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AMENDMENTS TO LB288

Introduced by Revenue.

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

Section 1. Section 77-2716.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-2716.01 (1)(a) Through tax year 2017, every individual shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the number of exemptions allowed on the federal return. For tax year 1993, the credit amount shall be sixty-five dollars; for tax year 1994, the credit amount shall be sixty-nine dollars; for tax year 1995, the credit amount shall be sixty-nine dollars; for tax year 1996, the credit amount shall be seventy-two dollars; for tax year 1997, the credit amount shall be eighty-six dollars; for tax year 1998, the credit amount shall be eighty-eight dollars; for tax year 1999, and each year thereafter through tax year 2017, the credit amount shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. The eighty-eight-dollar credit amount shall be adjusted for cumulative inflation since 1998. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(b) Beginning with tax year 2018, every individual, except an individual that can be claimed for a child credit or dependent credit on the federal return of another taxpayer, shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The

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amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the sum of the number of child credits and dependent credits taken on the federal return, plus two for a married filing jointly return or plus one for a single or head of household return. For tax year 2018, the credit amount shall be one hundred thirty-four dollars. For tax year 2019 and each tax year thereafter, the credit amount shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(c) Beginning with tax year 2019, for any taxpayer whose federal adjusted gross income exceeds the applicable amount, the personal exemption amount in subdivision (1)(b) of this section shall be reduced by the applicable amount percentage. For purposes of this subdivision:

(i) Applicable amount means federal adjusted gross income of two hundred fifty thousand dollars for taxpayers whose filing status is married filing jointly or two hundred thousand dollars for taxpayers with any other filing status. For tax year 2020 and each tax year thereafter, the Tax Commissioner shall adjust the applicable amount based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2018, to the twelve months ending on August 31 of the year preceding the taxable year. If any applicable amount is not an even dollar amount, the amount shall be rounded to the nearest dollar; and

(ii) Applicable amount percentage means two percentage points for

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each two thousand five hundred dollars, or fraction thereof, by which the taxpayer's federal adjusted gross income for the taxable year exceeds the applicable amount. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting one thousand two hundred fifty dollars for two thousand five hundred dollars. In no event shall the applicable amount percentage exceed one hundred percent.

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

(b) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the

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federal standard deduction actually allowed or (i) for single taxpayers three thousand dollars and (ii) for head of household taxpayers four thousand four hundred dollars. The standard deduction for married filing jointly taxpayers shall be double the standard deduction for single taxpayers, and for married filing separately taxpayers, the standard deduction shall be the same as single taxpayers. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be for married taxpayers six hundred dollars and for single or head of household taxpayers seven hundred fifty dollars. The amounts in this subdivision will be indexed using 1987 as the base year.

(c) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, the standard deduction amounts, including the additional standard deduction amounts, in this subsection shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

(3)(a) For tax years beginning or deemed to begin on or after January 1, 2018, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) six thousand seven hundred fifty dollars for single taxpayers and (ii) nine thousand nine hundred dollars for head of household taxpayers. The standard deduction for married filing jointly taxpayers shall be double the standard deduction for single taxpayers, and the standard deduction for married filing separately taxpayers shall be the same as the standard deduction for single taxpayers. Taxpayers who are allowed additional federal

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standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be one thousand three hundred dollars for married taxpayers and one thousand six hundred dollars for single or head of household taxpayers.

(b) For tax years beginning or deemed to begin on or after January 1, 2019, the standard deduction amounts, including the additional standard deduction amounts, in this subsection shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

<u>(4)(a) For tax years beginning or deemed to begin before January 1, 2019, every</u> ~~(4) Every~~ individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either<u>:</u>

<u>(i) The</u> ~~the~~ standard deduction allowed in this section<u>;</u> or

<u>(ii) His</u> ~~his~~ or her federal itemized deductions as defined in section 63(d) of the Internal Revenue Code of 1986, as amended, except for the amount for state or local income taxes included in federal itemized deductions before any federal disallowance.

<u>(b) For tax years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either:</u>

<u>(i) The standard deduction allowed in this section; or</u>

<u>(ii) The sum of:</u>

<u>(A) His or her federal itemized deductions as defined in section 63(d) of the Internal Revenue Code of 1986, as amended, except for the</u>

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amount for state or local income taxes included in federal itemized deductions before any federal disallowance;

(B) The total amount of state and local property taxes reported on his or her federal return before any federal disallowance or cap, less the amount of state and local property taxes actually included in federal itemized deductions; and

(C) The total amount of state and local property taxes reported on his or her federal return for the immediately preceding tax year before any federal disallowance or cap, less the amount of state and local property taxes actually included in federal itemized deductions for such tax year.

(c) For tax years beginning or deemed to begin on or after January 1, 2020, every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either:

(i) The standard deduction allowed in this section; or

(ii) The sum of:

(A) His or her federal itemized deductions as defined in section 63(d) of the Internal Revenue Code of 1986, as amended, except for the amount for state or local income taxes included in federal itemized deductions before any federal disallowance; and

(B) The total amount of state and local property taxes reported on his or her federal return before any federal disallowance or cap, less the amount of state and local property taxes actually included in federal itemized deductions.

