

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 794**

Introduced by Harr, 8.

Read first time January 10, 2014

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-1784, 77-2703, and 77-2708, Revised Statutes  
3 Cumulative Supplement, 2012; to change provisions  
4 relating to the collection of sales and use taxes on  
5 credit card and debit card transactions; to change sales  
6 and use tax collection fees; to harmonize provisions; to  
7 provide an operative date; and to repeal the original  
8 sections.  
9 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 77-1784, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3                   77-1784 (1) The Tax Commissioner may accept electronic  
4 filing of applications, returns, and any other document required to  
5 be filed with the Tax Commissioner.

6                   (2) The Tax Commissioner may use electronic fund  
7 transfers to collect any taxes, fees, or other amounts required to be  
8 paid to or collected by the Tax Commissioner or to pay any refunds of  
9 such amounts.

10                  (3) The Tax Commissioner may adopt rules and regulations  
11 to establish the criteria for acceptability of filing documents and  
12 making payments electronically. The criteria may include requirements  
13 for electronic signatures, the type of tax for which electronic  
14 filings or payments will be accepted, the method of transfer, or  
15 minimum amounts which may be transferred. The Tax Commissioner may  
16 refuse to accept any electronic filings or payments that do not meet  
17 the criteria established.

18                  (4) The Tax Commissioner may require the use of  
19 electronic fund transfers for any taxes, fees, or amounts required to  
20 be paid to or collected by the Tax Commissioner for any taxpayer who  
21 made payments exceeding five thousand dollars for a tax program in  
22 any prior year for that tax program. The requirement to make  
23 electronic fund transfers may be phased in as deemed necessary by the  
24 Tax Commissioner. Notice of the requirement to make electronic fund  
25 transfers shall be provided at least three months prior to the date

1 the first electronic payment is required to be made.

2 (5) The Tax Commissioner shall require the use of  
3 electronic fund transfers for sales and use taxes related to credit  
4 card and debit card transactions which are required to be paid to the  
5 Tax Commissioner pursuant to subdivision (1)(a)(i) of section  
6 77-2708.

7 ~~(5)~~(6) Except for individual income tax payments  
8 required under section 77-2715 and estimated payments for individuals  
9 under section 77-2769, any person who fails to make a required  
10 payment by electronic fund transfer shall be subject to a penalty of  
11 one hundred dollars for each required payment that was not made by  
12 electronic fund transfer. The penalty provided by this section shall  
13 be in addition to all other penalties and applies even if payment by  
14 some other method is timely made. The Tax Commissioner may waive the  
15 penalty provided in this section upon a showing of good cause.

16 ~~(6)~~(7) The use of electronic filing of documents and  
17 electronic fund transfers shall not change the rights of any party  
18 from the rights such party would have if a different method of filing  
19 or payment were used. Until criteria for electronic signatures are  
20 adopted under subsection (3) of this section, the document produced  
21 during the electronic filing of a taxpayer's information with the  
22 state shall be prima facie evidence for all purposes that the  
23 taxpayer's signature accompanied the taxpayer's information in the  
24 electronic transmission.

25 ~~(7)~~(8) For tax returns due on or after January 1, 2010,

1 the Tax Commissioner may require any person that aids, procures,  
2 advises, or assists in the preparation of and files any tax return on  
3 behalf of any taxpayer for profit to file an electronic return if the  
4 person filed twenty-five or more tax returns in the prior calendar  
5 year. The requirement to require electronic filing may be phased in  
6 as deemed necessary by the Tax Commissioner.

7 Any person that files a tax return on behalf of a  
8 taxpayer must disclose in writing to the taxpayer that the return  
9 will be filed in an electronic format and in accordance with rules  
10 and regulations prescribed by the Tax Commissioner.

11 ~~(8)~~(9) Any person who fails to file an electronic return  
12 as required under subsection ~~(7)~~(8) of this section shall be subject  
13 to a penalty of one hundred dollars for each return that was not  
14 properly filed in addition to other penalties provided by law. The  
15 Tax Commissioner may waive the penalty provided in this section upon  
16 a showing of good cause.

17 ~~(9)~~(10) The Legislature hereby finds and determines that  
18 the development of a comprehensive electronic filing and payment  
19 system for all state tax programs and fees administered by the  
20 Department of Revenue is of critical importance to the State of  
21 Nebraska. It is the intent of the Legislature that the department  
22 implement a mandatory electronic filing system for all state tax  
23 programs and fees administered by the department as deemed  
24 practicable and necessary for the proper administration of the  
25 Nebraska Revenue Act of 1967. It is the intent of the Legislature

1 that the department require the use of electronic fund transfers for  
2 any taxes, fees, or amounts required to be paid to or collected by  
3 the department as deemed practicable and necessary for the proper  
4 administration of the Nebraska Revenue Act of 1967.

