

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1203

Introduced by Linehan, 39; Kolterman, 24; Lindstrom, 18.

Read first time January 23, 2020

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2716, Revised Statutes Supplement, 2019; to change provisions
- 3 relating to an income tax deduction for dividends received or deemed
- 4 to be received from certain corporations; and to repeal the original
- 5 section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2716, Revised Statutes Supplement, 2019, is
2 amended to read:

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

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

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

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

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

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

1 the recipient by the regulated investment company; and

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

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

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

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

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

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

6 (5) There shall be subtracted from federal adjusted gross income or,
7 for corporations and fiduciaries, federal taxable income dividends
8 received or deemed to be received from corporations which are not subject
9 to the Internal Revenue Code. For purposes of this subsection, dividends
10 deemed to be received includes income included in federal income under
11 section 951(a) of the Internal Revenue Code, including foreign earnings
12 deemed repatriated by section 965 of the Internal Revenue Code, and
13 income included in federal income under section 951A of the Internal
14 Revenue Code net of the deduction in section 250(a)(1)(B) of the Internal
15 Revenue Code. The changes made in this subsection by this legislative
16 bill are intended to clarify the meaning of this subsection as it existed
17 prior to the effective date of this act, and therefore such changes shall
18 apply to tax returns filed prior to, on, or after the effective date of
19 this act.

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

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

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

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

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

11 (8)(a) Federal adjusted gross income or, for corporations and
12 fiduciaries, federal taxable income shall be reduced, to the extent
13 included, by income from interest, earnings, and state contributions
14 received from the Nebraska educational savings plan trust created in
15 sections 85-1801 to 85-1817 and any account established under the
16 achieving a better life experience program as provided in sections
17 77-1401 to 77-1409.

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

1 custodial account, the reduction shall only apply to funds added to the
2 custodial account after January 1, 2014.

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

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

9 (ii) The amount of any withdrawals by the owner of an account
10 established under the achieving a better life experience program as
11 provided in sections 77-1401 to 77-1409 for nonqualified expenses to the
12 extent previously deducted under subdivision (8)(b) of this section.

13 (9)(a) For income tax returns filed after September 10, 2001, for
14 taxable years beginning or deemed to begin before January 1, 2006, under
15 the Internal Revenue Code of 1986, as amended, federal adjusted gross
16 income or, for corporations and fiduciaries, federal taxable income shall
17 be increased by eighty-five percent of any amount of any federal bonus
18 depreciation received under the federal Job Creation and Worker
19 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
20 under section 168(k) or section 1400L of the Internal Revenue Code of
21 1986, as amended, for assets placed in service after September 10, 2001,
22 and before December 31, 2005.

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

30 (c) For a corporation with a unitary business having activity both
31 inside and outside the state, the increase shall be apportioned to

1 Nebraska in the same manner as income is apportioned to the state by
2 section 77-2734.05.

3 (d) The amount of bonus depreciation added to federal adjusted gross
4 income or, for corporations and fiduciaries, federal taxable income by
5 this subsection shall be subtracted in a later taxable year. Twenty
6 percent of the total amount of bonus depreciation added back by this
7 subsection for tax years beginning or deemed to begin before January 1,
8 2003, under the Internal Revenue Code of 1986, as amended, may be
9 subtracted in the first taxable year beginning or deemed to begin on or
10 after January 1, 2005, under the Internal Revenue Code of 1986, as
11 amended, and twenty percent in each of the next four following taxable
12 years. Twenty percent of the total amount of bonus depreciation added
13 back by this subsection for tax years beginning or deemed to begin on or
14 after January 1, 2003, may be subtracted in the first taxable year
15 beginning or deemed to begin on or after January 1, 2006, under the
16 Internal Revenue Code of 1986, as amended, and twenty percent in each of
17 the next four following taxable years.

18 (10) For taxable years beginning or deemed to begin on or after
19 January 1, 2003, and before January 1, 2006, under the Internal Revenue
20 Code of 1986, as amended, federal adjusted gross income or, for
21 corporations and fiduciaries, federal taxable income shall be increased
22 by the amount of any capital investment that is expensed under section
23 179 of the Internal Revenue Code of 1986, as amended, that is in excess
24 of twenty-five thousand dollars that is allowed under the federal Jobs
25 and Growth Tax Act of 2003. Twenty percent of the total amount of
26 expensing added back by this subsection for tax years beginning or deemed
27 to begin on or after January 1, 2003, may be subtracted in the first
28 taxable year beginning or deemed to begin on or after January 1, 2006,
29 under the Internal Revenue Code of 1986, as amended, and twenty percent
30 in each of the next four following tax years.

31 (11)(a) For taxable years beginning or deemed to begin before

1 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
2 federal adjusted gross income shall be reduced by contributions, up to
3 two thousand dollars per married filing jointly return or one thousand
4 dollars for any other return, and any investment earnings made as a
5 participant in the Nebraska long-term care savings plan under the Long-
6 Term Care Savings Plan Act, to the extent not deducted for federal income
7 tax purposes.

8 (b) For taxable years beginning or deemed to begin before January 1,
9 2018, under the Internal Revenue Code of 1986, as amended, federal
10 adjusted gross income shall be increased by the withdrawals made as a
11 participant in the Nebraska long-term care savings plan under the act by
12 a person who is not a qualified individual or for any reason other than
13 transfer of funds to a spouse, long-term care expenses, long-term care
14 insurance premiums, or death of the participant, including withdrawals
15 made by reason of cancellation of the participation agreement, to the
16 extent previously deducted as a contribution or as investment earnings.

17 (12) There shall be added to federal adjusted gross income for
18 individuals, estates, and trusts any amount taken as a credit for
19 franchise tax paid by a financial institution under sections 77-3801 to
20 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

30 (b) For taxable years beginning or deemed to begin on or after
31 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the

1 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
2 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
3 individual income tax brackets under subsection (3) of section
4 77-2715.03.

5 (14) For taxable years beginning or deemed to begin on or after
6 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
7 individual may make a one-time election within two calendar years after
8 the date of his or her retirement from the military to exclude income
9 received as a military retirement benefit by the individual to the extent
10 included in federal adjusted gross income and as provided in this
11 subsection. The individual may elect to exclude forty percent of his or
12 her military retirement benefit income for seven consecutive taxable
13 years beginning with the year in which the election is made or may elect
14 to exclude fifteen percent of his or her military retirement benefit
15 income for all taxable years beginning with the year in which he or she
16 turns sixty-seven years of age. For purposes of this subsection, military
17 retirement benefit means retirement benefits that are periodic payments
18 attributable to service in the uniformed services of the United States
19 for personal services performed by an individual prior to his or her
20 retirement.

21 Sec. 2. Original section 77-2716, Revised Statutes Supplement,
22 2019, is repealed.