

BASIC PROVISIONS AND TAX BASE OF THE NEBRASKA SALES AND USE TAX LAWS AND LOCAL OPTION SALES AND USE TAX LAWS

Sales Tax*

Nebraska sales tax is imposed upon the gross receipts from all sales, leases, or rentals of tangible personal property made at retail in this state and upon the gross receipts of selected services; gross receipts of every person engaged as a public utility or as a community antenna television service operator; the gross receipts from the sale of admissions in the state; the gross receipts of persons selling, leasing, or otherwise providing intellectual or entertainment property; and the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax. The state sales tax rate was five percent from July 10, 1990 through June 30, 1998. The 1998 Legislature passed a temporary rate decrease for a one year period beginning July 1, 1998 that reduces the sales and use tax rate to four and one-half percent.

Property is defined as all tangible and intangible property that is subject to tax in the above paragraph.

Use Tax*

Nebraska consumer's use tax is a complement to the sales tax and is imposed upon the storage, use, or consumption of any property purchased at retail when the sales or retailer's use tax has not been paid, regardless of where the property is purchased and on any transaction subject to the sales tax. A personal use tax liability is extinguished if the sales or use tax has previously been paid to Nebraska.

Local Option Sales and Use Tax

Any Nebraska county or incorporated municipality may impose a local sales and use tax upon approval by a majority of their voters in a regular election. The local tax applies to the identical transactions subject to the state sales and use tax, with the exception of direct-to-home satellite programming. Local option taxes of 0.5, 1, and 1.5 percent may be approved by city voters. The tax is collected and remitted to the state and is then allocated back to the municipalities after deducting the amount of refunds made and a three percent administrative fee. The three percent administrative fee is deposited in the Municipal Equalization Fund.

* The taxes collected are deposited into two funds: Highway Allocation Fund, and the State General Fund. Deposits to the Highway Allocation Fund are made from the sales and use taxes derived from motor vehicles, trailers, and semi-trailers. The balance of taxes collected is deposited in the State General Fund.

SALES AND USE TAX

LOCAL OPTION SALES AND USE TAX

Statutory Reference and Description	Estimated Tax Expenditure Cost NA = Not Available
EXEMPTIONS	
77-2702.07(2)(a) Any income from the local telephone companies' gross receipts from the provision of communication services from local telephone companies to communication services providers. This income would include division of revenue, settlements, and carrier access charges.	\$7,904,000
77-2702.07(2)(c) Water used for irrigation of agricultural lands and manufacturing purposes.	\$599,000
77-2702.07(2)(d) Gross receipts from telephone directory advertising.	\$3,439,000
77-2702.07(3)(a) Charges for training customers to use computer software.	\$1,950,000
77-2702.07(3)(b) and 77-2702.14(2) Gross income received from videotape, film rentals, and satellite programming (when tax is to be charged on the admission or service).	\$1,069,000
77-2702.07(4)(a) and 77-2702.17(2)(a) Cash discounts allowed and taken on sales, including coupons issued and redeemed by the retailer.	\$1,433,000
77-2702.07(4)(b) and 77-2702.17(2)(b) The amount of any rebate granted by a motor vehicle or motorboat manufacturer or dealer at the time of sale of the motor vehicle which rebate functions as a discount from the sales price of the motor vehicle.	\$642,000
77-2702.07(4)(d) and 77-2702.17(2)(d) Separately stated finance, carrying, service, or interest charges in connection with credit extended under a deferred payment plan.	\$208,000
77-2702.07(4)(e) and 77-2702.17(2)(e) The value of trade-ins taken in connection with a sale of property.	\$2,156,000

