

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 738

Introduced by Wayne, 13.

Read first time January 23, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2715.03 and 77-2716, Reissue Revised Statutes of Nebraska; to
- 3 change individual income tax brackets and rates; to harmonize
- 4 provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2715.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2715.03 (1) For taxable years beginning or deemed to begin on or
4 after January 1, 2013, and before January 1, 2014, the following brackets
5 and rates are hereby established for the Nebraska individual income tax:

6 Individual Income Tax Brackets and Rates

| 7 Bracket | Single | Married, | Head of | Married, | Estates | Tax |
|-----------|-------------|-----------|-----------|-----------|----------|-------|
| 8 Number | Individuals | Filing | Household | Filing | and | Rate |
| | | Jointly | | Separate | Trusts | |
| 10 1 | \$0-2,399 | \$0-4,799 | \$0-4,499 | \$0-2,399 | \$0-499 | 2.46% |
| 11 2 | \$2,400- | \$4,800- | \$4,500- | \$2,400- | \$500- | |
| 12 | 17,499 | 34,999 | 27,999 | 17,499 | 4,699 | 3.51% |
| 13 3 | \$17,500- | \$35,000- | \$28,000- | \$17,500- | \$4,700- | |
| 14 | 26,999 | 53,999 | 39,999 | 26,999 | 15,149 | 5.01% |
| 15 4 | \$27,000 | \$54,000 | \$40,000 | \$27,000 | \$15,150 | |
| 16 | and Over | and Over | and Over | and Over | and Over | 6.84% |

17 (2) For taxable years beginning or deemed to begin on or after
18 January 1, 2014, and before January 1, 2020, the following brackets and
19 rates are hereby established for the Nebraska individual income tax:

20 Individual Income Tax Brackets and Rates

| 21 Bracket | Single | Married, | Head of | Married, | Estates | Tax |
|------------|-------------|-----------|-----------|-----------|----------|-------|
| 22 Number | Individuals | Filing | Household | Filing | and | Rate |
| | | Jointly | | Separate | Trusts | |
| 24 1 | \$0-2,999 | \$0-5,999 | \$0-5,599 | \$0-2,999 | \$0-499 | 2.46% |
| 25 2 | \$3,000- | \$6,000- | \$5,600- | \$3,000- | \$500- | |
| 26 | 17,999 | 35,999 | 28,799 | 17,999 | 4,699 | 3.51% |
| 27 3 | \$18,000- | \$36,000- | \$28,800- | \$18,000- | \$4,700- | |
| 28 | 28,999 | 57,999 | 42,999 | 28,999 | 15,149 | 5.01% |
| 29 4 | \$29,000 | \$58,000 | \$43,000 | \$29,000 | \$15,150 | |
| 30 | and Over | and Over | and Over | and Over | and Over | 6.84% |

1 of the code the year 2013 shall be substituted for the year 1992. For
2 2015, the Tax Commissioner shall then determine the percent change from
3 the twelve months ending on August 31, 2013, to the twelve months ending
4 on August 31, 2014, and in each subsequent year, from the twelve months
5 ending on August 31, 2013, to the twelve months ending on August 31 of
6 the year preceding the taxable year. The Tax Commissioner shall prescribe
7 new tax rate schedules that apply in lieu of the schedules set forth in
8 subsections ~~subsection~~ (2) and (3) of this section.

9 (ii) For taxable years beginning or deemed to begin on or after
10 January 1, 2018, the Tax Commissioner shall adjust the income tax
11 brackets based on the percentage change in the Consumer Price Index for
12 All Urban Consumers published by the federal Bureau of Labor Statistics
13 from the twelve months ending on August 31, 2016, to the twelve months
14 ending on August 31 of the year preceding the taxable year. The Tax
15 Commissioner shall prescribe new tax rate schedules that apply in lieu of
16 the schedules set forth in subsections ~~subsection~~ (2) and (3) of this
17 section.

18 (5) ~~(4)~~ Whenever the tax brackets or tax rates are changed by the
19 Legislature, the Tax Commissioner shall update the tax rate schedules to
20 reflect the new tax brackets or tax rates and shall publish such updated
21 schedules.

22 (6) ~~(5)~~ The Tax Commissioner shall prepare, from the rate schedules,
23 tax tables which can be used by a majority of the taxpayers to determine
24 their Nebraska tax liability. The design of the tax tables shall be
25 determined by the Tax Commissioner. The size of the tax table brackets
26 may change as the level of income changes. The difference in tax between
27 two tax table brackets shall not exceed fifteen dollars. The Tax
28 Commissioner may build the personal exemption credit and standard
29 deduction amounts into the tax tables.