Sec. 2. Section 77-2716.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-2716.03 (1) For taxable years beginning or deemed to begin on or after January 1, 2019, any ~~Any~~ taxpayer whose federal adjusted gross income is larger than the applicable amount as defined in subdivision (1)(c)(i) of section 77-2716.01 ~~threshold amount determined under section 68~~

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~~of the Internal Revenue Code of 1986, as amended, for the disallowance of itemized deductions~~ shall calculate the amount of the excess.

(2) A taxpayer's tax liability shall be increased by an amount determined under this subsection. The amount shall be calculated by multiplying the maximum individual tax rate by ten percent of the excess calculated in subsection (1) of this section and subtracting the amount of the tax from the tax tables on ten percent of the excess from the result. The difference shall be the increase in the tax liability. If taxable income is less than ten percent of the excess, the calculation in this subsection shall be made using taxable income.

(3) The Department of Revenue shall index the applicable amount for inflation as provided in subdivision (1)(c)(i) of section 77-2716.01.

Sec. 3. Section 77-2734.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-2734.02 (1) Except as provided in subsection (2) of this section, a tax is hereby imposed on the taxable income of every corporate taxpayer that is doing business in this state:

(a) For taxable years beginning or deemed to begin before January 1, 2013, at a rate equal to one hundred fifty and eight-tenths percent of the primary rate imposed on individuals under section 77-2701.01 on the first one hundred thousand dollars of taxable income and at the rate of two hundred eleven percent of such rate on all taxable income in excess of one hundred thousand dollars. The resultant rates shall be rounded to the nearest one hundredth of one percent;~~ and~~

(b) For taxable years beginning or deemed to begin on or after January 1, 2013, and before January 1, 2020, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.81 percent on all taxable income in excess of one hundred thousand dollars; ~~.~~

(c) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, at a rate equal to 5.58

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percent on the first one hundred thousand dollars of taxable income and at the rate of 7.71 percent on all taxable income in excess of one hundred thousand dollars;

(d) For taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.61 percent on all taxable income in excess of one hundred thousand dollars;

(e) For taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.21 percent on all taxable income in excess of one hundred thousand dollars; and

(f) For taxable years beginning or deemed to begin on or after January 1, 2023, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 6.84 percent on all taxable income in excess of one hundred thousand dollars.

For corporate taxpayers with a fiscal year that does not coincide with the calendar year, the individual rate used for this subsection shall be the rate in effect on the first day, or the day deemed to be the first day, of the taxable year.

(2) An insurance company shall be subject to taxation at the lesser of the rate described in subsection (1) of this section or the rate of tax imposed by the state or country in which the insurance company is domiciled if the insurance company can establish to the satisfaction of the Tax Commissioner that it is domiciled in a state or country other than Nebraska that imposes on Nebraska domiciled insurance companies a retaliatory tax against the tax described in subsection (1) of this section.

(3) For a corporate taxpayer that is subject to tax in another state, its taxable income shall be the portion of the taxpayer's federal

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taxable income, as adjusted, that is determined to be connected with the taxpayer's operations in this state pursuant to sections 77-2734.05 to 77-2734.15.

(4) Each corporate taxpayer shall file only one income tax return for each taxable year.

Sec. 4. Section 77-2734.04, Reissue Revised Statutes of Nebraska, is amended to read:

77-2734.04 As used in sections 77-2734.01 to 77-2734.15, unless the context otherwise requires:

(1) Annual average amortized loan balance means the total of the ending monthly values in the tax year divided by the number of months in the tax year;

(2) Application service means computer-based services provided to customers over a network for a fee without selling, renting, leasing, licensing, or otherwise transferring computer software. Application service includes, but is not limited to, software as a service, platform as a service, or infrastructure as a service;

(3) Billing address means the location indicated in the books and records of the taxpayer as the address of record where the bill relating to the customer's account is mailed;

(4) Borrower located in this state means:

(a) A borrower who is engaged in a trade or business in this state; or

(b) A borrower whose billing address is in this state, but is not engaged in a trade or business in this state;

(5) Buyer includes a buyer, licensee, user, or person providing consideration for the use of an item or service;

(6) Commercial domicile means the principal place from which the trade or business of the taxpayer is directed or managed;

(7) Communications company means any entity that:

(a) Is:

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(i) A telecommunications company as defined in section 86-119 that provides a telecommunications service as defined in section 86-121 or provides broadband, Internet, or video services as defined in section 86-593;

(ii) A communications company that provides the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, and includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as a voice over Internet protocol service or is classified by the Federal Communications Commission as enhanced or value added. The company may also provide video programming provided by, or generally considered comparable to programming provided by, a television broadcast station, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Video programming includes, but is not limited to, cable service as defined in 47 U.S.C. 522 and video programming services delivered by providers of commercial mobile radio service, as defined in 47 C.F.R. 20.3; or

(iii) A broadcast company that provides an over-the-air broadcast radio station or over-the-air broadcast television station; and