77-2702.07(4)(f) and 77-2702.17(2)(f)	
The value of a motor vehicle or motorboat taken by any person in trade as all or a part of the consideration for a sale of another vehicle.	\$21,166,000
77-2702.07(4)(h) and 77-2702.17(2)(h)	
Installation charges made in connection with the installation of property when separately stated from the purchase price.	NA
77-2702.09 and 77-2702.13(2)(d)	
Occasional sales which include:	
77-2702.09(1)	
An intercompany sale of property or motor vehicles from a subsidiary to a parent or vice versa, from one subsidiary to another subsidiary having the same parent or between brother-sister companies.	NA
77-2702.09(2)	
Garage sales at which household goods and personal belongings are sold. The sales cannot be held more than three days in a year and such sales must meet the additional criteria contained in this subsection.	\$451,000
77-2702.09(3)	
The sale of a business or farm machinery and equipment if each of the conditions in this subsection are met.	NA
77-2702.09(4)	
A sale of property by an organization created exclusively for religious purposes, or by an agent of the organization for such sale, if each of the conditions in this subsection is met.	NA
77-2702.09(5)	
Any sale of property that is made in connection with the sale to a single buyer of all or substantially all of the property of a trade or business if the seller has previously paid a sales or use tax thereon.	NA
77-2702.13(1)(d)	
Fees charged for functions at elementary or secondary schools, public or private.	\$108,000
77-2702.13(1)(d)(iii) and 77-2704.10(4)	
Fees for admissions, meals, or food charged by ballot question committees, candidate committees, independent committees, and political party committees as defined in the Nebraska Political Accountability and Disclosure Act.	Minimal
77-2702.13(2)(a)(i)	
Property which will become an ingredient or component part of property which is manufactured, processed, or fabricated for sale.	\$532,000,000

77-2702.13(2)(a)(ii)		
Refractory materials, lime, synthetic slag, mill rolls, and guides used to manufacture steel or cement.		\$637,000
77-2702.13(2)(b)(i) and 77-2704.41		
Animal life whose products constitute food for human consumption. Feed, water, and veterinary medicines and agricultural chemicals used in caring for animal life, the products of which constitutes food or apparel for human consumption.		\$301,200,000
77-2702.13(2)(b)(ii)		
Seeds and annual plants sold to commercial producers of the products of such seeds, the products being for human consumption; seed legumes, grasses, and grains for agricultural purposes.		\$8,083,000
77-2702.13(2)(b)(iii)		
Agricultural chemicals, adjuvants, surfactants, bonding agents, clays, oils, and any other additives or compatability agents to be applied to land or crops.		\$22,884,000
77-2702.13(2)(b)(iv)		
Oxygen for use in aquaculture.		NA
77-2702.13(2)(c)(i)		
Nonreturnable containers sold to persons who place contents in the container and sell the contents with the container.		\$16,667,000*
77-2702.13(2)(c)(ii)		
Containers which hold contents that are not subject to sales or use tax.	Included in above *	
77-2702.13(2)(c)(iii)		
Returnable containers when sold with the contents or when resold for refilling.	Included in above *	
77-2702.13(2)(e) and 77-2704.31		
Property which has been taxed in another state, territory, or possession of the U.S., when a reciprocal exclusion or an exemption to similar transactions in Nebraska is granted.		NA
77-2702.13(2)(f) and 77-2704.30(1)		
Materials and replacement parts when used in the repair and maintenance or manufacture of railroad rolling stock whether owned by a railroad or by any other person, whether a common or contract carrier or otherwise, motor vehicles, watercraft, or aircraft used as a common or contract carrier; the purchase of such motor vehicles, watercraft, or aircraft; the purchase of accessories which could have been included at the time of purchase; the purchase of equipment required by a regulatory agency.		\$16,889,000

77-2702.13(2)(g) and 77-2704.27	
Railroad rolling stock whether purchased by a railroad or by another person; the rental or lease of railroad rolling stock.	\$7,183,000
77-2702.13(2)(h)	
The sale of property annexed to real estate.	NA
77-2702.14(2)	
Rentals of railroad rolling stock interchanged pursuant to the Interstate Commerce Act.	\$799,000
77-2702.15(6)	
Room rentals for less than 30 days made by hospitals, nursing homes, college dormitories and other such facilities licensed by the state.	\$39,030,000
Lodging rented or leased for 30 days or longer.	\$48,335,000
77-2702.16	
Sales of property intended for resale, rental, or lease.	\$1,167,000,000
77-2702.19 and 77-2702.23(2)	
Property purchased by a non-nexus seller and is retained solely for transporting out-of-state or to be incorporated into other property which will then be transported out-of-state.	\$536,000
77-2703(2)(g)	
Any person who purchases property in another state, territory, or possession of the United States, the Commonwealth of Puerto Rico, or any foreign country with the intent of using such property at that location, and it is actually used for its intended purpose (motor vehicles or motor boats registered in another state, commonwealth, territory, possession or country); and brings such property into the State of Nebraska for use.	NA
77-2704.02	
Purchases by the U.S. government, its agencies, and wholly-owned corporations.	\$48,567,000 (State taxation prohibited)
77-2704.03	
Fuel for use in aircraft.	\$4,233,000
77-2704.04	
Minerals, oil, and gas severed from the ground.	\$3,840,000
77-2704.05	
Motor vehicle fuels such as gasoline, including casing head or natural gas, benzol, naphtha, and benzine and any other liquids or gases for	\$68,207,000 ¹

