NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 20 - Personal Property Regulations
Effective Date 3/15/09

Alphabetic Table of Contents

SUBJECT	STATUTORY AUTHORITY	SECTIONS
Aircraft Assessment	77-1244 R.R.S. 2003 and 77-702 and 77-1250.02. R.S. Supp., 2007	007
Correction Procedures	77-1229.01, 77-1230 and 77-1232, R.R.S. 2003, 77-5013, R.S. Supp., 2006 and 77-702, 77-1233.04, 77-1233.06 and 77-5007, R.S. Supp., 2007	003
Definitions	77-104, 77-118, 77-119, 77-120 and 77-122, R.R.S. 2003 and 77-105, 77-201 and 77-702, R.S. Supp., 2007 and 50 USC 574	001
Leased Personal Property	77-1201, R.R.S. 2003 and 77-702, R.S. Supp., 2007	006
Personal Property Exemptions	77-202, R.S. Supp., 2006 and 77-702 and 77-4105, R.S. Supp., 2007	005
Personal Property Situs	77-1202, 77-1211 and 77-1214, R.R.S. 2003	004
Procedures	77-203, 77-204, 77-207, 77-1201, 77-1233.02, 77-1233.03 and 77-1236, R.R.S. 2003, 77-201, 77-1502, 77-1510 and 77-5013, R.S. Supp., 2006 and 77-702 and 77-1229, R.S. Supp., 2007	002

Numeric Table of Contents

SUBJECT	STATUTORY AUTHORITY	SECTIONS
Definitions	77-104, 77-118, 77-119, 77-120 and 77-122, R.R.S. 2003 and 77-105, 77-201 and 77-702, R.S. Supp., 2007 and 50 USC 574	001
Procedures	77-203, 77-204, 77-207, 77-1201, 77-1233.02, 77-1233.03 and 77-1236, R.R.S. 2003, 77-201, 77-1502, 77-1510 and 77-5013, R.S. Supp., 2006 and 77-702 and 77-1229, R.S. Supp., 2007	002
Correction Procedures	77-1229.01, 77-1230 and 77-1232, R.R.S. 2003, 77-5013, R.S. Supp., 2006 and 77-702, 77-1233.04, 77-1233.06 and 77-5007, R.S. Supp., 2007	003
Personal Property Situs	77-1202, 77-1211 and 77-1214, R.R.S. 2003	004
Personal Property Exemptions	77-202, R.S. Supp., 2006 and 77-702 and 77-4105, R.S. Supp., 2007	005
Leased Personal Property	77-1201, R.R.S. 2003 and 77-702, R.S. Supp., 2007	006
Aircraft Assessment	77-1244 R.R.S. 2003 and 77-702 and 77-1250.02. R.S. Supp., 2007	007

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 20 - Personal Property Regulations

REG-20-001 DEFINITIONS

001.01 Personal property shall include all property other than real property or franchises.

001.01A Tangible personal property shall include all personal property possessing a physical existence, but excluding money. Tangible personal property also includes trade fixtures, such as machinery and equipment used directly in commercial, manufacturing or processing activities conducted on real property regardless of whether the real property is owned or leased.

001.01A(1) Operational software which is necessary for computer hardware to function is defined as tangible personal property.

001.01B Intangible property shall include property that has no intrinsic value by itself, but is representative or evidence of value, such as stocks, bonds, promissory notes, contract rights, bank accounts, money, and other such property.

001.01B(1) Application software which is not necessary for computer hardware to function, is defined as intangible personal property.

001.02 Depreciable tangible personal property is subject to personal property taxation at its net book value. Depreciable tangible personal property shall mean tangible personal property which is used in a trade or business or used for the production of income, and which has a determinable life of longer than one year.

001.02A Depreciable tangible personal property shall also include tangible personal property which is eligible for depreciation for purposes of federal income tax, but which the owner chooses not to depreciate.

001.02B Depreciable tangible personal property shall also include all other tangible personal property for which a taxpayer is claiming depreciation, amortization, or section 179 deductions for purposes of federal income tax.

001.02C Depreciable tangible personal property shall also include capital expenses incurred because of major repairs, parts, labor and installation costs that prolong the useful life and increase the value of an asset or adapt the asset for a different use.

