

December 17, 2004

Fiduciary Income Tax-Computation of 2004 Alternative Minimum Tax to Determine Nebraska Minimum Tax for the 2004 Nebraska Return. ALTERNATIVE MINIMUM TAX-FIDUCIARIES, FEDERAL FORM 1041, SCHEDULE I, IS TO BE RECALCULATED FOR NEBRASKA FIDUCIARY INCOME TAX PURPOSES TO DETERMINE THE NEBRASKA MINIMUM TAX.

Advice has been requested as to whether the alternative minimum tax computed for a taxpayer's 2004 U.S. Fiduciary Income Tax Return, Federal Form 1041, Schedule I, must be recalculated in order to compute the Nebraska income tax.

Nebraska law imposes a tax on the federal alternative minimum tax recomputed to take into account the adjustments required by the Nebraska Revenue Act of 1967, as amended. Section 77-2717 of the Nebraska Revised Statutes provides that the additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income and adjusting the Nebraska alternative minimum tax calculations for any items which are reflected differently in the determination of federal taxable income for Nebraska purposes. This applies to any federal schedules or other forms, the results of which are used in calculating the federal alternative minimum tax.

For instance, Section 77-2716 of the Nebraska Revised Statutes provides for the exclusion from taxable income of interest or dividends from U.S. obligations as set forth in Fiduciary Income Tax Regulation 23-004.03A and the inclusion of interest or dividends from non-Nebraska source state or local obligations. Section 77-2716 also provides for the exclusion from Nebraska taxable income of any non-Nebraska income from an S-corporation or LLC. Therefore, any associated preference item derived from the S-corporation or LLC included in the alternative minimum tax calculations should be excluded to the same extent in the Nebraska computation.

The specific line entries and the required adjustments in recomputing the minimum tax for the 2004 Nebraska Fiduciary Income Tax Return, Form 1041N, are provided below. **Recalculate all total or computation lines to reflect adjustments made pursuant to this ruling.** All other entries must be the same as for the federal minimum tax computation.

#### **2004 Federal Form 1041, Schedule I:**

##### Part I:

Line 1. Reduce the federal entry by the amounts on lines 3 and 8 of Form 1041N and add the line 5 amount from Form 1041N.

Line 7. Enter the net operating loss deduction as adjusted for Nebraska purposes.

Line 8. Enter the tax-exempt interest only from Nebraska private activity bonds issued after August 7, 1986.

Line 14. Do not make any state adjustment for any federal special bonus depreciation.

Line 24. Enter the alternative tax net operating loss deduction as adjusted for Nebraska purposes.

Part II:

Line 31. Enter the tax-exempt interest from Nebraska bonds (other than amounts included on line 8 ).

Part III:

Line 52. If Part IV of Schedule I, 2004 Federal Form 1041, was used to make the line 52 entry, exclude any capital gains in the calculation that were excluded on Line 8 of Form 1041N.

Line 53. Enter zero.

Line 55. Compute the regular federal income tax before credits on the Line 1 income as entered above. The same federal tax method used to complete line 23, Federal Form 1041, is to be used. Enter the computed amount without subtracting any foreign tax credit.

Follow federal instructions to recompute the alternative minimum tax through Part III, line 56 of Schedule I, Federal Form 1041.

Enter line 56, Part III, of the recomputed Schedule I, 2004 Federal Form 1041, on line 1 of the Nebraska Minimum or Other Tax Worksheet. Complete the worksheet to determine the amount to enter on line 11 of the 2004 Form 1041N.

The recomputed Schedule I, Federal Form 1041, must be attached to the 2004 Nebraska Fiduciary Income Tax Return, Form 1041N, when filed.

The add-on minimum tax and the alternative minimum tax are to be recomputed for all taxable years beginning after December 31, 1978. The specific line entries on Federal Form 1041, Schedule I, that are to be altered in the recomputation for Nebraska are provided for the following tax years:

Tax Year	Revenue Ruling Reference
2003	23-03-1
2002	23-02-2
2001	23-01-1

APPROVED:



Mary Jane Egr  
State Tax Commissioner