

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 218

FINAL READING

Introduced by Lindstrom, 18.

Read first time January 11, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-103, 77-117, and 77-2701.16, Reissue Revised Statutes of
- 3 Nebraska; to redefine the terms real property and gross receipts as
- 4 prescribed; to harmonize provisions; to provide an operative date;
- 5 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 77-103, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-103 Real property shall mean:

4 (1) All land;

5 (2) All buildings, improvements, and fixtures, except trade
6 fixtures;

7 (3) All electric generation, transmission, distribution, and street
8 lighting structures or facilities owned by a political subdivision of the
9 state;

10 (4) ~~(3)~~ Mobile homes, cabin trailers, and similar property, not
11 registered for highway use, which are used, or designed to be used, for
12 residential, office, commercial, agricultural, or other similar purposes,
13 but not including mobile homes, cabin trailers, and similar property when
14 unoccupied and held for sale by persons engaged in the business of
15 selling such property when such property is at the location of the
16 business;

17 (5) ~~(4)~~ Mines, minerals, quarries, mineral springs and wells, oil
18 and gas wells, overriding royalty interests, and production payments with
19 respect to oil or gas leases; and

20 (6) ~~(5)~~ All privileges pertaining to real property described in
21 subdivisions (1) through (5) ~~(4)~~ of this section.

22 Sec. 2. Section 77-117, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-117 Improvements on leased land shall mean any item of real
25 property defined in subdivisions (2) through (5) ~~(4)~~ of section 77-103
26 which is located on land owned by a person other than the owner of the
27 item.

28 Sec. 3. Section 77-2701.16, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-2701.16 (1) Gross receipts means the total amount of the sale or
31 lease or rental price, as the case may be, of the retail sales of

1 retailers.

2 (2) Gross receipts of every person engaged as a public utility
3 specified in this subsection, as a community antenna television service
4 operator, or as a satellite service operator or any person involved in
5 connecting and installing services defined in subdivision (2)(a), (b), or
6 (d) of this section means:

7 (a)(i) In the furnishing of telephone communication service, other
8 than mobile telecommunications service as described in section
9 77-2703.04, the gross income received from furnishing ancillary services,
10 except for conference bridging services, and intrastate
11 telecommunications services, except for value-added, nonvoice data
12 service.

13 (ii) In the furnishing of mobile telecommunications service as
14 described in section 77-2703.04, the gross income received from
15 furnishing mobile telecommunications service that originates and
16 terminates in the same state to a customer with a place of primary use in
17 Nebraska;

18 (b) In the furnishing of telegraph service, the gross income
19 received from the furnishing of intrastate telegraph services;

20 (c)(i) In the furnishing of gas, sewer, water, and electricity
21 service, other than electricity service to a customer-generator as
22 defined in section 70-2002, the gross income received from the furnishing
23 of such services upon billings or statements rendered to consumers for
24 such utility services.

25 (ii) In the furnishing of electricity service to a customer-
26 generator as defined in section 70-2002, the net energy use upon billings
27 or statements rendered to customer-generators for such electricity
28 service;

29 (d) In the furnishing of community antenna television service or
30 satellite service, the gross income received from the furnishing of such
31 community antenna television service as regulated under sections 18-2201

1 to 18-2205 or 23-383 to 23-388 or satellite service; and

2 (e) The gross income received from the provision, installation,
3 construction, servicing, or removal of property used in conjunction with
4 the furnishing, installing, or connecting of any public utility services
5 specified in subdivision (2)(a) or (b) of this section or community
6 antenna television service or satellite service specified in subdivision
7 (2)(d) of this section, except when acting as a subcontractor for a
8 public utility, this subdivision does not apply to the gross income
9 received by a contractor electing to be treated as a consumer of building
10 materials under subdivision (2) or (3) of section 77-2701.10 for any such
11 services performed on the customer's side of the utility demarcation
12 point. This subdivision also does not apply to the gross income received
13 by a political subdivision of the state for the lease or use of electric
14 generation, transmission, distribution, or street lighting structures or
15 facilities owned by a political subdivision of the state.

