

Section H

Corporation Occupation Tax

BASIC PROVISIONS AND TAX BASE OF THE NEBRASKA TAX LAWS

A biennial occupation tax is levied against domestic and foreign corporations. The tax is due March 1 of each even numbered year (changed to every two years with the fee scale doubled by LB 524, 2003). The tax levied against domestic corporations is calculated based on the amount of paid-up capital stock of the corporation. The fee schedule is as follows:

Amount Paid-Up Capital Stock*			Amount Paid-Up Capital Stock*		
		Tax Fee			Tax Fee
\$ 0.00-	\$ 10,000.00	\$ 26.00	\$ 450,000.01-	\$ 500,000.00	\$ 800.00
10,000.01-	20,000.00	40.00	500,000.01-	600,000.00	910.00
20,000.01-	30,000.00	60.00	600,000.01-	700,000.00	1,010.00
30,000.01-	40,000.00	80.00	700,000.01-	800,000.00	1,120.00
40,000.01-	50,000.00	100.00	800,000.01-	900,000.00	1,230.00
50,000.01-	60,000.00	120.00	900,000.01-	1,000,000.00	1,330.00
60,000.01-	70,000.00	140.00	1,000,000.01-	2,000,000.00	2,130.00
70,000.01-	80,000.00	160.00	2,000,000.01-	3,000,000.00	2,930.00
80,000.01-	90,000.00	180.00	3,000,000.01-	4,000,000.00	3,730.00
90,000.01-	100,000.00	200.00	4,000,000.01-	5,000,000.00	4,530.00
100,000.01-	125,000.00	240.00	5,000,000.01-	6,000,000.00	5,330.00
125,000.01-	150,000.00	280.00	6,000,000.01-	7,000,000.00	6,130.00
150,000.01-	175,000.00	320.00	7,000,000.01-	8,000,000.00	6,930.00
175,000.01-	200,000.00	360.00	8,000,000.01-	9,000,000.00	7,730.00
200,000.01-	225,000.00	400.00	9,000,000.01-	10,000,000.00	8,530.00
225,000.01-	250,000.00	440.00	10,000,000.01-	15,000,000.00	12,000.00
250,000.01-	275,000.00	480.00	15,000,000.01-	20,000,000.00	14,660.00
275,000.01-	300,000.00	520.00	20,000,000.01-	25,000,000.00	17,330.00
300,000.01-	325,000.00	560.00	25,000,000.01-	50,000,000.00	20,660.00
325,000.01-	350,000.00	600.00	50,000,000.01-	100,000,000.00	21,330.00
350,000.01-	400,000.00	666.00	When paid-up capital stock		
400,000.01-	450,000.00	730.00	exceeds \$100,000,000.00		23,990.00

The occupation tax and biennial fees for business corporations are deposited in the State General Fund.

*The term paid-up capital stock was redefined under LB 35 which passed during the 1999 Legislative session. For purposes of Chapter 21, article 3, the term paid-up capital stock shall mean, at any particular time, the sum of the par value of all shares of capital stock of the corporation issued and outstanding. (Nebraska Revised Statutes 21-329).

The tax levied against foreign corporations is based on the actual value of all real estate and personal property employed in Nebraska by such foreign corporation in the transaction of its business (21-306). The fee schedule is as follows:

