

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 9

Introduced By: Preister, 5;
Read first time: January 4, 2007
Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-3806, Reissue Revised Statutes of Nebraska, and sections
3 77-908, 77-2701, 77-2715.07, 77-2717, and 77-2734.03,
4 Revised Statutes Cumulative Supplement, 2006; to provide an
5 income tax credit for energy conservation and renewable
6 energy generation expenditures as prescribed; to harmonize
7 provisions; to provide an operative date; and to repeal the
8 original sections.

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

1 Section 1. Section 77-908, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 77-908. Every insurance company organized under the stock,
4 mutual, assessment, or reciprocal plan, except fraternal benefit
5 societies, which is transacting business in this state shall, on or
6 before March 1 of each year, pay a tax to the director of one percent
7 of the gross amount of direct writing premiums received by it during
8 the preceding calendar year for business done in this state, except
9 that (1) for group sickness and accident insurance the rate of such
10 tax shall be five-tenths of one percent, (2) for property and casualty
11 insurance, excluding individual sickness and accident insurance, the
12 rate of such tax shall be one percent, and (3) for capitation payments
13 made in accordance with the Medical Assistance Act, the rate of tax
14 shall be five percent. The taxable premiums shall include premiums
15 paid on the lives of persons residing in this state and premiums paid
16 for risks located in this state whether the insurance was written in
17 this state or not, including that portion of a group premium paid
18 which represents the premium for insurance on Nebraska residents or
19 risks located in Nebraska included within the group when the number of
20 lives in the group exceeds five hundred. The tax shall also apply to
21 premiums received by domestic companies for insurance written on
22 individuals residing outside this state or risks located outside this
23 state if no comparable tax is paid by the direct writing domestic
24 company to any other appropriate taxing authority. Companies whose
25 scheme of operation contemplates the return of a portion of premiums
26 to policyholders, without such policyholders being claimants under the
27 terms of their policies, may deduct such return premiums or dividends

1 from their gross premiums for the purpose of tax calculations. Any
2 such insurance company shall receive a credit on the tax imposed as
3 provided in the Community Development Assistance Act, ~~and~~ section
4 77-27,222, and section 3 of this act.

5 Sec. 2. Section 77-2701, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 77-2701. Sections 77-2701 to 77-27,135.01, 77-27,222, and
8 77-27,228 to 77-27,235 and section 3 of this act shall be known and
9 may be cited as the Nebraska Revenue Act of 1967.

10 Sec. 3. (1) The Legislature finds and declares that it is
11 critical to utilize efficient and cost-effective energy conservation
12 systems in order to protect the health, prosperity, and general
13 welfare of the state and its citizens. The Legislature further finds
14 and declares that this section is to be liberally construed in order
15 to reduce and control the growth rates of electric consumption,
16 increase energy savings for all Nebraska consumers, and reduce and
17 lessen the need for new power plants.

18 (2) A taxpayer shall be allowed a nonrefundable credit
19 against the individual income tax, corporate income tax, premium or
20 related retaliatory tax, or franchise tax equal to twenty-five
21 percent of the costs incurred by the taxpayer on or after January 1,
22 2007, for installation or improvement to his or her home or business
23 for energy conservation or for renewable energy generation. The
24 credit shall not exceed five hundred dollars for any tax year. The
25 credit is limited to taxpayers not primarily engaged in the provision
26 of gas or electricity.

27 (3) The Department of Revenue shall provide forms on which

1 a taxpayer may apply for a tax credit under this section. The
2 department shall approve a credit that demonstrably promotes energy
3 conservation as defined by the State Energy Office or for funds
4 expended for renewable energy generation.

5 (4) For purposes of this section, renewable energy
6 generation means power generated by wind, solar, geothermal energy, or
7 biomass, including crops and organic waste.

8 (5) The Department of Revenue and the State Energy Office
9 may adopt and promulgate rules and regulations to carry out their
10 duties under this section.

11 Sec. 4. Section 77-2715.07, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 77-2715.07. (1) There shall be allowed to qualified resident
14 individuals as a nonrefundable credit against the income tax imposed
15 by the Nebraska Revenue Act of 1967:

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

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

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

22 (a) For returns filed reporting federal adjusted gross
23 incomes of greater than twenty-nine thousand dollars, a nonrefundable
24 credit equal to twenty-five percent of the federal credit allowed
25 under section 21 of the Internal Revenue Code of 1986, as amended;

26 (b) For returns filed reporting federal adjusted gross
27 income of twenty-nine thousand dollars or less, a refundable credit