5 Sec. 2. Section 77-2703, Revised Statutes Cumulative  
6 Supplement, 2012, is amended to read:

7 77-2703 (1) There is hereby imposed a tax at the rate  
8 provided in section 77-2701.02 upon the gross receipts from all sales  
9 of tangible personal property sold at retail in this state; the gross  
10 receipts of every person engaged as a public utility, as a community  
11 antenna television service operator, or as a satellite service  
12 operator, any person involved in the connecting and installing of the  
13 services defined in subdivision (2)(a), (b), (d), or (e) of section  
14 77-2701.16, or every person engaged as a retailer of intellectual or  
15 entertainment properties referred to in subsection (3) of section  
16 77-2701.16; the gross receipts from the sale of admissions in this  
17 state; the gross receipts from the sale of warranties, guarantees,  
18 service agreements, or maintenance agreements when the items covered  
19 are subject to tax under this section; beginning January 1, 2008, the  
20 gross receipts from the sale of bundled transactions when one or more  
21 of the products included in the bundle are taxable; the gross  
22 receipts from the provision of services defined in subsection (4) of  
23 section 77-2701.16; and the gross receipts from the sale of products  
24 delivered electronically as described in subsection (9) of section  
25 77-2701.16. Except as provided in section 77-2701.03, when there is a

1 sale, the tax shall be imposed at the rate in effect at the time the  
2 gross receipts are realized under the accounting basis used by the  
3 retailer to maintain his or her books and records.

4 (a) The tax imposed by this section shall be collected by  
5 the retailer from the consumer. It shall constitute a part of the  
6 purchase price and until collected shall be a debt from the consumer  
7 to the retailer and shall be recoverable at law in the same manner as  
8 other debts. The tax required to be collected by the retailer from  
9 the consumer constitutes a debt owed by the retailer to this state.

10 (b) It is unlawful for any retailer to advertise, hold  
11 out, or state to the public or to any customer, directly or  
12 indirectly, that the tax or part thereof will be assumed or absorbed  
13 by the retailer, that it will not be added to the selling, renting,  
14 or leasing price of the property sold, rented, or leased, or that, if  
15 added, it or any part thereof will be refunded. The provisions of  
16 this subdivision shall not apply to a public utility.

17 (c) The tax required to be collected by the retailer from  
18 the purchaser, unless otherwise provided by statute or by rule and  
19 regulation of the Tax Commissioner, shall be displayed separately  
20 from the list price, the price advertised in the premises, the marked  
21 price, or other price on the sales check or other proof of sales,  
22 rentals, or leases.

23 (d) For the purpose of more efficiently securing the  
24 payment, collection, and accounting for the sales tax and for the  
25 convenience of the retailer in collecting the sales tax, it shall be

1 the duty of the Tax Commissioner to provide a schedule or schedules  
2 of the amounts to be collected from the consumer or user to  
3 effectuate the computation and collection of the tax imposed by the  
4 Nebraska Revenue Act of 1967. Such schedule or schedules shall  
5 provide that the tax shall be collected from the consumer or user  
6 uniformly on sales according to brackets based on sales prices of the  
7 item or items. Retailers may compute the tax due on any transaction  
8 on an item or an invoice basis. The rounding rule provided in section  
9 77-3,117 applies.

10 (e) The use of tokens or stamps for the purpose of  
11 collecting or enforcing the collection of the taxes imposed in the  
12 Nebraska Revenue Act of 1967 or for any other purpose in connection  
13 with such taxes is prohibited.

14 (f) For the purpose of the proper administration of the  
15 provisions of the Nebraska Revenue Act of 1967 and to prevent evasion  
16 of the retail sales tax, it shall be presumed that all gross receipts  
17 are subject to the tax until the contrary is established. The burden  
18 of proving that a sale of property is not a sale at retail is upon  
19 the person who makes the sale unless he or she takes from the  
20 purchaser (i) a resale certificate to the effect that the property is  
21 purchased for the purpose of reselling, leasing, or renting it, (ii)  
22 an exemption certificate pursuant to subsection (7) of section  
23 77-2705, or (iii) a direct payment permit pursuant to sections  
24 77-2705.01 to 77-2705.03. Receipt of a resale certificate, exemption  
25 certificate, or direct payment permit shall be conclusive proof for

1 the seller that the sale was made for resale or was exempt or that  
2 the tax will be paid directly to the state.