use in motor vehicles, motorboats, or aircraft; diesel and compressed fuels delivered into the fuel supply tanks of other vehicles.

77-2704.07

Newspapers issued at least once a week. Newspaper advertising supplements actually distributed with newspapers. \$3,395,000

77-2704.08

Leased property sold to a lessee of the property under a rental agreement (lease-purchase agreement) where the rental payments are credited against the purchase price of the property to the extent tax was collected on the payments. NA

77-2704.09(1)

Insulin and prescription medicines, durable medical equipment, home medical supplies, prosthetic and orthotic devices, oxygen, and any oxygen equipment for a patient's use sold under a doctor's prescription. \$16,306,000

77-2704.10(1)

Meals and food products, including soft drinks and candy, for human consumption served by public or private schools, school districts, student organizations, or parent-teacher associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school or at any institution of higher education, public or private, during the regular school day or at an approved function of any such school or institution, however such exemption does not apply to sales at any facility or function which is open to the general public, except that concession sales by elementary and secondary schools, public or private, shall be exempt. \$2,640,000

77-2704.10(2)

Meals and food products, including soft drinks and candy, for human consumption when sold by a church at a church function. \$231,000

77-2704.10(3)

Meals and food products, including soft drinks and candy for human consumption, when served to patients and inmates of hospitals and other institutions licensed by the state for the care of human beings. \$7,576,000 ²
\$4,181,000 ³

Regulation 1-052.03

Amounts received by Nebraska florists who make deliveries in this state pursuant to instructions received from florists outside this state. \$424,000

77-2704.11

Property shipped outside the state pursuant to a sale contract calling for out-of-state delivery by the retailer, or delivery by the retailer to a carrier, to the post office, Native Americans residing on a reservation, or to a forwarding agent for shipment out-of-state; a purchase by a common or contract carrier transported by them out-of-state for use by the carrier. \$2,454,000

77-2704.11

The amount charged for the fabrication (production labor) of property owned and furnished by an in-state or out-of-state customer which is fabricated in this state and then shipped by the Nebraska retailer performing the fabrication to a point outside this state. NA

77-2704.12(1)

Purchases made by:
Religious organizations \$30,533,000
Nonprofit organizations providing services exclusively to the blind.

Nebraska licensed schools, colleges, universities (public or private) (not including Nebraska public post-secondary institutions)
Nonprofit Nebraska licensed hospitals

Health clinics when two or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services, or when the health clinic receives funds under the Urban Health Initiative Program or the rural Health Institutes Program of the United States Public Health Service
Nonprofit Nebraska licensed skilled nursing facilities
Nonprofit Nebraska licensed intermediate care facilities
Nonprofit Nebraska licensed nursing facilities
Licensed child-caring agencies or child placement agencies
Nonprofit organizations providing services primarily for home health care purposes

A contractor may be appointed as the purchasing agent of the above entities and make tax-free purchases of materials that will be annexed to real property. \$7,162,000

77-2704.12(4) and 77-2704.15(3)

Any organization listed in 77-2704.12(1) or any governmental unit listed in 77-2704.15(1), except the state, which enters into a contract of construction, improvement, or repair upon real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to annexing property to the project may apply to the State Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the property annexed to real estate. NA

77-2704.13(1)

Sales and purchases of electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, and butane when more than fifty percent of the amount purchased is for use directly in irrigation or farming. NA

77-2704.13(2)

Sales and purchases of such energy sources or fuels when more than fifty percent of the amount purchased is for use directly in processing, manufacturing, generation of electricity, refining of property, or by any hospital. NA

