

ONE HUNDRED NINTH LEGISLATURE - FIRST SESSION - 2025
COMMITTEE STATEMENT
LB401

Hearing Date: Wednesday January 29, 2025
Committee On: Revenue
Introducer: von Gillern
One Liner: Change provisions relating to income taxes imposed on partnerships and small business corporations and notices of deficiency determinations, deficiencies, and denials of claims for refunds

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators von Gillern, Bostar, Dungan, Ibach, Jacobson, Kauth, Murman, Sorrentino
Nay:
Absent:
Present Not Voting:

Testimony:

Proponents:

Senator R. Brad von Gillern
Nicholas Bjornson

Representing:

Opening Presenter
Greater Omaha Chamber, Nebraska Chamber, Lincoln Chamber of Commerce, Nebraska Society of Certified Public Accountants, Nebraska Federation of Independent Businesses

Opponents:

Representing:

Neutral:

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB401 makes changes to several notice requirement sections regarding what needs to be communicated to certain taxpayers. When sending notices regarding underpayment, deficiencies, proposed deficiency determinations, or confirming there was no overpayment, the Tax Commissioner would be required to disclose the facts, circumstances, and reasoning in writing.

LB401 would allow partnerships and small business corporations the discretion to elect to pay taxes, interests, and/or penalties at the entity level. The election is made on the applicable income tax return and must be made by the filing deadline. Additionally, language is added to allow the refundable tax credit for the year the election is made, regardless of when the tax is paid.



Section-by-Section Summary:

Section 1: Amends section 77-2708(2)(e) to add that the notice of disallowance of a refund served by the Tax Commissioner be in a written format detailing the facts, circumstances, and reasoning used to determine that there was no overpayment.

Section 2: Amends section 77-2709(5)(a) to add that the notice of a deficiency determination served by the Tax Commissioner be in a written format detailing the facts, circumstances, and reasoning used to determine that there is an underpayment.

Section 3: Amends section 77-2727(6)(a) to give partnerships discretion on making the election to pay taxes, interest, and/or penalties at the entity level. The election may be made on the applicable income tax return and shall be made on or before the filing deadline. Amends section 77-2727(6)(g)(i) to add that for tax years beginning on or after January 1, 2022, the refundable credit to partners of electing partnerships shall be allowed for the tax year where the election is made, regardless of when the taxes were paid. Amends subdivisions (6)(d) and (h) of section 77-2727 to clarify language on income taxes and harmonize language.

Section 4: Amends section 77-2734.01(8)(a) to give small business corporations discretion on making the election to pay taxes, interest, and/or penalties at the entity level. The election may be made on the applicable income tax return and shall be made on or before the filing deadline. Amends section 77-2734.01(8)(g) to add that for tax years beginning on or after January 1, 2022, the refundable credit to shareholders of electing small business corporations shall be allowed for the tax year where the election is made, regardless of when the taxes were paid. Amends subdivisions (8)(d) and (h) of section 77-2734.01 to clarify language on income taxes and harmonize language.

Section 5: Amends section 77-2776(3) to add that the notice of deficiency shall be in a written format detailing the facts, circumstances, and reasoning used to determine that the taxpayer did not report the correct amount of income tax.

Section 6: Amends section 77-2786(1) to add that the notice of proposed deficiency determination shall be in a written format detailing the facts, circumstances, and reasoning used to determine that the taxpayer did not report the correct amount of income tax.

Section 7: Amends section 77-2796 to add that the notice of disallowance of a refund served by the Tax Commissioner be in a written format detailing the facts, circumstances, and reasoning used to determine that there was no overpayment of income tax.

Section 8: Repealer.

Explanation of amendments:

AM 284 strikes section 1, 2, 6, and 7 of the original bill.

R. Brad von Gillern, Chairperson