3 (g) In the rental or lease of automobiles, trucks,  
4 trailers, semitrailers, and truck-tractors as defined in the Motor  
5 Vehicle Registration Act, the tax shall be collected by the lessor on  
6 the rental or lease price, except as otherwise provided within this  
7 section.

8 (h) In the rental or lease of automobiles, trucks,  
9 trailers, semitrailers, and truck-tractors as defined in the act, for  
10 periods of one year or more, the lessor may elect not to collect and  
11 remit the sales tax on the gross receipts and instead pay a sales tax  
12 on the cost of such vehicle. If such election is made, it shall be  
13 made pursuant to the following conditions:

14 (i) Notice of the desire to make such election shall be  
15 filed with the Tax Commissioner and shall not become effective until  
16 the Tax Commissioner is satisfied that the taxpayer has complied with  
17 all conditions of this subsection and all rules and regulations of  
18 the Tax Commissioner;

19 (ii) Such election when made shall continue in force and  
20 effect for a period of not less than two years and thereafter until  
21 such time as the lessor elects to terminate the election;

22 (iii) When such election is made, it shall apply to all  
23 vehicles of the lessor rented or leased for periods of one year or  
24 more except vehicles to be leased to common or contract carriers who  
25 provide to the lessor a valid common or contract carrier exemption



1 certificate. If the lessor rents or leases other vehicles for periods  
2 of less than one year, such lessor shall maintain his or her books  
3 and records and his or her accounting procedure as the Tax  
4 Commissioner prescribes; and

5 (iv) The Tax Commissioner by rule and regulation shall  
6 prescribe the contents and form of the notice of election, a  
7 procedure for the determination of the tax base of vehicles which are  
8 under an existing lease at the time such election becomes effective,  
9 the method and manner for terminating such election, and such other  
10 rules and regulations as may be necessary for the proper  
11 administration of this subdivision.

12 (i) The tax imposed by this section on the sales of motor  
13 vehicles, semitrailers, and trailers as defined in sections 60-339,  
14 60-348, and 60-354 shall be the liability of the purchaser and, with  
15 the exception of motor vehicles, semitrailers, and trailers  
16 registered pursuant to section 60-3,198, the tax shall be collected  
17 by the county treasurer as provided in the Motor Vehicle Registration  
18 Act at the time the purchaser makes application for the registration  
19 of the motor vehicle, semitrailer, or trailer for operation upon the  
20 highways of this state. The tax imposed by this section on motor  
21 vehicles, semitrailers, and trailers registered pursuant to section  
22 60-3,198 shall be collected by the Department of Motor Vehicles at  
23 the time the purchaser makes application for the registration of the  
24 motor vehicle, semitrailer, or trailer for operation upon the  
25 highways of this state. At the time of the sale of any motor vehicle,

1 semitrailer, or trailer, the seller shall (i) state on the sales  
2 invoice the dollar amount of the tax imposed under this section and  
3 (ii) furnish to the purchaser a certified statement of the  
4 transaction, in such form as the Tax Commissioner prescribes, setting  
5 forth as a minimum the total sales price, the allowance for any  
6 trade-in, and the difference between the two. The sales tax due shall  
7 be computed on the difference between the total sales price and the  
8 allowance for any trade-in as disclosed by such certified statement.  
9 Any seller who willfully understates the amount upon which the sales  
10 tax is due shall be subject to a penalty of one thousand dollars. A  
11 copy of such certified statement shall also be furnished to the Tax  
12 Commissioner. Any seller who fails or refuses to furnish such  
13 certified statement shall be guilty of a misdemeanor and shall, upon  
14 conviction thereof, be punished by a fine of not less than twenty-  
15 five dollars nor more than one hundred dollars. If the seller fails  
16 to state on the sales invoice the dollar amount of the tax due, the  
17 purchaser shall have the right and authority to rescind any agreement  
18 for purchase and to declare the purchase null and void. If the  
19 purchaser retains such motor vehicle, semitrailer, or trailer in this  
20 state and does not register it for operation on the highways of this  
21 state within thirty days of the purchase thereof, the tax imposed by  
22 this section shall immediately thereafter be paid by the purchaser to  
23 the county treasurer or the Department of Motor Vehicles. If the tax  
24 is not paid on or before the thirtieth day after its purchase, the  
25 county treasurer or Department of Motor Vehicles shall also collect

