

# State of Nebraska

# 2010

# Tax Expenditure

# Report

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**Nebraska Department of Revenue**  
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**Lincoln, Nebraska**



**October 15, 2010**

*Prepared by*  
Nebraska Department of Revenue  
Research, Policy, and Communications Sections of the Policy Division,

*with the assistance of*  
the Motor Fuels, Property Assessment,  
and Charitable Gaming Divisions,

*and the cooperation of*  
the Nebraska Secretary of State,  
the Nebraska Liquor Control Commission,  
the Nebraska Department of Insurance,  
and the Nebraska Department of Motor Vehicles.

# Introduction

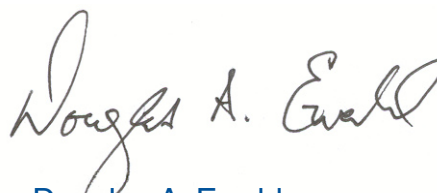
This 2010 Tax Expenditure Report and Summary is published by the Department of Revenue, pursuant to the Tax Expenditure Reporting Act, Neb. Rev. Stat. §§ 77-379 through 77-385. This report provides a review of tax and fee (tax) expenditures, which is required in even numbered years to enable the Legislature to better determine those sectors of the economy which are receiving indirect subsidies as a result of tax expenditures.

A “tax expenditure” is defined as a revenue reduction that occurs in the tax base of the state or a political subdivision as a result of an exemption, deduction, exclusion, tax deferral, credit, or preferential rate introduced into the tax structure. See Neb. Rev. Stat. § 77-381(1). The tax expenditures included in this report are those in effect on July 1, 2010. All tax programs which generate state or local revenue annually in excess of \$2 million are included in the report.

This report is submitted to the Governor, the Executive Board of the Legislative Council, and the chairpersons of the Legislature’s Revenue and Appropriations Committees. This report is also available on the Department of Revenue’s website at [www.revenue.ne.gov](http://www.revenue.ne.gov).

A sincere thank you is extended to the following state agencies for their cooperation and contribution to this report: the Department of Insurance; the Department of Motor Vehicles; the Liquor Control Commission; and the Secretary of State.

The Department of Revenue appreciates any comments or questions regarding the format, content, and usefulness of the information provided in this report.



Douglas A. Ewald  
Tax Commissioner

October 15, 2010

# Nebraska Tax Expenditure Reporting Requirements

## **Neb. Rev. Stat. § 77-379 provides:**

Sections 77-379 to 77-385 shall be known and may be cited as the Tax Expenditure Reporting Act.

## **Neb. Rev. Stat. § 77-380 provides:**

It is the intent of sections 77-202.03 and 77-380 to 77-385 to provide a mechanism which will enable the Legislature to better determine those sectors of the economy which are receiving indirect subsidies as a result of tax expenditures. The Legislature recognizes that the present budgeting system fails to accurately and totally reflect the revenue lost due to such tax expenditures and that as a result undetermined amounts of potential revenue are escaping public or legislative scrutiny. The loss of such potential revenue causes a narrowing of the tax base which in turn forces higher tax rates on the remaining tax base.

## **Neb. Rev. Stat. § 77-381 provides:**

For purposes of the Tax Expenditure Reporting Act, unless the context otherwise requires:

(1) Tax expenditure shall mean a revenue reduction that occurs in the tax base of the state or a political subdivision as the result of an exemption, deduction, exclusion, tax deferral, credit, or preferential rate introduced into the tax structure;

(2) Department shall mean the Department of Revenue;

(3) Income tax shall mean the tax imposed upon individuals and corporations under the Nebraska Revenue Act of 1967;

(4) Sales tax shall mean the tax imposed upon expenditures under the Nebraska Revenue Act of 1967;

(5) Property tax shall mean the tax imposed upon real and personal property under Chapter 77; and

(6) Miscellaneous tax shall mean revenue sources other than income, sales, and property taxes for state and local government including, but not limited to, motor fuel taxes, liquor taxes, cigarette taxes, inheritance and estate taxes, generation-skipping transfer taxes, insurance premium taxes, and occupation taxes and fees or other taxes which generate state or local revenue annually in excess of two million dollars.

