

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 432

Introduced by Revenue Committee: Linehan, 39, Chairperson; Albrecht, 17;
Briese, 41; Friesen, 34; Lindstrom, 18.

Read first time January 15, 2021

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2715.03 and 77-2734.02, Reissue Revised Statutes of Nebraska, and
- 3 section 77-2716, Revised Statutes Cumulative Supplement, 2020; to
- 4 change income tax rates; to harmonize provisions; and to repeal the
- 5 original sections.
- 6 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, 2022, 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 (3) For taxable years beginning or deemed to begin on or after
 2 January 1, 2022, the following brackets and rates are hereby established
 3 for the Nebraska individual income tax:

4 Individual Income Tax Brackets and Rates

5 <u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
6 <u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
7		<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
8 <u>1</u>	<u>\$0-2,999</u>	<u>\$0-5,999</u>	<u>\$0-5,599</u>	<u>\$0-2,999</u>	<u>\$0-499</u>	<u>X.XX%</u>
9 <u>2</u>	<u>\$3,000-</u>	<u>\$6,000-</u>	<u>\$5,600-</u>	<u>\$3,000-</u>	<u>\$500-</u>	
10	<u>17,999</u>	<u>35,999</u>	<u>28,799</u>	<u>17,999</u>	<u>4,699</u>	<u>X.XX%</u>
11 <u>3</u>	<u>\$18,000-</u>	<u>\$36,000-</u>	<u>\$28,800-</u>	<u>\$18,000-</u>	<u>\$4,700-</u>	
12	<u>28,999</u>	<u>57,999</u>	<u>42,999</u>	<u>28,999</u>	<u>15,149</u>	<u>X.XX%</u>
13 <u>4</u>	<u>\$29,000</u>	<u>\$58,000</u>	<u>\$43,000</u>	<u>\$29,000</u>	<u>\$15,150</u>	
14	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>X.XX%</u>

15 ~~(4)(a) (3)(a)~~ For taxable years beginning or deemed to begin on or
 16 after January 1, 2015, the minimum and maximum dollar amounts for each
 17 income tax bracket provided in ~~subsections~~ ~~subsection~~ (2) and (3) of this
 18 section shall be adjusted for inflation by the percentage determined
 19 under subdivision ~~(4)(b) (3)(b)~~ of this section. The rate applicable to
 20 any such income tax bracket shall not be changed as part of any
 21 adjustment under this subsection. The minimum and maximum dollar amounts
 22 for each income tax bracket as adjusted shall be rounded to the nearest
 23 ten-dollar amount. If the adjusted amount for any income tax bracket ends
 24 in a five, it shall be rounded up to the nearest ten-dollar amount.

25 (b)(i) For taxable years beginning or deemed to begin on or after
 26 January 1, 2015, and before January 1, 2018, the Tax Commissioner shall
 27 adjust the income tax brackets by the percentage determined pursuant to
 28 the provisions of section 1(f) of the Internal Revenue Code of 1986, as
 29 it existed prior to December 22, 2017, except that in section 1(f)(3)(B)
 30 of the code the year 2013 shall be substituted for the year 1992. For
 31 2015, the Tax Commissioner shall then determine the percent change from

1 the twelve months ending on August 31, 2013, to the twelve months ending
2 on August 31, 2014, and in each subsequent year, from the twelve months
3 ending on August 31, 2013, to the twelve months ending on August 31 of
4 the year preceding the taxable year. The Tax Commissioner shall prescribe
5 new tax rate schedules that apply in lieu of the schedules set forth in
6 subsections ~~subsection~~ (2) and (3) of this section.

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

16 (5) ~~(4)~~ Whenever the tax brackets or tax rates are changed by the
17 Legislature, the Tax Commissioner shall update the tax rate schedules to
18 reflect the new tax brackets or tax rates and shall publish such updated
19 schedules.

20 (6) ~~(5)~~ The Tax Commissioner shall prepare, from the rate schedules,
21 tax tables which can be used by a majority of the taxpayers to determine
22 their Nebraska tax liability. The design of the tax tables shall be
23 determined by the Tax Commissioner. The size of the tax table brackets
24 may change as the level of income changes. The difference in tax between
25 two tax table brackets shall not exceed fifteen dollars. The Tax
26 Commissioner may build the personal exemption credit and standard
27 deduction amounts into the tax tables.