1 from the purchaser interest from the thirtieth day through the date  
2 of payment and sales tax penalties as provided in the Nebraska  
3 Revenue Act of 1967. The county treasurer or Department of Motor  
4 Vehicles shall report and remit the tax so collected to the Tax  
5 Commissioner by the fifteenth day of the following month. The county  
6 treasurer shall deduct and withhold for the use of the county general  
7 fund, from all amounts required to be collected under this  
8 subsection, the collection fee permitted to be deducted by any  
9 retailer collecting the sales tax. The Department of Motor Vehicles  
10 shall deduct, withhold, and deposit in the Motor Carrier Division  
11 Cash Fund the collection fee permitted to be deducted by any retailer  
12 collecting the sales tax. The collection fee shall be forfeited if  
13 the county treasurer or Department of Motor Vehicles violates any  
14 rule or regulation pertaining to the collection of the use tax.

15 (j)(i) The tax imposed by this section on the sale of a  
16 motorboat as defined in section 37-1204 shall be the liability of the  
17 purchaser. The tax shall be collected by the county treasurer at the  
18 time the purchaser makes application for the registration of the  
19 motorboat. At the time of the sale of a motorboat, the seller shall  
20 (A) state on the sales invoice the dollar amount of the tax imposed  
21 under this section and (B) furnish to the purchaser a certified  
22 statement of the transaction, in such form as the Tax Commissioner  
23 prescribes, setting forth as a minimum the total sales price, the  
24 allowance for any trade-in, and the difference between the two. The  
25 sales tax due shall be computed on the difference between the total

1 sales price and the allowance for any trade-in as disclosed by such  
2 certified statement. Any seller who willfully understates the amount  
3 upon which the sales tax is due shall be subject to a penalty of one  
4 thousand dollars. A copy of such certified statement shall also be  
5 furnished to the Tax Commissioner. Any seller who fails or refuses to  
6 furnish such certified statement shall be guilty of a misdemeanor and  
7 shall, upon conviction thereof, be punished by a fine of not less  
8 than twenty-five dollars nor more than one hundred dollars. If the  
9 seller fails to state on the sales invoice the dollar amount of the  
10 tax due, the purchaser shall have the right and authority to rescind  
11 any agreement for purchase and to declare the purchase null and void.  
12 If the purchaser retains such motorboat in this state and does not  
13 register it within thirty days of the purchase thereof, the tax  
14 imposed by this section shall immediately thereafter be paid by the  
15 purchaser to the county treasurer. If the tax is not paid on or  
16 before the thirtieth day after its purchase, the county treasurer  
17 shall also collect from the purchaser interest from the thirtieth day  
18 through the date of payment and sales tax penalties as provided in  
19 the Nebraska Revenue Act of 1967. The county treasurer shall report  
20 and remit the tax so collected to the Tax Commissioner by the  
21 fifteenth day of the following month. The county treasurer shall  
22 deduct and withhold for the use of the county general fund, from all  
23 amounts required to be collected under this subsection, the  
24 collection fee permitted to be deducted by any retailer collecting  
25 the sales tax. The collection fee shall be forfeited if the county

1 treasurer violates any rule or regulation pertaining to the  
2 collection of the use tax.

3 (ii) In the rental or lease of motorboats, the tax shall  
4 be collected by the lessor on the rental or lease price.

5 (k) The Tax Commissioner shall adopt and promulgate  
6 necessary rules and regulations for determining the amount subject to  
7 the taxes imposed by this section so as to insure that the full  
8 amount of any applicable tax is paid in cases in which a sale is made  
9 of which a part is subject to the taxes imposed by this section and a  
10 part of which is not so subject and a separate accounting is not  
11 practical or economical.

12 (2) A use tax is hereby imposed on the storage, use, or  
13 other consumption in this state of property purchased, leased, or  
14 rented from any retailer and on any transaction the gross receipts of  
15 which are subject to tax under subsection (1) of this section on or  
16 after June 1, 1967, for storage, use, or other consumption in this  
17 state at the rate set as provided in subsection (1) of this section  
18 on the sales price of the property or, in the case of leases or  
19 rentals, of the lease or rental prices.