30 (7) ~~(6)~~ For taxable years beginning or deemed to begin on or after
31 January 1, 2013, the tax rate applied to other federal taxes included in

1 the computation of the Nebraska individual income tax shall be 29.6
2 percent.

3 (8) ~~(7)~~ The Tax Commissioner may require by rule and regulation that
4 all taxpayers shall use the tax tables if their income is less than the
5 maximum income included in the tax tables.

6 Sec. 2. Section 77-2716, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-2716 (1) The following adjustments to federal adjusted gross
9 income or, for corporations and fiduciaries, federal taxable income shall
10 be made for interest or dividends received:

11 (a)(i) There shall be subtracted interest or dividends received by
12 the owner of obligations of the United States and its territories and
13 possessions or of any authority, commission, or instrumentality of the
14 United States to the extent includable in gross income for federal income
15 tax purposes but exempt from state income taxes under the laws of the
16 United States; and

17 (ii) There shall be subtracted interest received by the owner of
18 obligations of the State of Nebraska or its political subdivisions or
19 authorities which are Build America Bonds to the extent includable in
20 gross income for federal income tax purposes;

21 (b) There shall be subtracted that portion of the total dividends
22 and other income received from a regulated investment company which is
23 attributable to obligations described in subdivision (a) of this
24 subsection as reported to the recipient by the regulated investment
25 company;

26 (c) There shall be added interest or dividends received by the owner
27 of obligations of the District of Columbia, other states of the United
28 States, or their political subdivisions, authorities, commissions, or
29 instrumentalities to the extent excluded in the computation of gross
30 income for federal income tax purposes except that such interest or
31 dividends shall not be added if received by a corporation which is a

1 regulated investment company;

2 (d) There shall be added that portion of the total dividends and
3 other income received from a regulated investment company which is
4 attributable to obligations described in subdivision (c) of this
5 subsection and excluded for federal income tax purposes as reported to
6 the recipient by the regulated investment company; and

7 (e)(i) Any amount subtracted under this subsection shall be reduced
8 by any interest on indebtedness incurred to carry the obligations or
9 securities described in this subsection or the investment in the
10 regulated investment company and by any expenses incurred in the
11 production of interest or dividend income described in this subsection to
12 the extent that such expenses, including amortizable bond premiums, are
13 deductible in determining federal taxable income.

14 (ii) Any amount added under this subsection shall be reduced by any
15 expenses incurred in the production of such income to the extent
16 disallowed in the computation of federal taxable income.

17 (2) There shall be allowed a net operating loss derived from or
18 connected with Nebraska sources computed under rules and regulations
19 adopted and promulgated by the Tax Commissioner consistent, to the extent
20 possible under the Nebraska Revenue Act of 1967, with the laws of the
21 United States. For a resident individual, estate, or trust, the net
22 operating loss computed on the federal income tax return shall be
23 adjusted by the modifications contained in this section. For a
24 nonresident individual, estate, or trust or for a partial-year resident
25 individual, the net operating loss computed on the federal return shall
26 be adjusted by the modifications contained in this section and any
27 carryovers or carrybacks shall be limited to the portion of the loss
28 derived from or connected with Nebraska sources.

29 (3) There shall be subtracted from federal adjusted gross income for
30 all taxable years beginning on or after January 1, 1987, the amount of
31 any state income tax refund to the extent such refund was deducted under

1 the Internal Revenue Code, was not allowed in the computation of the tax
2 due under the Nebraska Revenue Act of 1967, and is included in federal
3 adjusted gross income.

4 (4) Federal adjusted gross income, or, for a fiduciary, federal
5 taxable income shall be modified to exclude the portion of the income or
6 loss received from a small business corporation with an election in
7 effect under subchapter S of the Internal Revenue Code or from a limited
8 liability company organized pursuant to the Nebraska Uniform Limited
9 Liability Company Act that is not derived from or connected with Nebraska
10 sources as determined in section 77-2734.01.

11 (5) There shall be subtracted from federal adjusted gross income or,
12 for corporations and fiduciaries, federal taxable income dividends
13 received or deemed to be received from corporations which are not subject
14 to the Internal Revenue Code.