001.02D Pursuant to the Federal Soldiers and Sailors Relief Act, personal property owned by a nonresident military person who is stationed in Nebraska shall be subject to property taxation only if used in a trade or business. Thus, depreciable tangible personal property owned by a nonresident military person is subject to taxation in the same manner as all other depreciable tangible personal property in Nebraska.

001.03 Nebraska adjusted basis shall mean the adjusted basis of tangible personal property as determined under the Internal Revenue Code of 1986, as amended, as the code exists on the assessment date, increased by the total amount allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under section 179 of the code, as amended. Generally, this is the original cost of the item of property and includes any cost incurred in purchasing and placing the item in service such as sales or excise taxes, freight charges, and installation and testing charges.

001.03A The Nebraska adjusted basis of tangible personal property transferred as a gift or devise or as part of a transaction which is not a purchase shall be the previous owner's Nebraska adjusted basis.

001.03B The Nebraska adjusted basis of tangible personal property acquired as replacement property for converted tangible personal property shall be the Nebraska adjusted basis of the converted property, unless insurance proceeds are payable by reason of the conversion.

001.03B(1) If insurance proceeds are payable by reason of the conversion the Nebraska adjusted basis shall be the remaining federal adjusted basis of the converted property plus any additional taxpayer costs for the replacement property.

001.03C The Nebraska adjusted basis of tangible personal property acquired through a trade-in situation shall be the remaining federal adjusted basis in the property being traded, plus cash paid.

001.03C(1) The Nebraska adjusted basis of tangible personal property acquired through a trade-in situation in which no cash was paid shall be the remaining federal basis in the property traded.

001.03C(2) The Nebraska adjusted basis of tangible personal property acquired through a trade-in when the remaining federal adjusted basis is $0 (zero) either through a Section 179 election to expense or in a year exceeding the recovery period shall be the cash paid for the replacement item only.

001.04 The taxable value of tangible personal property shall be the net book value of the property.

001.05 Net book value shall be the Nebraska adjusted basis of tangible personal property multiplied by the appropriate Nebraska depreciation factor. Net book value as a percentage of Nebraska adjusted basis is premised upon the 150 percent declining balance method, switching to straight line, with a one-half-year convention.

001.06 The Nebraska depreciation factor is the percentage of the Nebraska adjusted basis that is taxable. The following table provides the depreciation factors, based on year acquired and recovery period:

NEBRASKA DEPRECIATION FACTORS

Year	Recovery Period (in years)					
	3	5	7	10	15	20
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	0.00	24.99	42.88	56.81	69.25	76.18
5		8.33	30.63	48.07	62.32	70.46
6		0.00	18.38	39.33	56.09	65.18
7			6.13	30.59	50.19	60.29
8			0.00	21.85	44.29	55.77
9				13.11	38.38	51.31
10				4.37	32.48	46.85
11				0.00	26.57	42.38
12					20.67	37.92
13					14.76	33.46
14					8.86	29.00
15					2.95	24.54
16					0.00	20.08
17						15.62
18						11.15
19						6.69
20						2.23
21						0.00

001.06A In the table, the factor shown for year 1 shall be the percentage used for January 1 of the year following the year of acquisition of the property. The factor shown for year two shall be the percentage used January 1 of the second year following the year of acquisition of the property, etc. When property becomes depreciable in a year other than the year it is acquired, it shall be subject to taxation on the first assessment date following the date it became depreciable. The net book depreciation factor for such property shall be based on the year acquired.

001.07 Recovery period is the period over which the Nebraska adjusted basis of tangible personal property will be depreciated for property tax purposes. The applicable recovery period shall be determined as follows:

001.07A Three-year property shall include property with a class life of four years or less;

001.07B Five-year property shall include property with a class life of more than four years and less than ten years;

001.07C Seven-year property shall include property with a class life of ten years or more but less than 16 years;

001.07D Ten-year property shall include property with a class life of 16 years or more but less than 20 years;

001.07E Fifteen-year property shall include property with a class life of 20 years or more but less than 25 years; and

001.07F Twenty-year property shall include property with a class life of 25 years or more.

