

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 498

Introduced by Linehan, 39.

Read first time January 17, 2023

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement,
3 2022; to provide a sales tax credit for certain franchise fees paid;
4 to define terms; to harmonize provisions; to provide an operative
5 date; to repeal the original sections; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
4 77-27,236, and 77-27,238 to 77-27,240 and section 3 of this act shall be
5 known and may be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. Section 77-2701.04, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
9 77-27,239 and section 3 of this act, unless the context otherwise
10 requires, the definitions found in sections 77-2701.05 to 77-2701.55
11 shall be used.

12 Sec. 3. (1) A retailer that provides services described in
13 subdivision (2)(d) of section 77-2701.16 may credit against the tax
14 levied by section 77-2703, which such retailer would otherwise be
15 required to collect and remit, an amount equal to the franchise fees paid
16 in this state by the retailer or a member of its affiliated group. A
17 retailer may claim the credit allowed under this section on a return
18 required to be filed under section 77-2708 within the calendar quarter in
19 which the franchise fees were paid.

20 (2) If the amount of the credit allowed by this section exceeds the
21 amount of the retailer's tax otherwise owed for such calendar quarter,
22 the retailer may file a refund claim under subsection (2) of section
23 77-2708. The deadline for the refund claim shall be measured from the due
24 date of the return for the period in which the credit could first be
25 claimed.

26 (3) For purposes of this section:

27 (a) Affiliated group means any combination of the following:

28 (i) An affiliated group within the meaning provided in 26 U.S.C.
29 1504, except that the ownership percentage in 26 U.S.C. 1504(a)(2) shall
30 be determined using fifty percent instead of eighty percent, or a
31 relationship described in 26 U.S.C. 267(b)(11); or

1 (ii) Two or more partnerships, including limited liability companies
2 and limited liability partnerships, that have the same degree of mutual
3 ownership as an affiliated group described in subdivision (3)(a)(i) of
4 this section, as determined under rules and regulations adopted and
5 promulgated by the Department of Revenue; and

6 (b) Franchise fee has the same meaning as in 47 U.S.C. 542(g).

7 Sec. 4. This act becomes operative on July 1, 2023.

8 Sec. 5. Original sections 77-2701 and 77-2701.04, Revised Statutes
9 Cumulative Supplement, 2022, are repealed.

10 Sec. 6. Since an emergency exists, this act takes effect when
11 passed and approved according to law.