15 (6) There shall be subtracted from federal taxable income a portion
16 of the income earned by a corporation subject to the Internal Revenue
17 Code of 1986 that is actually taxed by a foreign country or one of its
18 political subdivisions at a rate in excess of the maximum federal tax
19 rate for corporations. The taxpayer may make the computation for each
20 foreign country or for groups of foreign countries. The portion of the
21 taxes that may be deducted shall be computed in the following manner:

22 (a) The amount of federal taxable income from operations within a
23 foreign taxing jurisdiction shall be reduced by the amount of taxes
24 actually paid to the foreign jurisdiction that are not deductible solely
25 because the foreign tax credit was elected on the federal income tax
26 return;

27 (b) The amount of after-tax income shall be divided by one minus the
28 maximum tax rate for corporations in the Internal Revenue Code; and

29 (c) The result of the calculation in subdivision (b) of this
30 subsection shall be subtracted from the amount of federal taxable income
31 used in subdivision (a) of this subsection. The result of such

1 calculation, if greater than zero, shall be subtracted from federal
2 taxable income.

3 (7) Federal adjusted gross income shall be modified to exclude any
4 amount repaid by the taxpayer for which a reduction in federal tax is
5 allowed under section 1341(a)(5) of the Internal Revenue Code.

6 (8)(a) Federal adjusted gross income or, for corporations and
7 fiduciaries, federal taxable income shall be reduced, to the extent
8 included, by income from interest, earnings, and state contributions
9 received from the Nebraska educational savings plan trust created in
10 sections 85-1801 to 85-1814 and any account established under the
11 achieving a better life experience program as provided in sections
12 77-1401 to 77-1409.

13 (b) Federal adjusted gross income or, for corporations and
14 fiduciaries, federal taxable income shall be reduced by any contributions
15 as a participant in the Nebraska educational savings plan trust or
16 contributions to an account established under the achieving a better life
17 experience program made for the benefit of a beneficiary as provided in
18 sections 77-1401 to 77-1409, to the extent not deducted for federal
19 income tax purposes, but not to exceed five thousand dollars per married
20 filing separate return or ten thousand dollars for any other return. With
21 respect to a qualified rollover within the meaning of section 529 of the
22 Internal Revenue Code from another state's plan, any interest, earnings,
23 and state contributions received from the other state's educational
24 savings plan which is qualified under section 529 of the code shall
25 qualify for the reduction provided in this subdivision. For contributions
26 by a custodian of a custodial account including rollovers from another
27 custodial account, the reduction shall only apply to funds added to the
28 custodial account after January 1, 2014.

29 (c) Federal adjusted gross income or, for corporations and
30 fiduciaries, federal taxable income shall be increased by:

31 (i) The amount resulting from the cancellation of a participation

1 agreement refunded to the taxpayer as a participant in the Nebraska
2 educational savings plan trust to the extent previously deducted under
3 subdivision (8)(b) of this section; and

4 (ii) The amount of any withdrawals by the owner of an account
5 established under the achieving a better life experience program as
6 provided in sections 77-1401 to 77-1409 for nonqualified expenses to the
7 extent previously deducted under subdivision (8)(b) of this section.

8 (9)(a) For income tax returns filed after September 10, 2001, for
9 taxable years beginning or deemed to begin before January 1, 2006, under
10 the Internal Revenue Code of 1986, as amended, federal adjusted gross
11 income or, for corporations and fiduciaries, federal taxable income shall
12 be increased by eighty-five percent of any amount of any federal bonus
13 depreciation received under the federal Job Creation and Worker
14 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
15 under section 168(k) or section 1400L of the Internal Revenue Code of
16 1986, as amended, for assets placed in service after September 10, 2001,
17 and before December 31, 2005.

18 (b) For a partnership, limited liability company, cooperative,
19 including any cooperative exempt from income taxes under section 521 of
20 the Internal Revenue Code of 1986, as amended, limited cooperative
21 association, subchapter S corporation, or joint venture, the increase
22 shall be distributed to the partners, members, shareholders, patrons, or
23 beneficiaries in the same manner as income is distributed for use against
24 their income tax liabilities.

25 (c) For a corporation with a unitary business having activity both
26 inside and outside the state, the increase shall be apportioned to
27 Nebraska in the same manner as income is apportioned to the state by
28 section 77-2734.05.

