

AMENDMENTS TO LB498

(Amendments to Standing Committee amendments, AM413)

Introduced by Hadley, 37.

1 1. Insert the following new section:

2 Sec. 18. Section 77-2701.24, Reissue Revised Statutes of Nebraska,
3 is amended to read:

4 77-2701.24 Occasional sale means:

5 (1) A sale, but not a lease or rental, of property which is the
6 subject of any intercompany sale or transfer involving any parent,
7 subsidiary, or brother-sister company relationship under section
8 77-2704.28 and which was either originally acquired prior to June 1,
9 1967, or, if acquired thereafter, the seller or transferor directly or
10 indirectly has previously paid a sales or use tax thereon, including:

11 (a) From one corporation to another corporation pursuant to a
12 reorganization. For purposes of this subdivision, reorganization means a
13 statutory merger or consolidation or the acquisition by a corporation of
14 substantially all of the properties of another corporation when the
15 consideration is solely all or a part of the voting stock of the
16 acquiring corporation or of its parent or subsidiary corporation;

17 (b) In connection with the winding up, dissolution, or liquidation
18 of a corporation only when there is a distribution of the property of
19 such corporation to the shareholders in kind if the portion of the
20 property so distributed to the shareholder is substantially in proportion
21 to the share of stock or securities held by the shareholder;

22 (c) To a corporation for the purpose of organization of such
23 corporation or the contribution of additional capital to such corporation
24 when the former owners of the property transferred are immediately after
25 the transfer in control of the corporation and the stock or securities
26 received by each is substantially in proportion to his or her interest in

1 the property prior to the transfer;

2 (d) To a partnership in the organization of such partnership if the
3 former owners of the property transferred are immediately after the
4 transfer members of such partnership and the interest in the partnership
5 received by each is substantially in proportion to his or her interest in
6 the property prior to the transfer;

7 (e) From a partnership to the members thereof when made in kind in
8 the dissolution of such partnership if the portion of the property so
9 distributed to the members of the partnership is substantially in
10 proportion to the interest in the partnership held by the members;

11 (f) To a limited liability company in the organization of such
12 limited liability company if the former owners of the property
13 transferred are immediately after the transfer members of such limited
14 liability company and the interest in the limited liability company
15 received by each is substantially in proportion to his or her interest in
16 the property prior to the transfer;

17 (g) From a limited liability company to the members thereof when
18 made in kind in the dissolution of such limited liability company if the
19 portion of the property so distributed to the members of the limited
20 liability company is substantially in proportion to the interest in the
21 limited liability company held by the members;

22 (h) From one limited liability company to another limited liability
23 company pursuant to a reorganization; or

24 (i) Any transaction between two persons that qualifies as a tax-free
25 transaction under the Internal Revenue Code;

26 (2) A sale of household goods, personal effects, and services if
27 each of the following conditions is met and if any one condition is not
28 met then the entire gross receipts shall be subject to the tax imposed by
29 section 77-2703:

30 (a) Such sales are by an individual at his or her residence or if
31 more than one individual's property is involved such sales are by one of

1 the individuals involved at the residence of one of the individuals or
2 such sales are by an individual on an online auction site;

3 (b) Such sales do not occur at any residence or on an online auction
4 site for more than three days during a calendar year;

5 (c) Such individual or individuals or any member of any of their
6 households does not conduct or engage in a trade or business in which
7 similar items are sold or services provided;

8 (d) Such property sold was originally acquired for and used for
9 personal use or the service provided may be performed at any individual
10 residence without specialized equipment or supplies; and

11 (e) Such property is not otherwise excepted from the definition of
12 occasional sale;

13 (3) Commencing with any transaction occurring on or after October 1,
14 1985, any sale of business or farm machinery and equipment if each of the
15 following conditions is met and if any one condition is not met the
16 entire gross receipts shall be subject to the tax imposed by section
17 77-2703:

18 (a) Such machinery or equipment was used by the seller or seller's
19 predecessor in a sale described in subdivision (1) of this section as a
20 depreciable capital asset in connection with the farm or business for a
21 period of at least one year;

22 (b) Such property was originally acquired prior to June 1, 1967, or
23 if acquired thereafter, the seller or seller's predecessor in a sale
24 described in subdivision (1) of this section directly or indirectly has
25 previously paid a sales or use tax thereon; and

26 (c) Such property is not otherwise excepted from the definition of
27 occasional sale;

28 (4) Commencing October 1, 1985, a sale by an organization created
29 exclusively for religious purposes or an agent of the organization for
30 such sale if each of the following conditions is met and if any one
31 condition is not met then the entire gross receipts shall be subject to

1 the tax imposed by section 77-2703:

2 (a) All sales occur during an activity conducted by such
3 organization or, if more than one organization is involved, by one of the
4 organizations owning property being sold;

5 (b) The organization only sells property it owns or provides the
6 service during one such activity in a calendar year; and

7 (c) The activity does not last longer than three consecutive days;
8 and

9 (5) Any sale that is made in connection with the sale to a single
10 buyer of all or substantially all of a trade or business if the seller or
11 seller's predecessor in a sale described in subdivision (1) of this
12 section directly or indirectly has previously paid a sales or use tax
13 thereon. This subdivision shall apply to any transaction occurring on or
14 after October 1, 1985.

15 Commencing October 1, 1985, occasional sale does not include any
16 sale directly by or any sale which is supervised or aided by an
17 auctioneer or an agent or employee of an auctioneer.

18 Except for a sale listed in subdivision (1) of this section, an
19 occasional sale does not mean any sale of motor vehicles, semitrailers,
20 ~~or trailers,~~ all-terrain vehicles, or utility-type vehicles as defined in
21 the Motor Vehicle Registration Act or any sale of a motorboat as defined
22 in section 37-1204.

23 2. Renumber the remaining sections and correct the repealer
24 accordingly.