(b) Owns, operates, manages, or controls any plant or equipment used to furnish telecommunications service, communication services, broadband services, Internet service, or broadcast services directly or indirectly to the general public at large and derives at least seventy percent of its gross sales for the current taxable year from the provision of these services. For purposes of the seventy-percent test, gross sales does not include interest, dividends, rents, royalties, capital gains, or ordinary gains from asset dispositions, other than in the normal course of business;

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(8) Compensation means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services;

(9) Corporate taxpayer means any corporation that is not a part of a unitary business or the part of a unitary business, whether it is one or more corporations, that is doing business in this state. Corporate taxpayer does not include any corporation that has a valid election under subchapter S of the Internal Revenue Code or any financial institution as defined in section 77-3801;

(10) Corporation means all corporations and all other entities that are taxed as corporations under the Internal Revenue Code;

(11) Credit card means a credit card, debit card, purchase card, charge card, and travel or entertainment card;

(12) Doing business in this state means the exercise of the corporation's franchise in this state or the conduct of operations in this state that exceed the limitations provided in 15 U.S.C. 381 on a state imposing an income tax. Doing business in this state includes the sale, lease, or license of services, intangibles, or digital products to customers in this state that exceed five hundred thousand dollars in the previous or current calendar year;

(13) Federal taxable income means the corporate taxpayer's federal taxable income as reported to the Internal Revenue Service or as subsequently changed or amended. Except as provided in subsection (5) or (6) of section 77-2716, no adjustment shall be allowed for a change from any election made or the method used in computing federal taxable income. An election to file a federal consolidated return shall not require the inclusion in any unitary group of a corporation that is not a part of the unitary business;

(14) Intangible property means all personal property which is not tangible personal property and includes, but is not limited to, patents, copyrights, trademarks, trade names, service names, franchises, licenses, royalties, processes, techniques, formulas, and technical know-how but

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excludes money;

(15) Loan means any extension of credit resulting from direct negotiations between the taxpayer and its customer or the purchase, in whole or in part, of an extension of credit from another person. Loan includes participations, syndications, and leases treated as loans for federal income tax purposes. Loan does not include properties treated as loans under section 595 of the Internal Revenue Code prior to its repeal by Public Law 104-188, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment conduit or other mortgage-backed or asset-backed security, and other similar items;

(16) Loan secured by real property means a loan or other obligation which, at the time the original loan or obligation was incurred or during the current taxable year, was secured by real property. A loan secured by real property includes an installment sales contract for real property;

(17) Loan secured by tangible personal property means a loan or other obligation which, at the time the original loan or obligation was incurred or during the current taxable year, was secured by tangible personal property. A loan secured by tangible personal property includes an installment sales contract for tangible personal property;

(18) Loan servicing fee includes (a) fees or charges for originating and processing loan applications, including, but not limited to, prepaid interest and loan discounts, (b) fees or charges for collecting, tracking, and accounting for loan payments received, and (c) gross receipts from the sale of loan servicing rights;

(19) Participation means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan

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or pool of loans and related collateral;

(20) Sales means all gross receipts of the taxpayer, except:

(a) Income from discharge of indebtedness;

(b) Amounts received from hedging transactions involving intangible assets; or

(c) Net gains from marketable securities held for investment;

(21) Single economic unit means a business in which there is a sharing or exchange of value between the parts of the unit. A sharing or exchange of value occurs when the parts of the business are linked by (a) common management or (b) common operational resources that produce material (i) economies of scale, (ii) transfers of value, or (iii) flow of goods, capital, or services between the parts of the unit.

(A) For the purposes of this subdivision, common management includes, but is not limited to, (I) a centralized executive force or (II) review or approval authority over long-term operations with or without the exercise of control over the day-to-day operations.

(B) For the purposes of this subdivision, common operational resources includes, but is not limited to, centralization of any of the following: Accounting, advertising, engineering, financing, insurance, legal, personnel, pension or benefit plans, purchasing, research and development, selling, or union relations;

(22) State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof;

(23) Subject to the Internal Revenue Code means a corporation that meets the requirements of section 243 of the Internal Revenue Code in order for its distributions to qualify for the dividends-received deduction;

(24) Taxable income means federal taxable income as adjusted and, if appropriate, as apportioned;

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(25) Taxable year means the period the corporate taxpayer used on its federal income tax return;

(26) Treasury function is the pooling, management, and investment of intangible assets to satisfy the cash-flow needs of the trade or business, including, but not limited to, providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, or business acquisitions. A taxpayer principally engaged in the trade or business of purchasing and selling intangible assets of the type typically held in a taxpayer's treasury function, such as a registered broker-dealer, is not performing a treasury function with respect to income so produced;

(27) Unitary business means a business that is conducted as a single economic unit by one or more corporations with common ownership and shall include all activities in different lines of business that contribute to the single economic unit.

For the purposes of this subdivision, common ownership means one or more corporations owning fifty percent or more of another corporation; and

(28) Unitary group means the group of corporations that are conducting a unitary business.

Sec. 5. Original sections 77-2716.01, 77-2716.03, 77-2734.02, and 77-2734.04, Reissue Revised Statutes of Nebraska, are repealed.