001.08 Class life shall be based upon the anticipated useful life of a class of property and shall be determined by the Property Tax Administrator under the Internal Revenue Code, as the code exists on the assessment date. When necessary, the Property Tax Administrator will establish the appropriate class life for a class of property.

001.09 Purchase shall include taking by sale, discount, negotiation, or any other transaction for value creating an interest in property except liens. Purchase shall not include transfers for stock or other ownership interests upon creation, dissolution, or any other income tax-free reorganization of any corporation, partnership, trust, or other entity.

001.10 Date acquired shall be the date the owner acquired the property, except that for property transferred as a gift or devise or as part of a transaction which is not a purchase, the date acquired shall be the acquisition date of the previous owner.

001.10A The date acquired for tangible personal property acquired as replacement property for converted tangible personal property shall be the acquisition date of the converted property, unless insurance proceeds are payable by reason of the conversion.

001.10A(1) If insurance proceeds are payable by reason of the conversion the date acquired shall be the date the replacement property was acquired.

001.11 Greater portion of the calendar year shall mean 50 percent or more of the tax year for which the property is assessed.

001.12 Omitted property shall mean all taxable tangible personal property which has not been reported to the assessor for taxation.

001.13 Failure to file shall mean that a taxpayer has failed to timely file a personal property return.

001.14 Converted property shall mean tangible personal property which is involuntarily changed as a result of its destruction in whole or in part, stolen, seizure, requisition or condemnation, or the threat or probability thereof and no loss or gain is recognized for income tax purposes.

001.15 Replacement property shall mean tangible personal property acquired within two years after the close of the calendar year to replace converted property and which is substantially the same as the converted property.

001.16 Trade fixture shall mean an item of machinery or equipment, used in commercial, manufacturing, or processing activities. The degree of attachment shall have no influence towards classifying the machinery or equipment as real property. Trade fixtures are items of personal property which are placed upon or affixed to real property for the sole purpose of carrying on a trade or business. Since having failed to meet the criteria outlined in REGS 10-001.01A(1) through 10-001.01A(3), trade fixtures are not considered to become part of the real property nor do they constitute capital improvements to the real property.

(Neb. Rev. Stat. Sections 77-104, 77-105, 77-118, 77-119, 77-120 and 77-122, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-201 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007 and 50 USC 574.)

REG-20-002 PROCEDURES

002.01 Taxpayers Responsibilities.

002.01A All taxable personal property located in this state on January 1, 12:01 a.m., shall be assessed annually.

002.01B All taxable personal property shall be valued at its taxable value as of the assessment date of January 1, 12:01 a.m.

002.01C Every person required to list taxable personal property shall file a return and supporting schedules consisting of all personal property which he or she is required to list, either as owner, lessee, or occupant in control thereof, or as parent, guardian, trustee, personal representative, administrator, receiver, accounting officer, partner or agent. Such return shall contain an itemized list of all taxable personal property along with the taxable value of each item, and shall be signed by the person or his or her agent. The listing may include items of taxable personal property that have a net book value of zero.

002.01C(1) The payment or nonpayment of sales tax does not affect the property tax status of personal property. If the property is depreciable tangible personal property, it is subject to personal property taxation. While a sales tax exemption may be available for certain purchases, there is never a choice to pay either sales or property taxes. In most cases, both sales tax and property taxes are payable.

002.01D The form of the personal property return shall be prescribed by the Tax Commissioner and furnished by the assessor.

002.01E The personal property return must be filed with the assessor on or before May 1 of each year.

002.01F When taxable personal property is brought into this state or into one county from another county between January 1, 12:01 a.m., and July 1, it is the duty of the owner, within 30 days after July 1, to list and return such property for taxation for the current tax year unless he or she can produce a copy of the current assessment duly certified by the proper officer of the state or county, or shows that the personal property was received in exchange for money or other property already subject to taxation during that year. If proof of

assessment or purchase is not produced, the assessor shall promptly assess the property and enter it on the tax books the same as other cases. Notice of the assessment made pursuant to this regulation and a protest thereof may be made in the same manner prescribed in REG-20-003.02 and 20-003.04.

002.01G When the date for filing or submitting a personal property return and supporting schedules or any other requirement under REG 20-002, falls on a Saturday, Sunday, or legal holiday, the items will be considered timely filed if performed in person or postmarked on the next business day. When any document is sent by ordinary mail the postmarked date shall be used to determine the date filed. When any document is sent by either certified or registered mail, the certification or registration date shall be used as the postmarked date.

