LB453
2017

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIFTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 453

Introduced by Lindstrom, 18.

Read first time January 17, 2017

Committee: Revenue

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Cumulative Supplement, 2016; to change provisions relating to income tax adjustments for social security benefits; and to repeal the original section.

Be it enacted by the people of the State of Nebraska, Section 1. Section 77-2716, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

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

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

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

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

LB453
2017

the recipient by the regulated investment company; and

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

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

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

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

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or

loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

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

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

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

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

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

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

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

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

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

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

(ii) The amount of any withdrawals by the owner of an account established under the achieving a better life experience program as

LB453
2017

provided in sections 77-1401 to 77-1409 for nonqualified expenses to the extent previously deducted under subdivision (8)(b) of this section.

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

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

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

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

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

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

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

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

(13) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as benefits under the federal Social Security Act which are included in the federal adjusted gross income if:

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

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

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

retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement.

(15)(a) For taxable years beginning or deemed to begin on or after January 1, 2018, under the Internal Revenue Code of 1986, as amended, there shall be subtracted from federal adjusted gross income a percentage of the benefits received under the federal Social Security Act which are included in the taxpayer's federal adjusted gross income. The percentage of such benefits to be subtracted shall be based on the taxpayer's federal adjusted gross income and his or her filing status as provided in this subsection.

(b) For taxpayers whose filing status is married filing jointly:

(i) If federal adjusted gross income is less than seventy-five thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Twenty percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Sixty percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Eighty percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) One hundred percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

LB453
2017

(ii) If federal adjusted gross income is at least seventy-five thousand dollars but less than eighty thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Sixteen percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Thirty-two percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Forty-eight percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Sixty-four percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Eighty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(iii) If federal adjusted gross income is at least eighty thousand dollars but less than eighty-five thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Twelve percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Twenty-four percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Thirty-six percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the

Internal Revenue Code of 1986, as amended;

(D) Forty-eight percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Sixty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(iv) If federal adjusted gross income is at least eighty-five thousand dollars but less than ninety thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Eight percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Sixteen percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Twenty-four percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Thirty-two percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(v) If federal adjusted gross income is at least ninety thousand dollars but less than ninety-five thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Four percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Eight percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Twelve percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Sixteen percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Twenty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(vi) If federal adjusted gross income is ninety-five thousand dollars or more, no subtraction for social security benefits shall be allowed under this subsection.

(c) For taxpayers whose filing status is single, head of household, or married filing separately:

(i) If federal adjusted gross income is less than sixty thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Twenty percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Sixty percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

LB453
2017

(D) Eighty percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) One hundred percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(ii) If federal adjusted gross income is at least sixty thousand dollars but less than sixty-five thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Sixteen percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Thirty-two percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Forty-eight percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Sixty-four percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Eighty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(iii) If federal adjusted gross income is at least sixty-five thousand dollars but less than seventy thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Twelve percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal

Revenue Code of 1986, as amended;

(B) Twenty-four percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Thirty-six percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Forty-eight percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Sixty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(iv) If federal adjusted gross income is at least seventy thousand dollars but less than seventy-five thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Eight percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Sixteen percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Twenty-four percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Thirty-two percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(v) If federal adjusted gross income is at least seventy-five thousand dollars but less than eighty thousand dollars, the percentage of social security benefits to be subtracted from federal adjusted gross income shall be:

(A) Four percent for taxable years beginning or deemed to begin on or after January 1, 2018, and before January 1, 2019, under the Internal Revenue Code of 1986, as amended;

(B) Eight percent for taxable years beginning or deemed to begin on or after January 1, 2019, and before January 1, 2020, under the Internal Revenue Code of 1986, as amended;

(C) Twelve percent for taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2021, under the Internal Revenue Code of 1986, as amended;

(D) Sixteen percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(E) Twenty percent for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended; and

(vi) If federal adjusted gross income is eighty thousand dollars or more, no subtraction for social security benefits shall be allowed under this subsection.

(d) For taxable years beginning or deemed to begin on or after January 1, 2019, under the Internal Revenue Code of 1986, as amended, the dollar amounts contained in subdivisions (15)(b)(i) through (vi) and (15)(c)(i) through (vi) of this section shall be increased by an amount equal to such dollar amount, multiplied by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for calendar year 2017. For purposes of this subdivision:

(i) The Consumer Price Index for any calendar year is the average of

LB453
2017

the Consumer Price Index as of the close of the twelve-month period ending on August 31 of such calendar year; and

(ii) Consumer Price Index means the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics.

Sec. 2. Original section 77-2716, Revised Statutes Cumulative Supplement, 2016, is repealed.