

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 573**

Introduced by Harr, 8; Ashford, 20; Hansen, 42; McCoy, 39; Pirsch,  
4.

Read first time January 23, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2715.08, Reissue Revised Statutes of Nebraska; to  
3 change provisions relating to an adjustment to income for  
4 certain capital gains and extraordinary dividends; to  
5 provide an operative date; and to repeal the original  
6 section.

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

1                   Section 1. Section 77-2715.08, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3                   77-2715.08 For purposes of this section and section  
4 77-2715.09, unless the context otherwise requires:

5                   (1) Capital stock means common or preferred stock, either  
6 voting or nonvoting. Capital stock does not include stock rights,  
7 stock warrants, stock options, or debt securities;

8                   (2)(a) Corporation means any corporation which, at the  
9 time of the first sale or exchange for which the election is made,  
10 has been in existence and actively doing business in this state for  
11 at least three years.

12                   (b) Corporation also includes:

13                   (i) Any corporation which is a member of a unitary group  
14 of corporations, as defined in section 77-2734.04, which includes a  
15 corporation defined in subdivision (2)(a) of this section; and

16                   (ii) Any predecessor or successor corporation of a  
17 corporation defined in subdivision (2)(a) of this section.

18                   (c) All corporations issuing capital stock for which an  
19 election under section 77-2715.09 is made shall, at the time of the  
20 first sale or exchange for which the election is made, have (i) at  
21 least five shareholders and (ii) at least two shareholders or groups  
22 of shareholders who are not related to each other and each of which  
23 owns at least ten percent of the capital stock.

24                   (d) For purposes of this subdivision, two (2)(c) of this  
25 section:

1           (i) Each participant in an employee stock ownership trust  
2 qualified under section 401(a) of the Internal Revenue Code of 1986,  
3 as amended, is a shareholder; and

4           (ii) Two persons shall be considered to be related when,  
5 under section 318 of the Internal Revenue Code of 1986, as amended,  
6 one is a person who owns, directly or indirectly, capital stock that  
7 if directly owned would be attributed to the other person or is the  
8 brother, sister, aunt, uncle, cousin, niece, or nephew of the other  
9 person who owns capital stock either directly or indirectly;

10           (3) Extraordinary dividend means any dividend exceeding  
11 twenty percent of the fair market value of the stock on which it is  
12 paid as of the date the dividend is declared; and

13           (4) Predecessor or successor corporation means a  
14 corporation that was a party to a reorganization that was entirely or  
15 substantially tax free and that occurred during or after the  
16 employment of the individual making an election under section  
17 77-2715.09.

18           Sec. 2. This act becomes operative for all taxable years  
19 beginning or deemed to begin on or after January 1, 2014, under the  
20 Internal Revenue Code of 1986, as amended.

21           Sec. 3. Original section 77-2715.08, Reissue Revised  
22 Statutes of Nebraska, is repealed.