002.02 Assessor's Powers and Duties.

002.02A The assessor shall have general supervision and direction over the assessment of taxable personal property in his or her county and shall require that the taxable personal property is lawfully assessed throughout the county.

002.02B The assessor may provide to each person who filed a return in the prior year a preprinted return for the current year. However, if a preprinted return is not provided or received, the person shall not be relieved of their duty to properly and timely file a return.

002.02C The assessor may implement procedures of notification to persons required to file a personal property return either prior to the filing due date, or after the filing due date but before the assessor acts to list the property. The assessor shall establish these procedures in writing and said procedures shall be available upon request.

002.02D The assessor, with the aid of the deputy and assistants, shall examine and check all personal property returns and supporting schedules. The assessor shall have the power to investigate, examine, and inspect the property reported in the return and to examine, under oath, the person making the return.

002.02E To ensure that all taxable personal property of a taxpayer is listed at its taxable value, the assessor shall have the right to demand of the owner or his or her agent or employee an inspection of the following for the year preceding assessment: Inventories; all books of accounts; depreciation schedules filed with the Internal Revenue Service; and work papers, worksheets, or any other item prepared by or for a taxpayer and not filed with the Internal Revenue Service. Any demand made pursuant to this section shall be made in writing to the owner or his or her agent or employee, stating the date by which compliance with the demand must be made. All such documentation provided the assessor is confidential and available to taxing officials only.

002.02F If any person refuses the demand, the assessor shall have the authority to issue subpoenas to compel the appearance of the owner, agent or employee, together with such books, accounts, and documents as the assessor may deem necessary for the purpose of determining the taxable value of any taxable personal property. If a person refuses to comply with the subpoena, the assessor may apply to the district court to compel obedience by proceedings for contempt.

002.02G It shall be the duty of any assessor, county sheriff, constable, city council member, or village trustee to at once inform the county treasurer of: (1) any person attempting to sell all or a substantial part of his or her taxable personal property; (2) a levy of attachment being made upon taxable personal property; or (3) a person attempting to remove or removing taxable personal property from the county, city, or village. It shall be the duty of the county treasurer to proceed with the collection of the tax when he or she knows of such acts. Any personal property tax shall immediately be due and collectible, including all tax on personal property assessed for the current year.

002.02G(1) Taxes for the current year shall be computed on the basis of the current valuation and last preceding levy. The county treasurer shall issue a distress warrant for the amount of taxes due. The taxes once due shall be a first lien upon all personal property of the person to whom assessed until paid.

002.02H If the personal property of any taxpayer is seized by legal process, so as not to leave a sufficient amount exempt from levy and sale to pay the taxes, then the taxes on the property of such taxpayer shall at once fall due and be paid from the proceeds of the sale of the property in preference to all other claims against it.

002.03 Protests to the County Board of Equalization.

002.03A The county board of equalization shall meet for the purpose of reviewing and deciding property valuation protests, including any protest of the valuation of taxable personal property. The session shall not occur before June 1 or after July 25 of each year. If July 25 falls on a Saturday, Sunday, or legal holiday, the county board of equalization shall hear and decide protests on the previous business day.

002.03A(1) Personal property protests shall be written in triplicate and filed with the board on or before May 1. If May 1 falls upon a Saturday, Sunday, or legal holiday the protest will be considered timely filed if performed in person or postmarked on the next business day. If the protest is not timely filed, it shall be automatically dismissed by the county board.

002.03A(2) Each protest shall have attached or contain a written statement of why the valuation should be reduced. The statement shall contain the physical description of the personal property. If no statement or physical description of the personal property is attached, the protest shall be automatically dismissed by the county board.

002.03A(3) The protest may be but is not required to be prepared on the Property Valuation Protest (Form 422). Failure to use the Property Valuation Protest (Form 422) shall not result in the protest not being accepted for filing or being dismissed. The Property Valuation Protest (Form 422) is not required to be promulgated by the Department of Revenue, Property Assessment Division.

002.03B Any action taken by the county board of equalization on a protest of the value of personal property shall conform the value of the item to its net book value.

