

SECTION H

Corporation Occupation Tax

BASIC PROVISIONS AND TAX BASE

A biennial occupation tax is levied against domestic and foreign corporations. The tax is due March 1 of each even-numbered year. The tax levied against domestic corporations is calculated based on the amount of paid-up capital stock of the corporation.

NEBRASKA CORPORATION OCCUPATION TAX FEE SCHEDULE					
Amount of Paid-Up Capital Stock¹		Tax Fee	Amount of Paid-Up Capital Stock¹		Tax Fee
\$0.00 - \$10,000		\$26	\$450,000.01 - \$500,000		\$800
10,000.01 - 20,000		40	500,000.01 - 600,000		910
20,000.01 - 30,000		60	600,000.01 - 700,000		1,010
30,000.01 - 40,000		80	700,000.01 - 800,000		1,120
40,000.01 - 50,000		100	800,000.01 - 900,000		1,230
50,000.01 - 60,000		120	900,000.01 - 1,000,000		1,330
60,000.01 - 70,000		140	1,000,000.01 - 2,000,000		2,130
70,000.01 - 80,000		160	2,000,000.01 - 3,000,000		2,930
80,000.01 - 90,000		180	3,000,000.01 - 4,000,000		3,730
90,000.01 - 100,000		200	4,000,000.01 - 5,000,000		4,530
100,000.01 - 125,000		240	5,000,000.01 - 6,000,000		5,330
125,000.01 - 150,000		280	6,000,000.01 - 7,000,000		6,130
150,000.01 - 175,000		320	7,000,000.01 - 8,000,000		6,930
175,000.01 - 200,000		360	8,000,000.01 - 9,000,000		7,730
200,000.01 - 225,000		400	9,000,000.01 - 10,000,000		8,530
225,000.01 - 250,000		440	10,000,000.01 - 15,000,000		12,000
250,000.01 - 275,000		480	15,000,000.01 - 20,000,000		14,660
275,000.01 - 300,000		520	20,000,000.01 - 25,000,000		17,330
300,000.01 - 325,000		560	25,000,000.01 - 50,000,000		20,660
325,000.01 - 350,000		600	50,000,000.01 - 100,000,000		21,330
350,000.01 - 400,000		666	When paid-up capital stock exceeds \$100,000,000		23,990
400,000.01 - 450,000		730			

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

LB117, passed during the 2007 Legislative session, added subsection (1)(b) to Neb. Rev. Stat. § 21-2005 which reads “Articles of incorporation or documents relating to domestication if filed by an insurer holding a certificate of authority issued by the Director of Insurance, the fee shall be \$300.00.”

¹For purposes of Chapter 21, Article 3, the term “paid-up capital stock” means, the sum of the par value of all shares of capital stock of the corporation issued and outstanding (Neb. Rev. Stat. § 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 the foreign corporation in the transaction of its business (Neb. Rev. Stat. § 21-306).

NEBRASKA CORPORATION OCCUPATION TAX FEE SCHEDULE FOR FOREIGN CORPORATIONS					
Amount of Assets in Nebraska		Tax Fee	Amount of Assets in Nebraska		Tax Fee
\$0.00 - \$10,000		\$52	\$350,000.01 - \$400,000		\$1,332
10,000.01 - 20,000		80	400,000.01 - 450,000		1,460
20,000.01 - 30,000		120	450,000.01 - 500,000		1,600
30,000.01 - 40,000		160	500,000.01 - 600,000		1,820
40,000.01 - 50,000		200	600,000.01 - 700,000		2,020
50,000.01 - 60,000		240	700,000.01 - 800,000		2,240
60,000.01 - 70,000		280	800,000.01 - 900,000		2,460
70,000.01 - 80,000		320	900,000.01 - 1,000,000		2,660
80,000.01 - 90,000		360	1,000,000.01 - 2,000,000		4,260
90,000.01 - 100,000		400	2,000,000.01 - 3,000,000		5,860
100,000.01 - 125,000		480	3,000,000.01 - 4,000,000		7,460
125,000.01 - 150,000		560	4,000,000.01 - 5,000,000		9,060
150,000.01 - 175,000		640	5,000,000.01 - 6,000,000		10,660
175,000.01 - 200,000		720	6,000,000.01 - 7,000,000		12,260
200,000.01 - 225,000		800	7,000,000.01 - 8,000,000		13,860
225,000.01 - 250,000		880	8,000,000.01 - 9,000,000		15,460
250,000.01 - 275,000		960	9,000,000.01 - 10,000,000		17,060
275,000.01 - 300,000		1,040	10,000,000.01 - 15,000,000		24,000
300,000.01 - 325,000		1,120	15,000,000.01 - 20,000,000		29,320
325,000.01 - 350,000		1,200	When assets exceed 20,000,000		30,000

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.

21-328. Fees; refund; procedure; appeal. 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 in accordance with the Administrative Procedure Act.

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 be reinstated, corporations must: file a certificate of renewal; pay a filing fee; pay all taxes due; and pay a variable statutory percent penalty calculated to the date of renewal (Neb. Rev. Stat. § 45-104.02).

A biennial fee of \$10 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.

EXEMPTIONS

Section 21-20,168(2)

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 tax:

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| (a) | Maintaining, defending, or settling any proceeding; | NA |
| (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 Nebraska 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 30-3820; | 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 Nebraska under any other statutory provisions other than those of sections 21-301 to 21-327, are exempt from the provisions of these sections.

NA

RECOMMENDATIONS

The Secretary of State has no recommendations.