Amount of Assets in Nebraska			Amount of Assets in Nebraska		
		Tax Fee			Tax Fee
\$ 0.00-	\$ 10,000.00	\$ 52.00	\$ 350,000.01-	\$ 400,000.00	\$ 1,332.00
10,000.01-	20,000.00	80.00	400,000.01-	450,000.00	1,460.00
20,000.01-	30,000.00	120.00	450,000.01-	500,000.00	1,600.00
30,000.01-	40,000.00	160.00	500,000.01-	600,000.00	1,820.00
40,000.01-	50,000.00	200.00	600,000.01-	700,000.00	2,020.00
50,000.01-	60,000.00	240.00	700,000.01-	800,000.00	2,240.00
60,000.01-	70,000.00	280.00	800,000.01-	900,000.00	2,460.00
70,000.01-	80,000.00	320.00	900,000.01-	1,000,000.00	2,660.00
80,000.01-	90,000.00	360.00	1,000,000.01-	2,000,000.00	4,260.00
90,000.01-	100,000.00	400.00	2,000,000.01-	3,000,000.00	5,860.00
100,000.01-	125,000.00	480.00	3,000,000.01-	4,000,000.00	7,460.00
125,000.01-	150,000.00	560.00	4,000,000.01-	5,000,000.00	9,060.00
150,000.01-	175,000.00	640.00	5,000,000.01-	6,000,000.00	10,660.00
175,000.01-	200,000.00	720.00	6,000,000.01-	7,000,000.00	12,260.00
200,000.01-	225,000.00	800.00	7,000,000.01-	8,000,000.00	13,860.00
225,000.01-	250,000.00	880.00	8,000,000.01-	9,000,000.00	15,460.00
250,000.01-	275,000.00	960.00	9,000,000.01-	10,000,000.00	17,060.00
275,000.01-	300,000.00	1,040.00	10,000,000.01-	15,000,000.00	24,000.00
300,000.01-	325,000.00	1,120.00	15,000,000.01-	20,000,000.00	29,320.00
325,000.01-	350,000.00	1,200.00	When assets exceed 20,000,000.00		30,000.00

Each year several domestic and foreign corporations request refunds for overpayment of their corporation occupation tax. As of 1984, refunds are limited to two years after payment of the tax. The statutes are silent as to the amount of money the Secretary of State can refund.

Section 21-328. Domestic or foreign corporation; refund of fees; procedure. Any corporation paying the fees imposed by section 21-303 or 21-306 may claim a refund if the payment of such fee was invalid for any reason. The corporation shall file a written claim and any evidence supporting the claim within two years after payment of such fee. The Secretary of State shall either approve or deny the claim within thirty days after such filing. Any approved claims shall be paid out of the General Fund. Appeal of a decision by the Secretary of State shall be made pursuant to section 84-917.

Domestic and foreign corporations which have been dissolved by operation of law for failure to file a report and pay the tax may be reinstated. To reinstate, corporations must file a certificate of renewal, pay a filing fee, pay all taxes due, and pay a 14 percent penalty calculated to the date of renewal (section 45-104.2).

An annual fee of ten dollars is levied against nonprofit corporations. The fee is collected in the odd numbered years on a biennial basis and deposited into the Corporate Cash Fund.

CORPORATION OCCUPATION TAX

Statutory Reference and Description	Estimated Tax Expenditure Cost NA = Not Available
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EXEMPTIONS

Section 21-20,168

The following activities of a foreign corporation are not considered to be transacting business in Nebraska, and therefore, exempt the corporation from imposition of the corporate occupation fee:

- (a) Maintaining, defending, or settling any proceeding; NA

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| (b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs; | NA |
| (c) Maintaining bank accounts; | NA |
| (d) Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or maintaining trustees or depositories with respect to those securities; | NA |
| (e) Selling through independent contractors; | NA |
| (f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts; | NA |
| (g) Creating, as a borrower or lender, or acquiring indebtedness, mortgages, or other security interests in real or personal property; | NA |
| (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts; | NA |
| (i) Owning, without more, real or personal property; | NA |
| (j) Conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature; | NA |
| (k) Acting as a foreign corporate trustee to the extent authorized under section 30-2805; | NA |
| (l) Transacting business in interstate commerce; or | NA |
| (m) The requirements of the Business Corporation Act shall not be applicable to foreign or alien insurers which are subject to the requirements of Chapter 44. | NA |

Section 21-321

All banking, insurance, and building and loan association corporations paying fees and making reports to the Auditor of Public Accounts or the Director of Banking and Finance, and all other corporations paying an annual occupation tax to the state under any other statutory provisions other than those of sections 21-301 to 21-327, are exempt from the provisions of said sections.	NA
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RECOMMENDATIONS

The Secretary of State and the Nebraska Department of Revenue have no recommendations.