002.03C The county clerk shall mail on or before August 2, to the protestor written notice of the county board of equalization's action taken on his or her protest. The notice shall state that a report of the boards decision is available at either the county clerk's or assessor's office, whichever is appropriate. The notice shall also state that a copy of the report may be used to complete an appeal to the Tax Equalization and Review Commission. Nothing in this regulation shall prohibit a county from providing a copy of the report of the board's decision to the protestor along with the written notice of the board's decision.

002.03D The county clerk or county assessor shall prepare a report for each protest filed. The report shall contain a signed statement by the chairperson of the county board of equalization stating the board's decision and basis for the decision, description of the property affected, the recommendation of the assessor, recommendation of a referee if applicable, the date the county board of equalization heard the protest, date of the decision and the date notice of the decision was mailed to the protester. Attached to the report shall be a copy of the property record file that substantiates the assessed value, unless the assessor certifies to the county board of equalization that a copy of the file is maintained in either paper or electronic form in the assessor's office.

002.03D(1) One copy of the report shall be given to the assessor. The assessor shall not make a change to the values prepared and submitted by the county clerk until such report is completed as required by REG-20-002.03D.

002.03E Appeals may be taken from the decision of the county board of equalization to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013. The appeal must be filed within 30 days after adjournment of the board, which for action taken pursuant to Neb. Rev. Stat. Section 77-1502 shall be deemed to be July 25 of the year in which the action is taken.

002.03E(1) No appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending.

002.03E(2) If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

002.04 All personal property taxes shall be due and payable on December 31 next following the date of levy and, unless the taxes are accelerated, (see REG-20-002.02G), from that date the taxes shall be a first lien upon all personal property of the person to whom assessed until paid.

002.04A One-half of the personal property taxes become delinquent on May 1 and the second half on September 1 next following the date the taxes become due, except in counties having a population of more than one hundred thousand. In those counties with a population of more than one hundred thousand the delinquent dates are April 1 and August 1 next following the date the taxes become due.

002.04B All delinquent property taxes shall draw interest at a rate equal to the rate of interest specified in Neb. Rev. Stat. Section 45-104.01.

002.05 Penalties for failure to file or for omitted property are addressed in REG-20-003.

(Neb. Rev. Stat. Sections 77-203, 77-204, 77-207, 77-1201, 77-1233.02, 77-1233.03 and 77-1236, R.R.S. 2003, Neb. Rev. Stat. Sections 77-1502, 77-1510 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-201, 77-702 and 77-1229, R.S. Supp., 2007.)

REG-20-003 CORRECTION PROCEDURE.

003.01 All personal property returns are required by law to be signed by the taxpayer or his or her agent. If a return is not signed, the assessor shall notify the taxpayer or agent in writing that they have until May 1 or within 10 days from the date of the notice, whichever is later, to sign the return or to file a properly signed corrected return. Upon the failure to sign the return, the unsigned return is presumed correct for tax purposes.

003.02 The following procedures shall be followed if any change in valuation is made, omitted property is added to the personal property return, or the assessor lists and values all of a taxpayer's taxable personal property.

003.02A The assessor shall change the reported valuation of any item of personal property listed on the return and supporting schedules of any taxpayer to conform the valuation to taxable value. The assessor shall make this change to the valuation of any item of personal property, if warranted, for the current taxing period and the three previous taxing periods or any taxing period included therein.

003.02B The assessor shall list any item of taxable personal property omitted from a personal property return. The assessor shall list and value the property for the current and three previous taxing periods or any taxing period included therein. The property shall be taxed at the same rate as would have been imposed if timely returned for taxation.

003.02C If the taxpayer fails or refuses to file a personal property return, the assessor shall file a personal property return which shall list and value all of the taxpayer's taxable personal property. The assessor shall file such a return for the current tax period and three previous taxing periods or any taxing period included therein. The property shall be taxed at the same rate as would have been imposed if timely returned for taxation.

003.02D For changes in valuation or additions of omitted property, the assessor shall send notice by first class mail to the last known address of the taxpayer on a form prescribed by the Tax Commissioner. The taxpayer shall be advised of the action taken, the penalty, and the rate of interest, if any. The notice shall also state the taxpayer's appeal rights and the appeal procedures.