29 (d) The amount of bonus depreciation added to federal adjusted gross
30 income or, for corporations and fiduciaries, federal taxable income by
31 this subsection shall be subtracted in a later taxable year. Twenty

1 percent of the total amount of bonus depreciation added back by this
2 subsection for tax years beginning or deemed to begin before January 1,
3 2003, under the Internal Revenue Code of 1986, as amended, may be
4 subtracted in the first taxable year beginning or deemed to begin on or
5 after January 1, 2005, under the Internal Revenue Code of 1986, as
6 amended, and twenty percent in each of the next four following taxable
7 years. Twenty percent of the total amount of bonus depreciation added
8 back by this subsection for tax years beginning or deemed to begin on or
9 after January 1, 2003, may be subtracted in the first taxable year
10 beginning or deemed to begin on or after January 1, 2006, under the
11 Internal Revenue Code of 1986, as amended, and twenty percent in each of
12 the next four following taxable years.

13 (10) For taxable years beginning or deemed to begin on or after
14 January 1, 2003, and before January 1, 2006, under the Internal Revenue
15 Code of 1986, as amended, federal adjusted gross income or, for
16 corporations and fiduciaries, federal taxable income shall be increased
17 by the amount of any capital investment that is expensed under section
18 179 of the Internal Revenue Code of 1986, as amended, that is in excess
19 of twenty-five thousand dollars that is allowed under the federal Jobs
20 and Growth Tax Act of 2003. Twenty percent of the total amount of
21 expensing added back by this subsection for tax years beginning or deemed
22 to begin on or after January 1, 2003, may be subtracted in the first
23 taxable year beginning or deemed to begin on or after January 1, 2006,
24 under the Internal Revenue Code of 1986, as amended, and twenty percent
25 in each of the next four following tax years.

26 (11)(a) For taxable years beginning or deemed to begin before
27 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
28 federal adjusted gross income shall be reduced by contributions, up to
29 two thousand dollars per married filing jointly return or one thousand
30 dollars for any other return, and any investment earnings made as a
31 participant in the Nebraska long-term care savings plan under the Long-

1 Term Care Savings Plan Act, to the extent not deducted for federal income
2 tax purposes.

3 (b) For taxable years beginning or deemed to begin before January 1,
4 2018, under the Internal Revenue Code of 1986, as amended, federal
5 adjusted gross income shall be increased by the withdrawals made as a
6 participant in the Nebraska long-term care savings plan under the act by
7 a person who is not a qualified individual or for any reason other than
8 transfer of funds to a spouse, long-term care expenses, long-term care
9 insurance premiums, or death of the participant, including withdrawals
10 made by reason of cancellation of the participation agreement, to the
11 extent previously deducted as a contribution or as investment earnings.

12 (12) There shall be added to federal adjusted gross income for
13 individuals, estates, and trusts any amount taken as a credit for
14 franchise tax paid by a financial institution under sections 77-3801 to
15 77-3807 as allowed by subsection (5) of section 77-2715.07.

16 (13)(a) For taxable years beginning or deemed to begin on or after
17 January 1, 2015, under the Internal Revenue Code of 1986, as amended,
18 federal adjusted gross income shall be reduced by the amount received as
19 benefits under the federal Social Security Act which are included in the
20 federal adjusted gross income if:

21 (i) For taxpayers filing a married filing joint return, federal
22 adjusted gross income is fifty-eight thousand dollars or less; or

23 (ii) For taxpayers filing any other return, federal adjusted gross
24 income is forty-three thousand dollars or less.

25 (b) For taxable years beginning or deemed to begin on or after
26 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
27 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
28 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
29 individual income tax brackets under subsection (4) ~~(3)~~ of section
30 77-2715.03.

31 (14) For taxable years beginning or deemed to begin on or after

1 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
2 individual may make a one-time election within two calendar years after
3 the date of his or her retirement from the military to exclude income
4 received as a military retirement benefit by the individual to the extent
5 included in federal adjusted gross income and as provided in this
6 subsection. The individual may elect to exclude forty percent of his or
7 her military retirement benefit income for seven consecutive taxable
8 years beginning with the year in which the election is made or may elect
9 to exclude fifteen percent of his or her military retirement benefit
10 income for all taxable years beginning with the year in which he or she
11 turns sixty-seven years of age. For purposes of this subsection, military
12 retirement benefit means retirement benefits that are periodic payments
13 attributable to service in the uniformed services of the United States
14 for personal services performed by an individual prior to his or her
15 retirement.

16 Sec. 3. Original sections 77-2715.03 and 77-2716, Reissue Revised
17 Statutes of Nebraska, are repealed.