20 (a) Every person storing, using, or otherwise consuming  
21 in this state property purchased from a retailer or leased or rented  
22 from another person for such purpose shall be liable for the use tax  
23 at the rate in effect when his or her liability for the use tax  
24 becomes certain under the accounting basis used to maintain his or  
25 her books and records. His or her liability shall not be extinguished

1 until the use tax has been paid to this state, except that a receipt  
2 from a retailer engaged in business in this state or from a retailer  
3 who is authorized by the Tax Commissioner, under such rules and  
4 regulations as he or she may prescribe, to collect the sales tax and  
5 who is, for the purposes of the Nebraska Revenue Act of 1967 relating  
6 to the sales tax, regarded as a retailer engaged in business in this  
7 state, which receipt is given to the purchaser pursuant to  
8 subdivision (b) of this subsection, shall be sufficient to relieve  
9 the purchaser from further liability for the tax to which the receipt  
10 refers.

11 (b) Every retailer engaged in business in this state and  
12 selling, leasing, or renting property for storage, use, or other  
13 consumption in this state shall, at the time of making any sale,  
14 collect any tax which may be due from the purchaser and shall give to  
15 the purchaser, upon request, a receipt therefor in the manner and  
16 form prescribed by the Tax Commissioner.

17 (c) The Tax Commissioner, in order to facilitate the  
18 proper administration of the use tax, may designate such person or  
19 persons as he or she may deem necessary to be use tax collectors and  
20 delegate to such persons such authority as is necessary to collect  
21 any use tax which is due and payable to the State of Nebraska. The  
22 Tax Commissioner may require of all persons so designated a surety  
23 bond in favor of the State of Nebraska to insure against any  
24 misappropriation of state funds so collected. The Tax Commissioner  
25 may require any tax official, city, county, or state, to collect the

1 use tax on behalf of the state. All persons designated to or required  
2 to collect the use tax shall account for such collections in the  
3 manner prescribed by the Tax Commissioner. Nothing in this  
4 subdivision shall be so construed as to prevent the Tax Commissioner  
5 or his or her employees from collecting any use taxes due and payable  
6 to the State of Nebraska.

7 (d) All persons designated to collect the use tax and all  
8 persons required to collect the use tax shall forward the total of  
9 such collections to the Tax Commissioner at such time and in such  
10 manner as the Tax Commissioner may prescribe. For all use taxes  
11 collected ~~prior to October 1, 2002,~~ on and after January 1, 2015,  
12 such collectors of the use tax shall deduct and withhold from the  
13 amount of taxes collected two and one-half percent of the first three  
14 thousand dollars remitted each month and one-half of one percent of  
15 all amounts in excess of three thousand dollars remitted each month  
16 as reimbursement for the cost of collecting the tax. For use taxes  
17 collected ~~on and after October 1, 2002,~~ before January 1, 2015, such  
18 collectors of the use tax shall deduct and withhold from the amount  
19 of taxes collected two and one-half percent of the first three  
20 thousand dollars remitted each month as reimbursement for the cost of  
21 collecting the tax. Any such deduction shall be forfeited to the  
22 State of Nebraska if such collector violates any rule, regulation, or  
23 directive of the Tax Commissioner.

24 (e) For the purpose of the proper administration of the  
25 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,

1 it shall be presumed that property sold, leased, or rented by any  
2 person for delivery in this state is sold, leased, or rented for  
3 storage, use, or other consumption in this state until the contrary  
4 is established. The burden of proving the contrary is upon the person  
5 who purchases, leases, or rents the property.

6 (f) For the purpose of the proper administration of the  
7 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,  
8 for the sale of property to an advertising agency which purchases the  
9 property as an agent for a disclosed or undisclosed principal, the  
10 advertising agency is and remains liable for the sales and use tax on  
11 the purchase the same as if the principal had made the purchase  
12 directly.

13 Sec. 3. Section 77-2708, Revised Statutes Cumulative  
14 Supplement, 2012, is amended to read:

15 77-2708 (1)(a) The sales and use taxes imposed by the  
16 Nebraska Revenue Act of 1967 shall be due and payable to the Tax  
17 Commissioner as follows:

18 (i) All sales and use taxes on credit card and debit card  
19 transactions shall be due and payable to the Tax Commissioner on a  
20 daily basis, and all such taxes shall be submitted by electronic  
21 funds transfer. Each retailer shall be responsible for acquiring the  
22 software necessary to comply with the requirements of this  
23 subdivision; and

24 (ii) All other sales and use taxes shall be due and  
25 payable to the Tax Commissioner monthly on or before the twentieth



1 day of the month next succeeding each monthly period unless otherwise  
2 provided pursuant to the Nebraska Revenue Act of 1967.