003.03 Whenever a person files an amended federal income tax return or his or her return is changed or corrected by the Internal Revenue Service or other competent authority and the amendment, change, or correction affects the Nebraska adjusted basis of the tangible personal property, such person shall file an amended list of taxable tangible personal property with the assessor. The person shall file the amended list within 90 days of the filing of the amended federal return or within 90 days of the date the change or correction becomes final. No amended list shall be filed or accepted by the assessor until the person requesting the change to the Nebraska adjusted basis provides proof that the federal adjusted basis was amended for federal income tax purposes.

003.03A If the amendment, change, or correction results in tangible personal property becoming exempt or reduces the net book value of the property for an income tax year, the person may file a written claim for a refund of property tax paid relating to the federal income tax changes with the county treasurer. If the amended list and the claim for refund are filed within the 90 day period, the claim shall be considered as timely filed notwithstanding any other provision of law regarding the period during which refunds could otherwise be claimed. The claim shall be processed according to Neb. Rev. Stat. Section 77-1734.01.

003.03B If the amendment, change, or correction results in an increase in the net book value of the tangible personal property or makes other tangible personal property taxable, the assessor shall compute the additional tax due, along with interest, based on the amended listing. Interest shall be computed from the dates the tax would have been delinquent if the property had been listed on or before May 1 of the appropriate year. If the amended listing is filed within the 90-day period, no additional penalties shall be added. If the listing is not filed within the 90-day period, the property shall be treated as undervalued or omitted property.

003.04 Protests and Appeals.

003.04A The taxpayer may protest the action of the assessor, either as to the valuation of the property or the penalties imposed, to the county board of equalization within 30 days of the date the notice of change in value, omitted property, failure to file, or assessment of penalty was mailed by the assessor. The taxpayer shall file the protest with the county clerk in the manner prescribed in REG-20-002. The action of the assessor shall become final unless a protest is filed within the time prescribed.

003.04B Upon ten days notice to the taxpayer, the county board of equalization shall set a date for hearing the protest of the taxpayer. The county board shall make its determination on the protest within 30 days after the hearing date. The county clerk shall within seven days of the determination of the county board send notice to the taxpayer and assessor, on forms prescribed by the Tax Commissioner of the action of the county board.

003.04C Appeal may be taken within 30 days after the decision of the county board of equalization to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.04C(1) No appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending.

003.04C(1) If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

003.05 Penalties.

003.05A If any person shall make a false or fraudulent schedule or return required by law, or shall willfully fail or refuse to deliver to the assessor a list of the taxable property which by law is required to be listed, or shall temporarily convert any part of such property into property not taxable for the fraudulent purpose of preventing such property from being listed and of evading the payment of taxes thereon, or shall transfer or transmit any property to any person with such intent, he or she shall be guilty of a Class II misdemeanor.

003.05B Any return filed by the assessor or taxpayer or value added by the assessor or taxpayer to a return previously filed, between May 2 and on or before July 31 of the year in which the property was required to be reported, shall have a penalty of ten percent of the tax due on the value added. For purposes of this regulation value added shall include the total taxable value of a return filed between May 2 and July 31 of the year the return was required to be filed. Interest at the rate specified in 45-104.01 shall be assessed upon such penalty from the date of delinquency of the tax until paid.

003.05C Any return filed by the assessor or taxpayer or value added by the assessor or taxpayer to a return previously filed on or after August 1 of the year the property is required to be reported, shall have a penalty of twenty-five percent of the tax due on the value added. For purposes of this regulation value added shall include the total taxable value of a return filed on or after August 1 of the year the return was required to be filed. Interest at the rate specified in Neb. Rev. Stat. Section 45-104.01 shall be assessed upon such penalty from the date of delinquency of the tax until paid.

003.06 The county board of equalization shall have no authority to waive or reduce any penalty and interest, which was correctly imposed. The entire penalty and interest shall be waived if the reason for the omission was that the property was reported in the wrong taxing district.

003.07 When valuation changes are made on a personal property return, the assessor shall correct the assessment roll, and tax list, if necessary, to show the changes. The corrections shall be made for the current and three previous tax years or any tax year therein. If the change results in a decrease in the taxable value upon which the tax has been paid, the taxpayer may request a refund as prescribed in Neb. Rev. Stat. Section 77-1734.01, except the claim shall be made within three years of the date the taxes were due.