1 equal to a percentage of the federal credit allowable under section 21
2 of the Internal Revenue Code of 1986, as amended, whether or not the
3 federal credit was limited by the federal tax liability. The
4 percentage of the federal credit shall be one hundred percent for
5 incomes not greater than twenty-two thousand dollars, and the
6 percentage shall be reduced by ten percent for each one thousand
7 dollars, or fraction thereof, by which the reported federal adjusted
8 gross income exceeds twenty-two thousand dollars;

9 (c) A refundable credit for individuals who qualify for an
10 income tax credit as an owner of agricultural assets under the
11 Beginning Farmer Tax Credit Act for all taxable years beginning or
12 deemed to begin on or after January 1, 2001, under the Internal
13 Revenue Code of 1986, as amended; and a refundable credit as provided
14 in section 77-5209.01 for individuals who qualify for an income tax
15 credit as a qualified beginning farmer or livestock producer under the
16 Beginning Farmer Tax Credit Act for all taxable years beginning or
17 deemed to begin on or after January 1, 2006, under the Internal
18 Revenue Code of 1986, as amended;

19 (d) A refundable credit for individuals who qualify for an
20 income tax credit under the Nebraska Advantage Microenterprise Tax
21 Credit Act or the Nebraska Advantage Research and Development Act; and

22 (e) A refundable credit equal to eight percent of the
23 federal credit allowed under section 32 of the Internal Revenue Code
24 of 1986, as amended.

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

1 (a) A credit for personal exemptions allowed under section
2 77-2716.01; and

3 (b) A credit for contributions to certified community
4 betterment programs as provided in the Community Development
5 Assistance Act. Each partner, each shareholder of an electing
6 subchapter S corporation, each beneficiary of an estate or trust, or
7 each member of a limited liability company shall report his or her
8 share of the credit in the same manner and proportion as he or she
9 reports the partnership, subchapter S corporation, estate, trust, or
10 limited liability company income.

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

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

15 (b) A credit to all estates and trusts for contributions to
16 certified community betterment programs as provided in the Community
17 Development Assistance Act.

18 (5) There shall be allowed to all business firms as a credit
19 against the income tax imposed by the Nebraska Revenue Act of 1967 a
20 credit as provided in section 77-27,222.

21 (6) There shall be allowed to all taxpayers as a
22 nonrefundable credit against the income tax imposed by the Nebraska
23 Revenue Act of 1967 a credit as provided in section 3 of this act.

24 Sec. 5. Section 77-2717, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 77-2717. (1)(a) The tax imposed on all resident estates and
27 trusts shall be a percentage of the federal taxable income of such

1 estates and trusts as modified in section 77-2716, plus a percentage
2 of the federal alternative minimum tax and the federal tax on
3 premature or lump-sum distributions from qualified retirement plans.
4 The additional taxes shall be recomputed by (i) substituting Nebraska
5 taxable income for federal taxable income, (ii) calculating what the
6 federal alternative minimum tax would be on Nebraska taxable income
7 and adjusting such calculations for any items which are reflected
8 differently in the determination of federal taxable income, and (iii)
9 applying Nebraska rates to the result. The federal credit for prior
10 year minimum tax, after the recomputations required by the Nebraska
11 Revenue Act of 1967, and the credits provided in the Nebraska
12 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage
13 Research and Development Act, ~~and~~ section 77-27,222, and section 3
14 of this act shall be allowed as a reduction in the income tax due. A
15 refundable income tax credit shall be allowed for all resident
16 estates and trusts under the Nebraska Advantage Microenterprise Tax
17 Credit Act and the Nebraska Advantage Research and Development Act.

18 (b) The tax imposed on all nonresident estates and trusts
19 shall be the portion of the tax imposed on resident estates and trusts
20 which is attributable to the income derived from sources within this
21 state. The tax which is attributable to income derived from sources
22 within this state shall be determined by multiplying the liability to
23 this state for a resident estate or trust with the same total income
24 by a fraction, the numerator of which is the nonresident estate's or
25 trust's Nebraska income as determined by sections 77-2724 and 77-2725
26 and the denominator of which is its total federal income after first
27 adjusting each by the amounts provided in section 77-2716. The federal

1 credit for prior year minimum tax, after the recomputations required
2 by the Nebraska Revenue Act of 1967, reduced by the percentage of the
3 total income which is attributable to income from sources outside this
4 state, and the credits provided in the Nebraska Advantage
5 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
6 Development Act, ~~and~~ section 77-27,222, and section 3 of this act
7 shall be allowed as a reduction in the income tax due. A refundable
8 income tax credit shall be allowed for all nonresident estates and
9 trusts under the Nebraska Advantage Microenterprise Tax Credit Act and
10 the Nebraska Advantage Research and Development Act.