3 (b)(i) On or before the twentieth day of the month  
4 following each monthly period or such other period as the Tax  
5 Commissioner may require, a return for such period, along with all  
6 taxes due under subdivision (1)(a)(ii) of this section, shall be  
7 filed with the Tax Commissioner in such form and content as the Tax  
8 Commissioner may prescribe and containing such information as the Tax  
9 Commissioner deems necessary for the proper administration of the  
10 Nebraska Revenue Act of 1967. The Tax Commissioner, if he or she  
11 deems it necessary in order to insure payment to or facilitate the  
12 collection by the state of the amount of sales or use taxes due under  
13 subdivision (1)(a)(ii) of this section, may require returns and  
14 payment of the amount of such taxes for periods other than monthly  
15 periods in the case of a particular seller, retailer, or purchaser,  
16 as the case may be. The Tax Commissioner shall by rule and regulation  
17 require reports and tax payments under subdivision (1)(a)(ii) of this  
18 section from sellers, retailers, or purchasers depending on their  
19 yearly tax liability. Except as required by the streamlined sales and  
20 use tax agreement, annual returns shall be required if such sellers',  
21 retailers', or purchasers' yearly tax liability is less than nine  
22 hundred dollars, quarterly returns shall be required if their yearly  
23 tax liability is nine hundred dollars or more and less than three  
24 thousand dollars, and monthly returns shall be required if their  
25 yearly tax liability is three thousand dollars or more. The Tax

1 Commissioner shall have the discretion to allow an annual return for  
2 seasonal retailers, even when their yearly tax liability exceeds the  
3 amounts listed in this subdivision.

4           The Tax Commissioner may adopt and promulgate rules and  
5 regulations to allow annual, semiannual, or quarterly returns for any  
6 retailer making monthly remittances or payments of sales and use  
7 taxes pursuant to subdivision (1)(a)(ii) of this section by  
8 electronic funds transfer or for any retailer remitting tax to the  
9 state pursuant to the streamlined sales and use tax agreement. Such  
10 rules and regulations may establish a method of determining the  
11 amount of the payment that will result in substantially all of the  
12 tax liability being paid each quarter. At least once each year, the  
13 difference between the amount paid and the amount due shall be  
14 reconciled. If the difference is more than ten percent of the amount  
15 paid, a penalty of fifty percent of the unpaid amount shall be  
16 imposed.

17           (ii) For purposes of the sales tax, a return shall be  
18 filed by every retailer liable for collection from a purchaser and  
19 payment to the state of the tax, except that a combined sales tax  
20 return may be filed for all licensed locations which are subject to  
21 common ownership. For purposes of this subdivision, common ownership  
22 means the same person or persons own eighty percent or more of each  
23 licensed location. For purposes of the use tax, a return shall be  
24 filed by every retailer engaged in business in this state and by  
25 every person who has purchased property, the storage, use, or other

1 consumption of which is subject to the use tax, but who has not paid  
2 the use tax due to a retailer required to collect the tax.

3 (iii) The Tax Commissioner may require that returns be  
4 signed by the person required to file the return or by his or her  
5 duly authorized agent but need not be verified by oath.

6 (iv) A taxpayer who keeps his or her regular books and  
7 records on a cash basis, an accrual basis, or any generally  
8 recognized accounting basis which correctly reflects the operation of  
9 the business may file the sales and use tax returns required by the  
10 Nebraska Revenue Act of 1967 on the same accounting basis that is  
11 used for the regular books and records, except that on credit,  
12 conditional, and installment sales, the retailer who keeps his or her  
13 books on an accrual basis may report such sales on the cash basis and  
14 pay the tax upon the collections made during each month. If a  
15 taxpayer transfers, sells, assigns, or otherwise disposes of an  
16 account receivable, he or she shall be deemed to have received the  
17 full balance of the consideration for the original sale and shall be  
18 liable for the remittance of the sales tax on the balance of the  
19 total sale price not previously reported, except that such transfer,  
20 sale, assignment, or other disposition of an account receivable by a  
21 retailer to a subsidiary shall not be deemed to require the retailer  
22 to pay the sales tax on the credit sale represented by the account  
23 transferred prior to the time the customer makes payment on such  
24 account. If the subsidiary does not obtain a Nebraska sales tax  
25 permit, the taxpayer shall obtain a surety bond in favor of the State

1 of Nebraska to insure payment of the tax and any interest and penalty  
2 imposed thereon under this section in an amount not less than two  
3 times the amount of tax payable on outstanding accounts receivable  
4 held by the subsidiary as of the end of the prior calendar year.  
5 Failure to obtain either a sales tax permit or a surety bond in  
6 accordance with this section shall result in the payment on the next  
7 required filing date of all sales taxes not previously remitted. When  
8 the retailer has adopted one basis or the other of reporting credit,  
9 conditional, or installment sales and paying the tax thereon, he or  
10 she will not be permitted to change from that basis without first  
11 having notified the Tax Commissioner.