003.08 Taxes and penalties assessed for the current year, if not delinquent, shall be certified to the county treasurer and collected as if the property had been properly reported for taxation. Delinquent current taxes and taxes and penalties assessed for prior years shall be certified to the county treasurer, and the tax, penalties, and interest thereon shall be due and collectible immediately. Certification shall be made by the assessor.

(Neb. Rev. Stat. Sections 77-1229.01 and 77-1232, R.R.S. 2003, Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1233.04, 77-1233.06 and 77-5007, R.S. Supp., 2007.)

REG-20-004 PERSONAL PROPERTY SITUS

004.01 Taxable commercial, agricultural, or other business personal property shall be listed and assessed at the location of the business, unless the property has acquired situs elsewhere. For purposes of these regulations, an item of taxable personal property will be deemed to have acquired situs elsewhere if it is kept in a location, other than the location of the business, for the greater portion of the calendar year.

004.01A The situs of aircraft shall be where it is stored for the greater portion of the calendar year.

004.01B The situs of unlicensed motor vehicles and recreational vehicles shall be where they are stored for the greater portion of the calendar year.

004.01C Personal property in transit or so mobile as to not have acquired local situs elsewhere shall have situs at the location of the business.

004.01D The situs of property of an estate shall be where the property was subject to taxation on the date of death of the deceased.

004.01E The situs of the personal property of a lessee shall be deemed to be the same as other personal property of the lessee.

004.02 Questions that may arise as to the proper situs of personal property shall be determined as follows:

004.02A If between several places in the same county, the situs shall be determined by the county board.

(Neb. Rev. Stat. Sections 77-1202, 77-1210, 77-1211 and 77-1214, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1216, R.S. Supp., 2007.)

REG-20-005 PERSONAL PROPERTY EXEMPTIONS

The following categories of personal property are exempt from the property tax:

005.01 Inventory shall be exempt from the personal property tax.

005.01A Inventory is defined as goods held for sale or resale in a manufacturing, merchandising, or agricultural business where the production, sale, or purchase of property is in the ordinary course of their business. Inventory shall include all finished or partly finished goods or products, and raw materials and supplies, which have been acquired for sale or which, will physically become a part of inventory. A seller shall include in inventory goods or products held under contract for sale, but not yet delivered, and goods or products out on consignment. A seller shall not include in inventory goods or products sold where title has passed to the buyer. Items used in the conduct of the business that are not intended to be sold or to become part of goods or products intended to be sold cannot be included in inventory.

005.01B Inventory shall include personal property owned for purposes of leasing or renting for financial gain only when: (1) the items are of a type which in the ordinary course of business are leased or rented for a period of 30 days or less: and (2) the items may be returned at the option of the lessee or renter at any time: and (3) the items are of a type which would be considered household goods or personal effects if owned by an individual.

005.01C Items of personal property held for lease or rental or in possession of a lessee or renter other than those described in REG-20-005.01B are defined as depreciable tangible personal property and cannot be included in inventory. Treatment of property which is part of a conditional sale is addressed in REG-20-006.

005.02 Household goods and personal effects shall be exempt from the personal property tax.

005.02A The term household goods includes: tools and equipment used in the maintenance of the home and yard; cooking utensils; health, sports, and recreational equipment; art objects; television sets; record players; stereo systems; home computers for personal use; musical instruments; sewing machines; furniture; and, appliances not attached to real property.

005.02B The term personal effects includes items of personal property usually associated with or having a close relationship to the person, such as: wearing apparel; jewelry; hobby equipment and collections; guns; golf carts; snowmobiles; cameras; and, pets.

005.02C Household goods and personal effects do not include any property that is owned or used for the financial gain or profit to either the owner or the user.

005.03 All personal property owned by the state of Nebraska and its governmental subdivisions that is used for a public purpose, is exempt from property tax. Personal property owned by other states or their governmental subdivisions is subject to property tax in Nebraska, if the property has situs for tax purposes in Nebraska.

