 retirement plans. The additional taxes shall be recomputed by (i)  
24 substituting Nebraska taxable income for federal taxable income,  
25 (ii) calculating what the federal alternative minimum tax would  
1 be on Nebraska taxable income and adjusting such calculations for

2 any items which are reflected differently in the determination  
3 of federal taxable income, and (iii) applying Nebraska rates to  
4 the result. The federal credit for prior year minimum tax, after  
5 the recomputations required by the Nebraska Revenue Act of 1967,  
6 and the credits provided in the Nebraska Advantage Microenterprise  
7 Tax Credit Act, the Nebraska Advantage Research and Development  
8 Act, and section 77-27,222 shall be allowed as a reduction in the  
9 income tax due. A refundable income tax credit shall be allowed  
10 for all resident estates and trusts under the Nebraska Advantage  
11 Microenterprise Tax Credit Act and the Nebraska Advantage Research  
12 and Development Act.

13 (b) The tax imposed on all nonresident estates and trusts  
14 shall be the portion of the tax imposed on resident estates and  
15 trusts which is attributable to the income derived from sources  
16 within this state. The tax which is attributable to income derived  
17 from sources within this state shall be determined by multiplying  
18 the liability to this state for a resident estate or trust with  
19 the same total income by a fraction, the numerator of which is  
20 the nonresident estate's or trust's Nebraska income as determined  
21 by sections 77-2724 and 77-2725 and the denominator of which is  
22 its total federal income after first adjusting each by the amounts  
23 provided in section 77-2716. The federal credit for prior year  
24 minimum tax, after the recomputations required by the Nebraska  
25 Revenue Act of 1967, reduced by the percentage of the total income  
1 which is attributable to income from sources outside this state,

2 and the credits provided in the Nebraska Advantage Microenterprise  
3 Tax Credit Act, the Nebraska Advantage Research and Development  
4 Act, and section 77-27,222 shall be allowed as a reduction in the  
5 income tax due. A refundable income tax credit shall be allowed  
6 for all nonresident estates and trusts under the Nebraska Advantage  
7 Microenterprise Tax Credit Act and the Nebraska Advantage Research  
8 and Development Act.

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

22 (3) The beneficiaries of such estate or trust who are  
23 residents of this state shall include in their income their  
24 proportionate share of such estate's or trust's federal income and  
25 shall reduce their Nebraska tax liability by their proportionate  
1 share of the credits as provided in the Nebraska Advantage

2 Microenterprise Tax Credit Act, the Nebraska Advantage Research  
3 and Development Act, and section 77-27,222. There shall be allowed  
4 to a beneficiary a refundable income tax credit under the Beginning  
5 Farmer Tax Credit Act for all taxable years beginning or deemed to  
6 begin on or after January 1, 2001, under the Internal Revenue Code  
7 of 1986, as amended.

8 (4) If any beneficiary of such estate or trust is a  
9 nonresident during any part of the estate's or trust's taxable  
10 year, he or she shall file a Nebraska income tax return which shall  
11 include (a) in Nebraska adjusted gross income that portion of the  
12 estate's or trust's Nebraska income, as determined under sections  
13 77-2724 and 77-2725, allocable to his or her interest in the estate  
14 or trust and (b) a reduction of the Nebraska tax liability by  
15 his or her proportionate share of the credits as provided in the  
16 Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska  
17 Advantage Research and Development Act, and section 77-27,222 and  
18 shall execute and forward to the fiduciary, on or before the  
19 original due date of the Nebraska fiduciary return, an agreement  
20 which states that he or she will file a Nebraska income tax return  
21 and pay income tax on all income derived from or connected with  
22 sources in this state, and such agreement shall be attached to the  
23 Nebraska fiduciary return for such taxable year.

24 (5) In the absence of the nonresident beneficiary's  
25 executed agreement being attached to the Nebraska fiduciary return,  
1 the estate or trust shall remit a portion of such beneficiary's

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

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

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

2 trust shall be deemed a complex trust.

3           Sec. 5. This act becomes operative for all taxable years  
4 beginning or deemed to begin on or after January 1, 2007, under the  
5 Internal Revenue Code of 1986, as amended.

6           Sec. 6. Original section 77-2715, Reissue Revised  
7 Statutes of Nebraska, and sections 77-2715.02, 77-2716.01,  
8 and 77-2717, Revised Statutes Cumulative Supplement, 2006, are  
9 repealed.

10           Sec. 7. The following section is outright repealed:  
11 Section 77-2716.03, Revised Statutes Cumulative Supplement, 2006.