12 (c) Except as provided in the streamlined sales and use  
13 tax agreement, the taxpayer required to file the return shall deliver  
14 or mail any required return together with a remittance of the net  
15 amount of the tax due under subdivision (1)(a)(ii) of this section to  
16 the office of the Tax Commissioner on or before the required filing  
17 date. Failure to file the return, filing after the required filing  
18 date, failure to remit the net amount of the tax due under  
19 subdivision (1)(a)(ii) of this section, or remitting the net amount  
20 of the tax due under subdivision (1)(a)(ii) of this section after the  
21 required filing date shall be cause for a penalty, in addition to  
22 interest, of ten percent of the amount of tax not paid by the  
23 required filing date or twenty-five dollars, whichever is greater,  
24 unless the penalty is being collected under subdivision (1)(i) or (1)  
25 (j)(i) of section 77-2703 by a county treasurer or the Department of

1 Motor Vehicles, in which case the penalty shall be five dollars.

2 (d) ~~The~~ For all sales tax collected on and after January  
3 1, 2015, the taxpayer shall deduct and withhold, from the taxes  
4 otherwise due from him or her on his or her tax return, two and one-  
5 half percent of the first three thousand dollars remitted each month  
6 and one-half of one percent of all amounts in excess of three  
7 thousand dollars remitted each month to reimburse himself or herself  
8 for the cost of collecting the tax. For all sales tax collected  
9 before January 1, 2015, the taxpayer shall deduct and withhold, from  
10 the taxes otherwise due from him or her on his or her tax return, two  
11 and one-half percent of the first three thousand dollars remitted  
12 each month to reimburse himself or herself for the cost of collecting  
13 the tax. Taxpayers filing a combined return as allowed by subdivision  
14 (1)(b)(ii) of this subsection shall compute such collection fees on  
15 the basis of the receipts and liability of each licensed location.

16 (2)(a) If the Tax Commissioner determines that any sales  
17 or use tax amount, penalty, or interest has been paid more than once,  
18 has been erroneously or illegally collected or computed, or has been  
19 paid and the purchaser qualifies for a refund under section  
20 77-2708.01, the Tax Commissioner shall set forth that fact in his or  
21 her records and the excess amount collected or paid may be credited  
22 on any sales, use, or income tax amounts then due and payable from  
23 the person under the Nebraska Revenue Act of 1967. Any balance may be  
24 refunded to the person by whom it was paid or his or her successors,  
25 administrators, or executors.

1                   (b) No refund shall be allowed unless a claim therefor is  
2 filed with the Tax Commissioner by the person who made the  
3 overpayment or his or her attorney, executor, or administrator within  
4 three years from the required filing date following the close of the  
5 period for which the overpayment was made, within six months after  
6 any determination becomes final under section 77-2709, or within six  
7 months from the date of overpayment with respect to such  
8 determinations, whichever of these three periods expires later,  
9 unless the credit relates to a period for which a waiver has been  
10 given. Failure to file a claim within the time prescribed in this  
11 subsection shall constitute a waiver of any demand against the state  
12 on account of overpayment.

13                   (c) Every claim shall be in writing on forms prescribed  
14 by the Tax Commissioner and shall state the specific amount and  
15 grounds upon which the claim is founded. No refund shall be made in  
16 any amount less than two dollars.

17                   (d) The Tax Commissioner shall allow or disallow a claim  
18 within one hundred eighty days after it has been filed. A request for  
19 a hearing shall constitute a waiver of the one-hundred-eighty-day  
20 period. The claimant and the Tax Commissioner may also agree to  
21 extend the one-hundred-eighty-day period. If a hearing has not been  
22 requested and the Tax Commissioner has neither allowed nor disallowed  
23 a claim within either the one hundred eighty days or the period  
24 agreed to by the claimant and the Tax Commissioner, the claim shall  
25 be deemed to have been allowed.