28 (7) ~~(6)~~ For taxable years beginning or deemed to begin on or after
29 January 1, 2013, the tax rate applied to other federal taxes included in
30 the computation of the Nebraska individual income tax shall be 29.6
31 percent.

1 ~~(8) (7)~~ The Tax Commissioner may require by rule and regulation that
2 all taxpayers shall use the tax tables if their income is less than the
3 maximum income included in the tax tables.

4 Sec. 2. Section 77-2716, Revised Statutes Cumulative Supplement,
5 2020, is amended to read:

6 77-2716 (1) The following adjustments to federal adjusted gross
7 income or, for corporations and fiduciaries, federal taxable income shall
8 be made for interest or dividends received:

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

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

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

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

31 (d) There shall be added that portion of the total dividends and

1 other income received from a regulated investment company which is
2 attributable to obligations described in subdivision (c) of this
3 subsection and excluded for federal income tax purposes as reported to
4 the recipient by the regulated investment company; and

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

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

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

27 (3) There shall be subtracted from federal adjusted gross income for
28 all taxable years beginning on or after January 1, 1987, the amount of
29 any state income tax refund to the extent such refund was deducted under
30 the Internal Revenue Code, was not allowed in the computation of the tax
31 due under the Nebraska Revenue Act of 1967, and is included in federal

1 adjusted gross income.

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

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

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

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

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

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

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

4 (8)(a) Federal adjusted gross income or, for corporations and
5 fiduciaries, federal taxable income shall be reduced, to the extent
6 included, by income from interest, earnings, and state contributions
7 received from the Nebraska educational savings plan trust created in
8 sections 85-1801 to 85-1817 and any account established under the
9 achieving a better life experience program as provided in sections
10 77-1401 to 77-1409.

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

27 (c) For taxable years beginning or deemed to begin on or after
28 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
29 federal adjusted gross income shall be reduced, to the extent included in
30 the adjusted gross income of an individual, by the amount of any
31 contribution made by the individual's employer into an account under the

1 Nebraska educational savings plan trust owned by the individual, not to
2 exceed five thousand dollars per married filing separate return or ten
3 thousand dollars for any other return.

4 (d) Federal adjusted gross income or, for corporations and
5 fiduciaries, federal taxable income shall be increased by:

6 (i) The amount resulting from the cancellation of a participation
7 agreement refunded to the taxpayer as a participant in the Nebraska
8 educational savings plan trust to the extent previously deducted under
9 subdivision (8)(b) of this section; and

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

14 (9)(a) For income tax returns filed after September 10, 2001, for
15 taxable years beginning or deemed to begin before January 1, 2006, under
16 the Internal Revenue Code of 1986, as amended, federal adjusted gross
17 income or, for corporations and fiduciaries, federal taxable income shall
18 be increased by eighty-five percent of any amount of any federal bonus
19 depreciation received under the federal Job Creation and Worker
20 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
21 under section 168(k) or section 1400L of the Internal Revenue Code of
22 1986, as amended, for assets placed in service after September 10, 2001,
23 and before December 31, 2005.

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

31 (c) For a corporation with a unitary business having activity both

1 inside and outside the state, the increase shall be apportioned to
2 Nebraska in the same manner as income is apportioned to the state by
3 section 77-2734.05.

4 (d) The amount of bonus depreciation added to federal adjusted gross
5 income or, for corporations and fiduciaries, federal taxable income by
6 this subsection shall be subtracted in a later taxable year. Twenty
7 percent of the total amount of bonus depreciation added back by this
8 subsection for tax years beginning or deemed to begin before January 1,
9 2003, under the Internal Revenue Code of 1986, as amended, may be
10 subtracted in the first taxable year beginning or deemed to begin on or
11 after January 1, 2005, under the Internal Revenue Code of 1986, as
12 amended, and twenty percent in each of the next four following taxable
13 years. Twenty percent of the total amount of bonus depreciation added
14 back by this subsection for tax years beginning or deemed to begin on or
15 after January 1, 2003, may be subtracted in the first taxable year
16 beginning or deemed to begin on or after January 1, 2006, under the
17 Internal Revenue Code of 1986, as amended, and twenty percent in each of
18 the next four following taxable years.