77-2704.14		
The use of coin-operated machines used for laundering and cleaning.		\$340,000
77-2704.15(1)		
Purchases by the state, including public educational institutions \$136,600,000 recognized or established under the provisions of Chapter 85, or any Nebraska county, township, city, village, or rural or suburban fire protection district, or joint entity or agency formed to fulfill the purposes described in the Integrated Solid Waste Management Act by any combination of two or more counties, townships, cities, or villages pursuant to the Interlocal Cooperation Act or the Integrated Solid Waste Management Act, except for use in the business of furnishing gas, water, electricity, heat, or by any irrigation or reclamation district, the irrigation division of any public power and irrigation district, or public schools established under Chapter 79.		
77-2704.15(2)		
The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of property which is annexed to the structure and belongs to the state or the governmental unit. The appointment of purchasing agents must be in writing and occur prior to annexing any property to real estate.	Included in 77-2704.15(1)	
77-2704.16		
Purchases made by the State Board of Agriculture.		\$40,400
77-2704.17 - 77-2704.20		
Purchases made by the Nebraska Investment Finance Authority, the Research and Development Authority, the Small Business Development Authority, and licensees of the State Racing Commission.		NA
77-2704.21		
The entire purchase price of a motor vehicle purchased when the maximum amount allowed by law is contributed by the Veterans' Administration of the United States or the Department of Health and Human Services for a disabled person. If the amount contributed is less than the maximum amount, the exemption shall be based on the portion of the purchase price contributed.		\$30,500
77-2704.22		
Magazines or journals issued at least once a month purchased through a subscription.		\$1,842,000
77-2704.23		
Semen for use in ranching, farming, commercial, or industrial uses.		\$346,000

77-2704.24
 Food or food products (including ingredients, additives, and certain snack foods) for human consumption eligible to be purchased with food coupons not including meals prepared for immediate consumption on or off the premises of the retailer (unless sold by certain organizations). \$120,414,000

Regulation 1-083
 Meals furnished at fraternities, sororities, cooperative student societies, and summer camps. \$323,000

77-2704.25
 Property, except meals for human consumption, sold by parent-booster clubs, parent-teacher associations, parent-teacher-student associations, or school-operated stores approved by an elementary or secondary school, public or private, if the proceeds from such sale are used to support school activities or the school itself. \$83,000

77-2704.26
 An aircraft delivered in this state to an individual who is a resident of another state or any other person who has a business location in another state when the aircraft is not to be registered or based in this state and it will not remain in this state more than ten days. NA

77-2704.36
 Agricultural machinery and equipment for use in commercial agriculture. \$15,215,000

77-2704.38
 Lottery tickets sold pursuant to the State Lottery Act. \$3,832,000

77-2704.39
 Sales of syndicated programming for rebroadcast by a radio or television station. NA

77-2704.40
 Sales of molds, dies, and patterns which are used to manufacture a single product that is either injection molded from plastic or stamped from metal. NA

CREDITS AND REFUNDS

77-2704.32
 A sales tax refund for tax paid on materials actually annexed outside the United States or its territories or possessions. NA

77-2704.33
 A sales tax credit or refund is given when a written contract exists for a fixed price for a construction project and the sales tax rate is increased during the term of the contract. The contractor can then apply for a refund of the increased sales tax amount paid when the amount exceeds ten dollars. (Amount depends on rate change) NA

77-2708(2)(j)(i)&(ii)

A sales tax credit is given to the retailer, contractor, or repairperson for sales charged off as worthless and uncollectible for federal income tax purposes or against bad debt reserve; a credit is given for the portion of the purchase price remaining unpaid at the time of repossession.

NA

7-2708.01

A refund is given for the sales tax paid on depreciable repairs or parts for agricultural machinery and equipment used in commercial agriculture.

NA

77-27,149 through 77-27,155

A refund is made for sales tax paid by claimant or his contractor on an air or water pollution control facility used primarily for eliminating industrial or agricultural waste from air or water.