005.04 Tangible personal property that is not depreciable as defined in REG-20-001, shall be exempt from property tax.

005.05 Employment and Investment Growth Act Personal Property Exemptions. Turbine-powered aircraft, mainframe business computers and peripheral components, and business equipment used in the manufacture or processing of agricultural products, may be exempt from personal property taxation for a specified number of years when the taxpayer and the Tax Commissioner have signed an agreement pursuant to the Employment and Investment Growth Act. Qualifications for this exemption are based upon the attainment of certain levels of new employment and investment. See Chapter 77, Article 41.

005.06 Livestock shall be exempt from the personal property tax.

005.06A For purposes of the exemption, livestock shall mean all animals or other living creatures used or raised for profit.

005.07 Tangible personal property owned by a Native American Indian and having situs on a Nebraska Indian Reservation shall be exempt from the property tax.

005.08 Nebraska Advantage Act Personal Property Exemptions. Turbine powered aircraft, mainframe business computers and peripheral components, business equipment used in the manufacture or processing of agricultural products and personal property used in a distribution facility that is used to store or move products, may be exempt from personal property taxation for a specified number of years when the taxpayer and the Tax Commissioner have signed an agreement pursuant to the Nebraska Advantage Act. Qualifications for this exemption are based upon the attainment of certain levels of new employment and investment. See Chapter 77, Article 41.

005.09 All other personal property which the Legislature has provided by law to be exempt from the property tax. See, Property Tax Exemption Regulations, Chapter 40.

(Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702 and 77-4105, R.S. Supp., 2007.)

REG-20-006 LEASED PERSONAL PROPERTY

006.01 All leased taxable personal property shall be listed and returned as required by law by the lessor as owner or lessee as agent, at the lessor's Nebraska adjusted basis and date of acquisition. If a lessee is unable to list and return an item of leased property because the Nebraska adjusted basis cannot be determined, the lessee shall file a description of the property and the name and address of the lessor. The filing by a lessee as herein provided shall not satisfy the requirements for listing and returning taxable personal property provided by REG-20-002.

006.01A Contracts made between lessor and lessee shall not be recognized by taxing officials in determining tax responsibility. A assessor may require the listing of leased taxable personal property by the lessor as owner and lessee as agent, if it is deemed necessary to secure compliance with the law.

006.01B Tangible personal property leased by tax exempt entities shall be subject to personal property taxation at its net book value.

006.02 Situs of leased personal property is addressed in REG-20-004.

006.03 A lease does not include a transaction intended to finance a purchase, even though the signed agreement is called a lease. Such a transaction is a form of conditional sale and not a lease. When a conditional sale exists, ownership of the personal property is deemed to rest with the lessee/buyer. The tax status of the lessee/buyer will determine the taxability of the property. A conditional sale is an agreement that has one or more of the following characteristics:

006.03A The lease is characterized as a capital lease rather than an operating lease under generally accepted accounting principles;

006.03B Portions of the periodic payments are attributable to an equity to be acquired by the lessee;

006.03C The lessee/buyer is bound for a fixed term and is to obtain title at the end of the lease, or has an option to buy for a nominal amount;

006.03D The agreed periodic payment materially exceeds the current fair rental value of the item; or

006.03E A portion of the payments are identified or readily identifiable as interest.

(Neb. Rev. Stat. Section 77-1201, R.R.S. 2003 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-20-007 AIRCRAFT ASSESSMENT

007.01 Any air carrier engaged solely in intrastate transportation, whose flight equipment is based at only one airport within the state, shall be subject to taxation in the same manner as other locally assessed property.

007.01A The Property Tax Administrator pursuant to Property Valued by the State Regulations, Chapter 30, shall assess flight equipment of all air carriers, other than those locally assessed pursuant to this regulation.

007.01B Aircraft situs is addressed in REG-20-004.

007.02 The owner, lessee, or manager of any aircraft hangar or land upon which is parked or located any aircraft shall file a report by February 1 of each year with the assessor in the county in which such aircraft hangar or land

is located. The report shall be on a form prescribed by the Tax Commissioner and shall contain a list of all aircraft located in such hangar or on such land, as of January 1 of each year.

007.02A Any person violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than 50 dollars.

(Neb. Rev. Stat. Section 77-1244, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1250.02, R.S. Supp., 2007.)