

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 902

Introduced by Crawford, 45.

Read first time January 15, 2014

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2716, Revised Statutes Supplement, 2013; to exempt
3 military retirement income from state income taxation as
4 prescribed; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2716, Revised Statutes Supplement,
2 2013, is amended to read:

3 77-2716 (1) The following adjustments to federal adjusted
4 gross income or, for corporations and fiduciaries, federal taxable
5 income shall be made for interest or dividends received:

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

12 (b) There shall be subtracted that portion of the total
13 dividends and other income received from a regulated investment
14 company which is attributable to obligations described in subdivision
15 (a) of this subsection as reported to the recipient by the regulated
16 investment company;

17 (c) There shall be added interest or dividends received
18 by the owner of obligations of the District of Columbia, other states
19 of the United States, or their political subdivisions, authorities,
20 commissions, or instrumentalities to the extent excluded in the
21 computation of gross income for federal income tax purposes except
22 that such interest or dividends shall not be added if received by a
23 corporation which is a regulated investment company;

24 (d) There shall be added that portion of the total
25 dividends and other income received from a regulated investment

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

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

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

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

1 the portion of the loss derived from or connected with Nebraska
2 sources.

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

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

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

20 (6) There shall be subtracted from federal taxable income
21 a portion of the income earned by a corporation subject to the
22 Internal Revenue Code of 1986 that is actually taxed by a foreign
23 country or one of its political subdivisions at a rate in excess of
24 the maximum federal tax rate for corporations. The taxpayer may make
25 the computation for each foreign country or for groups of foreign

1 countries. The portion of the taxes that may be deducted shall be
2 computed in the following manner:

3 (a) The amount of federal taxable income from operations
4 within a foreign taxing jurisdiction shall be reduced by the amount
5 of taxes actually paid to the foreign jurisdiction that are not
6 deductible solely because the foreign tax credit was elected on the
7 federal income tax return;

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

11 (c) The result of the calculation in subdivision (b) of
12 this subsection shall be subtracted from the amount of federal
13 taxable income used in subdivision (a) of this subsection. The result
14 of such calculation, if greater than zero, shall be subtracted from
15 federal taxable income.

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

20 (8)(a) Federal adjusted gross income or, for corporations
21 and fiduciaries, federal taxable income shall be reduced, to the
22 extent included, by income from interest, earnings, and state
23 contributions received from the Nebraska educational savings plan
24 trust created in sections 85-1801 to 85-1814.

25 (b) Federal adjusted gross income or, for corporations

1 and fiduciaries, federal taxable income shall be reduced by any
2 contributions as a participant in the Nebraska educational savings
3 plan trust, to the extent not deducted for federal income tax
4 purposes, but not to exceed five thousand dollars per married filing
5 separate return or ten thousand dollars for any other return. With
6 respect to a qualified rollover within the meaning of section 529 of
7 the Internal Revenue Code from another state's plan, any interest,
8 earnings, and state contributions received from the other state's
9 educational savings plan which is qualified under section 529 of the
10 code shall qualify for the reduction provided in this subdivision.
11 For contributions by a custodian of a custodial account including
12 rollovers from another custodial account, the reduction shall only
13 apply to funds added to the custodial account after January 1, 2014.

14 (c) Federal adjusted gross income or, for corporations
15 and fiduciaries, federal taxable income shall be increased by the
16 amount resulting from the cancellation of a participation agreement
17 refunded to the taxpayer as a participant in the Nebraska educational
18 savings plan trust to the extent previously deducted as a
19 contribution to the trust.

20 (9)(a) For income tax returns filed after September 10,
21 2001, for taxable years beginning or deemed to begin before January
22 1, 2006, under the Internal Revenue Code of 1986, as amended, federal
23 adjusted gross income or, for corporations and fiduciaries, federal
24 taxable income shall be increased by eighty-five percent of any
25 amount of any federal bonus depreciation received under the federal

1 Job Creation and Worker Assistance Act of 2002 or the federal Jobs
2 and Growth Tax Act of 2003, under section 168(k) or section 1400L of
3 the Internal Revenue Code of 1986, as amended, for assets placed in
4 service after September 10, 2001, and before December 31, 2005.

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

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

16 (d) The amount of bonus depreciation added to federal
17 adjusted gross income or, for corporations and fiduciaries, federal
18 taxable income by this subsection shall be subtracted in a later
19 taxable year. Twenty percent of the total amount of bonus
20 depreciation added back by this subsection for tax years beginning or
21 deemed to begin before January 1, 2003, under the Internal Revenue
22 Code of 1986, as amended, may be subtracted in the first taxable year
23 beginning or deemed to begin on or after January 1, 2005, under the
24 Internal Revenue Code of 1986, as amended, and twenty percent in each
25 of the next four following taxable years. Twenty percent of the total

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

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

21 (11)(a) Federal adjusted gross income shall be reduced by
22 contributions, up to two thousand dollars per married filing jointly
23 return or one thousand dollars for any other return, and any
24 investment earnings made as a participant in the Nebraska long-term
25 care savings plan under the Long-Term Care Savings Plan Act, to the

1 extent not deducted for federal income tax purposes.

2 (b) Federal adjusted gross income shall be increased by
3 the withdrawals made as a participant in the Nebraska long-term care
4 savings plan under the act by a person who is not a qualified
5 individual or for any reason other than transfer of funds to a
6 spouse, long-term care expenses, long-term care insurance premiums,
7 or death of the participant, including withdrawals made by reason of
8 cancellation of the participation agreement or termination of the
9 plan, to the extent previously deducted as a contribution or as
10 investment earnings.

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

16 (13)(a) For taxable years beginning or deemed to begin on
17 or after January 1, 2014, under the Internal Revenue Code of 1986, as
18 amended, federal adjusted gross income shall be modified to exclude
19 one dollar of military retirement income for every one dollar of
20 nonretirement income. Subject to subdivision (13)(b) of this section,
21 the maximum exclusion provided by this subsection shall be limited
22 to:

23 (i) Sixty thousand dollars for taxpayers filing a married
24 filing joint return; and

25 (ii) Thirty thousand dollars for taxpayers filing any

1 other return.

2 (b) If federal adjusted gross income exceeds one hundred
3 twenty thousand dollars for taxpayers filing a married filing joint
4 return, the maximum exclusion provided in subdivision (13)(a)(i) of
5 this section shall be reduced by the amount by which federal adjusted
6 gross income exceeds one hundred twenty thousand dollars. If federal
7 adjusted gross income exceeds sixty thousand dollars for taxpayers
8 filing any other return, the maximum exclusion provided in
9 subdivision (13)(a)(ii) of this section shall be reduced by the
10 amount by which federal adjusted gross income exceeds sixty thousand
11 dollars.

12 (c) For purposes of this subsection:

13 (i) Military retirement income means retirement benefits
14 that are periodic payments attributable to service in the uniformed
15 services of the United States for personal services performed by an
16 individual prior to his or her retirement and that are included in
17 the taxpayer's federal adjusted gross income; and

18 (ii) Nonretirement income means income other than
19 military retirement income that is included in the taxpayer's federal
20 adjusted gross income and is earned in Nebraska. Nonretirement income
21 excludes investment income.

22 Sec. 2. Original section 77-2716, Revised Statutes
23 Supplement, 2013, is repealed.