\$20,700

77-27,187 (Employment Expansion and Investment Incentive Act - LB1124, as amended by LB270 and LB335)

Tax credits are provided for qualifying businesses which increase investment of at least \$75,000 and increase net employment by an average of two full-time positions during a taxable year. Credits may be used to reduce a portion of the taxpayer's income tax liability or to obtain a refund of sales and use tax paid. Initial increase in employment and investment must occur in one taxable year, but additional credits may be obtained for increasing employment by two or more full-time employees during the next five years. An additional investment of a specified amount during this time is not required. The credits are \$1,500 per net new employee and \$1,000 per \$75,000 net new investment. For businesses located in designated enterprise zones, with half of their new employees living in the enterprise zone, the credits are tripled, with total credits not to exceed \$75,000.

(See separate section)

77-4101 (Employment and Investment Growth Act - LB775, as amended by LB1234)

A taxpayer's business may qualify for tax incentives under the Employment and Investment Growth Act if the business plans result in either (a) the investment in a qualified property of at least \$3,000,000 and the hiring of at least 30 new employees, or (b) the investment in qualified property of at least \$10,000,000 and the hiring of at least 100 new employees, or (c) the investment in qualified property of at least \$20,000,000.

(See separate section)

DEDUCTIONS

77-2703(2)(d) and 77-2708(1)(d)

A collection fee is taken by retailers and other persons collecting the sales and use tax to defer the expense of collection. The collection fee is two and one-half percent of the first \$3,000 and one-half percent of the excess. The fee is computed on the basis of each licensed location when a combined return is filed.

\$12,644,450 ⁴

77-27,144

The state deducts from local sales and use tax proceeds the amount of \$4,700,000⁵ refunds made and a three percent administrative fee.

¹ Includes sales tax from fuel for use in an aircraft. The assumption is that imposition of the sales and use tax would be in addition to the state and federal motor fuel and aviation fuel taxes.

² Includes Medicare and Medicaid payments.

³ Excludes Medicare and Medicaid payments.

⁴ Includes Retailer's Collection Fee and County Treasurer's Collection Fee.

⁵ This would be a tax expenditure for local governments (cities) with a city sales tax.

SALES AND USE TAX SELECTED SERVICES

Industry Classification (Profit and Nonprofit Organizations)	Estimated Tax Expenditure Cost
A. Personal Services	
Hotel and Motels	\$435,350
Personal Services	7,934,390
Automotive Repair, Services and Parking	10,712,600
Miscellaneous Repair Services	4,457,400
Membership Organizations	4,431,400
Real Estate	
Real Estate Operators and Lessors	\$ 947,600
Real Estate Agents and Managers	1,952,000
Title Abstract Offices	236,300
Subdividers and Developers	87,100
Motor Clubs	\$ 120,000
Motion Pictures	<u>912,500</u>
Total:	\$32,226,640
B. Business Services:	
Business Services	\$51,150,000
Agricultural Services	<u>8,717,000</u>
Total:	\$59,867,000
C. Professional Services:	
Legal Services	\$21,716,000
Engineering, Accounting, Management, and Related Services	17,535,000
Security, Commodity Brokers, and Service	<u>3,464,600</u>
Total:	\$42,715,600
D. Educational Services:	
Educational Services	\$ 1,020,000
Tuition: Non-Public K1-12 Education	1,553,000
Private Colleges	<u>7,389,400</u>
Total:	\$9,962,400
E. Construction:	
Construction, etc., Highway, Other Public Owned	<u>\$18,424,000</u>
Total:	\$18,424,000

Industry Classification (Profit and Nonprofit Organizations)	Estimated Tax Expenditure Cost
F. Health Services:	
Private: Direct Patient	\$ 36,532,000
Insurance	46,869,000
Public	58,196,000
Total:	<u>\$141,597,000</u>
G. Social Services:	\$18,969,000
Total:	<u>\$18,969,000</u>
H. Insurance Premiums Written:	
Life	\$20,147,500
Annuity	7,571,400
Group, Individual Acc., and Health	21,252,200
Other	42,260,000
Total:	<u>\$91,231,100</u>
I. Financial Institutions:	
Commercial Banks	\$6,161,400
Savings and Loans Associations	118,700
Credit Unions	117,600
Consumer Finance Division	28,300
Total:	<u>\$6,426,000</u>
J. Rental Payments:	<u>\$31,662,000</u>
Total:	\$31,662,000
Grand Total:	\$453,080,740

**SALES AND USE TAX, NEBRASKA AND
LOCAL OPTION
RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.