1           (e) Within thirty days after disallowing any claim in  
2 whole or in part, the Tax Commissioner shall serve notice of his or  
3 her action on the claimant in the manner prescribed for service of  
4 notice of a deficiency determination.

5           (f) Within thirty days after the mailing of the notice of  
6 the Tax Commissioner's action upon a claim filed pursuant to the  
7 Nebraska Revenue Act of 1967, the action of the Tax Commissioner  
8 shall be final unless the taxpayer seeks review of the Tax  
9 Commissioner's determination as provided in section 77-27,127.

10           (g) Upon the allowance of a credit or refund of any sum  
11 erroneously or illegally assessed or collected, of any penalty  
12 collected without authority, or of any sum which was excessive or in  
13 any manner wrongfully collected, interest shall be allowed and paid  
14 on the amount of such credit or refund at the rate specified in  
15 section 45-104.02, as such rate may from time to time be adjusted,  
16 from the date such sum was paid or from the date the return was  
17 required to be filed, whichever date is later, to the date of the  
18 allowance of the refund or, in the case of a credit, to the due date  
19 of the amount against which the credit is allowed, but in the case of  
20 a voluntary and unrequested payment in excess of actual tax liability  
21 or a refund under section 77-2708.01, no interest shall be allowed  
22 when such excess is refunded or credited.

23           (h) No suit or proceeding shall be maintained in any  
24 court for the recovery of any amount alleged to have been erroneously  
25 or illegally determined or collected unless a claim for refund or

1 credit has been duly filed.

2 (i) The Tax Commissioner may recover any refund or part  
3 thereof which is erroneously made and any credit or part thereof  
4 which is erroneously allowed by issuing a deficiency determination  
5 within one year from the date of refund or credit or within the  
6 period otherwise allowed for issuing a deficiency determination,  
7 whichever expires later.

8 (j)(i) Credit shall be allowed to the retailer,  
9 contractor, or repairperson for sales or use taxes paid pursuant to  
10 the Nebraska Revenue Act of 1967 on any deduction taken that is  
11 attributed to bad debts not including interest. Bad debt has the same  
12 meaning as in 26 U.S.C. 166, as such section existed on January 1,  
13 2003. However, the amount calculated pursuant to 26 U.S.C. 166 shall  
14 be adjusted to exclude: Financing charges or interest; sales or use  
15 taxes charged on the purchase price; uncollectible amounts on  
16 property that remains in the possession of the seller until the full  
17 purchase price is paid; and expenses incurred in attempting to  
18 collect any debt and repossessed property.

19 (ii) Bad debts may be deducted on the return for the  
20 period during which the bad debt is written off as uncollectible in  
21 the claimant's books and records and is eligible to be deducted for  
22 federal income tax purposes. A claimant who is not required to file  
23 federal income tax returns may deduct a bad debt on a return filed  
24 for the period in which the bad debt is written off as uncollectible  
25 in the claimant's books and records and would be eligible for a bad



1 debt deduction for federal income tax purposes if the claimant was  
2 required to file a federal income tax return.

3 (iii) If a deduction is taken for a bad debt and the debt  
4 is subsequently collected in whole or in part, the tax on the amount  
5 so collected must be paid and reported on the return filed for the  
6 period in which the collection is made.

7 (iv) When the amount of bad debt exceeds the amount of  
8 taxable sales for the period during which the bad debt is written  
9 off, a refund claim may be filed within the otherwise applicable  
10 statute of limitations for refund claims. The statute of limitations  
11 shall be measured from the due date of the return on which the bad  
12 debt could first be claimed.

13 (v) If filing responsibilities have been assumed by a  
14 certified service provider, the service provider may claim, on behalf  
15 of the retailer, any bad debt allowance provided by this section. The  
16 certified service provider shall credit or refund the full amount of  
17 any bad debt allowance or refund received to the retailer.

18 (vi) For purposes of reporting a payment received on a  
19 previously claimed bad debt, any payments made on a debt or account  
20 are applied first proportionally to the taxable price of the property  
21 or service and the sales tax thereon, and secondly to interest,  
22 service charges, and any other charges.

23 (vii) In situations in which the books and records of the  
24 party claiming the bad debt allowance support an allocation of the  
25 bad debts among the member states in the streamlined sales and use

1 tax agreement, the state shall permit the allocation.

2                   Sec. 4. This act becomes operative on January 1, 2015.

3                   Sec. 5. Original sections 77-1784, 77-2703, and 77-2708,

4 Revised Statutes Cumulative Supplement, 2012, are repealed.