16 (3) Gross receipts of every person engaged in selling, leasing, or
17 otherwise providing intellectual or entertainment property means:

18 (a) In the furnishing of computer software, the gross income
19 received, including the charges for coding, punching, or otherwise
20 producing any computer software and the charges for the tapes, disks,
21 punched cards, or other properties furnished by the seller; and

22 (b) In the furnishing of videotapes, movie film, satellite
23 programming, satellite programming service, and satellite television
24 signal descrambling or decoding devices, the gross income received from
25 the license, franchise, or other method establishing the charge.

26 (4) Gross receipts for providing a service means:

27 (a) The gross income received for building cleaning and maintenance,
28 pest control, and security;

29 (b) The gross income received for motor vehicle washing, waxing,
30 towing, and painting;

31 (c) The gross income received for computer software training;

1 (d) The gross income received for installing and applying tangible
2 personal property if the sale of the property is subject to tax. If any
3 or all of the charge for installation is free to the customer and is paid
4 by a third-party service provider to the installer, any tax due on that
5 part of the activation commission, finder's fee, installation charge, or
6 similar payment made by the third-party service provider shall be paid
7 and remitted by the third-party service provider;

8 (e) The gross income received for services of recreational vehicle
9 parks;

10 (f) The gross income received for labor for repair or maintenance
11 services performed with regard to tangible personal property the sale of
12 which would be subject to sales and use taxes, excluding motor vehicles,
13 except as otherwise provided in section 77-2704.26 or 77-2704.50;

14 (g) The gross income received for animal specialty services except
15 (i) veterinary services, (ii) specialty services performed on livestock
16 as defined in section 54-183, and (iii) animal grooming performed by a
17 licensed veterinarian or a licensed veterinary technician in conjunction
18 with medical treatment; and

19 (h) The gross income received for detective services.

20 (5) Gross receipts includes the sale of admissions. When an
21 admission to an activity or a membership constituting an admission is
22 combined with the solicitation of a contribution, the portion or the
23 amount charged representing the fair market price of the admission shall
24 be considered a retail sale subject to the tax imposed by section
25 77-2703. The organization conducting the activity shall determine the
26 amount properly attributable to the purchase of the privilege, benefit,
27 or other consideration in advance, and such amount shall be clearly
28 indicated on any ticket, receipt, or other evidence issued in connection
29 with the payment.

30 (6) Gross receipts includes the sale of live plants incorporated
31 into real estate except when such incorporation is incidental to the

1 transfer of an improvement upon real estate or the real estate.

2 (7) Gross receipts includes the sale of any building materials
3 annexed to real estate by a person electing to be taxed as a retailer
4 pursuant to subdivision (1) of section 77-2701.10.

5 (8) Gross receipts includes the sale of and recharge of prepaid
6 calling service and prepaid wireless calling service.

7 (9) Gross receipts includes the retail sale of digital audio works,
8 digital audiovisual works, digital codes, and digital books delivered
9 electronically if the products are taxable when delivered on tangible
10 storage media. A sale includes the transfer of a permanent right of use,
11 the transfer of a right of use that terminates on some condition, and the
12 transfer of a right of use conditioned upon the receipt of continued
13 payments.

14 (10) Gross receipts does not include:

15 (a) The amount of any rebate granted by a motor vehicle or motorboat
16 manufacturer or dealer at the time of sale of the motor vehicle or
17 motorboat, which rebate functions as a discount from the sales price of
18 the motor vehicle or motorboat; or

19 (b) The price of property or services returned or rejected by
20 customers when the full sales price is refunded either in cash or credit.

21 Sec. 4. This act becomes operative on July 1, 2019.

22 Sec. 5. Original sections 77-103, 77-117, and 77-2701.16, Reissue
23 Revised Statutes of Nebraska, are repealed.

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