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

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

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

7 (4) If any beneficiary of such estate or trust is a
8 nonresident during any part of the estate's or trust's taxable year,
9 he or she shall file a Nebraska income tax return which shall include
10 (a) in Nebraska adjusted gross income that portion of the estate's or
11 trust's Nebraska income, as determined under sections 77-2724 and
12 77-2725, allocable to his or her interest in the estate or trust and
13 (b) a reduction of the Nebraska tax liability by his or her
14 proportionate share of the credits as provided in the Nebraska
15 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage
16 Research and Development Act, ~~and~~ section 77-27,222, and section 3
17 of this act and shall execute and forward to the fiduciary, on or
18 before the original due date of the Nebraska fiduciary return, an
19 agreement which states that he or she will file a Nebraska income tax
20 return and pay income tax on all income derived from or connected with
21 sources in this state, and such agreement shall be attached to the
22 Nebraska fiduciary return for such taxable year.

23 (5) In the absence of the nonresident beneficiary's executed
24 agreement being attached to the Nebraska fiduciary return, the estate
25 or trust shall remit a portion of such beneficiary's income which was
26 derived from or attributable to Nebraska sources with its Nebraska
27 return for the taxable year. The amount of remittance, in such

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

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

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

25 Sec. 6. Section 77-2734.03, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 77-2734.03. (1)(a) For taxable years commencing prior to

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

8 (b) For taxable years commencing on or after January 1,
9 1997, any insurer paying a tax on premiums and assessments pursuant to
10 section 77-908 or 81-523, any electric cooperative organized under the
11 Joint Public Power Authority Act, or any credit union shall be
12 credited, in the computation of the tax due under the Nebraska Revenue
13 Act of 1967, with the amount paid during the taxable year as (i) taxes
14 on such premiums and assessments included as Nebraska premiums and
15 assessments under section 77-2734.05 and (ii) taxes in lieu of
16 intangible tax.

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

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

27 (3) There shall be allowed to corporate taxpayers a

1 refundable income tax credit under the Beginning Farmer Tax Credit Act
2 for all taxable years beginning or deemed to begin on or after January
3 1, 2001, under the Internal Revenue Code of 1986, as amended.

4 (4) There shall be allowed to corporate taxpayers a tax
5 credit as provided in section 77-27,222 and section 3 of this act.

6 (5) The changes made to this section by Laws 2004, LB 983,
7 apply to motor fuels purchased during any tax year ending or deemed to
8 end on or after January 1, 2005, under the Internal Revenue Code of
9 1986, as amended.

10 (6) There shall be allowed to corporate taxpayers refundable
11 income tax credits under the Nebraska Advantage Microenterprise Tax
12 Credit Act and the Nebraska Advantage Research and Development Act.

13 Sec. 7. Section 77-3806, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-3806. (1) The tax return shall be filed and the total
16 amount of the franchise tax shall be due on the fifteenth day of the
17 third month after the end of the taxable year. No extension of time to
18 pay the tax shall be granted. If the Tax Commissioner determines that
19 the amount of tax can be computed from available information filed by
20 the financial institutions with either state or federal regulatory
21 agencies, the Tax Commissioner may, by regulation, waive the
22 requirement for the financial institutions to file returns.

23 (2) Sections 77-2714 to 77-27,135 relating to deficiencies,
24 penalties, interest, the collection of delinquent amounts, and appeal
25 procedures for the tax imposed by section 77-2734.02 shall also apply
26 to the tax imposed by section 77-3802. If the filing of a return is
27 waived by the Tax Commissioner, the payment of the tax shall be

1 considered the filing of a return for purposes of sections 77-2714 to
2 77-27,135.

3 (3) No refund of the tax imposed by section 77-3802 shall be
4 allowed unless a claim for such refund is filed within ninety days of
5 the date on which (a) the tax is due or was paid, whichever is later,
6 or (b) a change is made to the amount of deposits or the net financial
7 income of the financial institution by a state or federal regulatory
8 agency.

9 (4) Any such financial institution shall receive a credit on
10 the franchise tax as provided under the Community Development
11 Assistance Act, ~~and~~ section 77-27,222, and section 3 of this
12 act

13 Sec. 8. This act becomes operative for all taxable years
14 beginning or deemed to begin on or after January 1, 2007, under the
15 Internal Revenue Code of 1986, as amended.

16 Sec. 9. Original section 77-3806, Reissue Revised Statutes
17 of Nebraska, and sections 77-908, 77-2701, 77-2715.07, 77-2717, and
18 77-2734.03, Revised Statutes Cumulative Supplement, 2006, are
19 repealed.