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

1 (11)(a) For taxable years beginning or deemed to begin before
2 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
3 federal adjusted gross income shall be reduced by contributions, up to
4 two thousand dollars per married filing jointly return or one thousand
5 dollars for any other return, and any investment earnings made as a
6 participant in the Nebraska long-term care savings plan under the Long-
7 Term Care Savings Plan Act, to the extent not deducted for federal income
8 tax purposes.

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

18 (12) There shall be added to federal adjusted gross income for
19 individuals, estates, and trusts any amount taken as a credit for
20 franchise tax paid by a financial institution under sections 77-3801 to
21 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

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

1 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
2 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
3 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
4 individual income tax brackets under subsection (4) ~~(3)~~ of section
5 77-2715.03.

6 (14)(a) For taxable years beginning or deemed to begin on or after
7 January 1, 2015, and before January 1, 2022, under the Internal Revenue
8 Code of 1986, as amended, an individual may make a one-time election
9 within two calendar years after the date of his or her retirement from
10 the military to exclude income received as a military retirement benefit
11 by the individual to the extent included in federal adjusted gross income
12 and as provided in this subdivision. The individual may elect to exclude
13 forty percent of his or her military retirement benefit income for seven
14 consecutive taxable years beginning with the year in which the election
15 is made or may elect to exclude fifteen percent of his or her military
16 retirement benefit income for all taxable years beginning with the year
17 in which he or she turns sixty-seven years of age.

18 (b) For taxable years beginning or deemed to begin on or after
19 January 1, 2022, under the Internal Revenue Code of 1986, as amended, an
20 individual may exclude fifty percent of the military retirement benefit
21 income received by such individual to the extent included in federal
22 adjusted gross income.

23 (c) For purposes of this subsection, military retirement benefit
24 means retirement benefits that are periodic payments attributable to
25 service in the uniformed services of the United States for personal
26 services performed by an individual prior to his or her retirement.

27 (15) For taxable years beginning or deemed to begin on or after
28 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
29 federal adjusted gross income shall be reduced by the amount received as
30 a Segal AmeriCorps Education Award, to the extent such amount is included
31 in federal adjusted gross income.

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

3 77-2734.02 (1) Except as provided in subsection (2) of this section,
4 a tax is hereby imposed on the taxable income of every corporate taxpayer
5 that is doing business in this state:

6 (a) For taxable years beginning or deemed to begin before January 1,
7 2013, at a rate equal to one hundred fifty and eight-tenths percent of
8 the primary rate imposed on individuals under section 77-2701.01 on the
9 first one hundred thousand dollars of taxable income and at the rate of
10 two hundred eleven percent of such rate on all taxable income in excess
11 of one hundred thousand dollars. The resultant rates shall be rounded to
12 the nearest one hundredth of one percent; ~~and~~

13 (b) For taxable years beginning or deemed to begin on or after
14 January 1, 2013, and before January 1, 2022, at a rate equal to 5.58
15 percent on the first one hundred thousand dollars of taxable income and
16 at the rate of 7.81 percent on all taxable income in excess of one
17 hundred thousand dollars; and -

18 (c) For taxable years beginning or deemed to begin on or after
19 January 1, 2022, at a rate equal to X.XX percent on the first one hundred
20 thousand dollars of taxable income and at the rate of X.XX percent on all
21 taxable income in excess of one hundred thousand dollars.

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

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

1 retaliatory tax against the tax described in subsection (1) of this
2 section.

3 (3) For a corporate taxpayer that is subject to tax in another
4 state, its taxable income shall be the portion of the taxpayer's federal
5 taxable income, as adjusted, that is determined to be connected with the
6 taxpayer's operations in this state pursuant to sections 77-2734.05 to
7 77-2734.15.

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

10 Sec. 4. Original sections 77-2715.03 and 77-2734.02, Reissue
11 Revised Statutes of Nebraska, and section 77-2716, Revised Statutes
12 Cumulative Supplement, 2020, are repealed.