## **Neb. Rev. Stat. § 77-382 provides:**

The department shall prepare a tax expenditure report describing (1) the basic provisions of the Nebraska tax laws, (2) the actual or estimated revenue loss caused by the exemptions, deductions, exclusions, deferrals, credits, and preferential rates in effect on July 1 of each year and allowed under Nebraska's tax structure and in the property tax, and (3) the elements which make up the tax base for state and local income, including income, sales and use, property, and miscellaneous taxes. The department shall review the major tax exemptions for which state general funds are used to reduce the impact of revenue lost due to a tax expenditure. The report shall indicate an estimate

of the amount of the reduction in revenue resulting from the operation of all tax expenditures. The report shall make recommendations relating to the elimination, in whole or in part, of particular tax expenditures or to the limiting of the duration of particular tax expenditures to a fixed number of years. It is the intent of the Legislature that nothing in the Tax Expenditure Reporting Act shall cause the valuation or assessment of any property exempt from taxation on the basis of its use exclusively for religious, educational, or charitable purposes.

**Neb. Rev. Stat. § 77-383 provides:**

The department may request from any state or local official or agency any information necessary to complete the report required under section 77-382. All state and local officials or agencies shall cooperate with the department with respect to any such request.

**Neb. Rev. Stat. § 77-385 provides:**

The report required under section 77-382 and a summary of the report shall be submitted to the Governor, the Executive Board of the Legislative Council, and the chairpersons of the Legislature's Revenue and Appropriations Committees on or before October 15, 1991, and October 15 of every even-numbered year thereafter. The summary shall be included with or appended to the Governor's budget presented to the Legislature in odd-numbered years.

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# SECTION A

## Nebraska and Local Option Sales and Use Tax

### Changes Since Prior Reports

Readers of past issues of this report will notice several changes to this section. The most obvious is the grouping of the sales and use tax exemptions into categories. Past reports listed all exemptions in the order they appeared in the statutes and regulations. The 2010 report groups all 73 sales tax exemptions into 11 categories so that the underlying policy of similar exemptions is easier to understand and analyze.

Second, a few exemption references have been eliminated as not being within the overall policy theory of the tax. Generally, sales and use taxes are imposed on retail sales. Eliminated from the 2010 report are references to exemptions for **sales for resale** and sales of **grain** and **livestock**. These exemption references were eliminated from the report because they are not retail sales and are not within any state's sales tax base. Including these large dollar exemptions in past Tax Expenditure Reports has obscured the value of exemptions that could be considered by policy makers.

Sources are listed for most estimates provided in Section A. Generally, sources include Nebraska Department of Revenue sales tax records, data from other State of Nebraska agencies, federal government sources such as the U.S. Census Bureau, and nonprofit organizations and trade groups. Some estimates are based on confidential Department of Revenue data for which a data source is not provided. In some cases, no reliable data exist from which to provide an estimate, which are marked "not available."

## BASIC PROVISIONS AND TAX BASE

### Sales Tax<sup>1</sup>

Nebraska sales tax is imposed upon the gross receipts from:

- all sales, leases, rentals, installation, application, and repair of tangible personal property;
- every person providing or installing utility services;
- retailers of intellectual or entertainment property;
- the sale of admissions, bundled transactions, or specified digital products;
- renting or furnishing accommodations or lodging for periods of less than 30 days; and
- the sale or providing of certain services.

<sup>1</sup>The taxes collected are deposited into two funds: the State General Fund; and the Highway Trust Fund. Deposits to the Highway Trust Fund are made from the sales and use taxes derived from registration of motor vehicles, trailers, and semi-trailers in Nebraska. The balance of taxes collected is deposited into the State General Fund.

The state sales tax rate is 5.5 percent.

Property is defined as all tangible and sales of (taxable) intangible property (including rights, licenses, franchises,) and any services that are subject to tax.

## Use Tax<sup>1</sup>

Use tax is a complement to the sales tax and is imposed upon the storage, use, distribution, or other consumption of all tangible personal property, and taxable sales of intangible property, services, bundled transactions, or specified digital products purchased at retail when the sales tax has not been paid.

## 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 which is exempt from local, but not state sales taxes under federal law. Local option taxes of 0.5%, 1.0%, and 1.5% may be approved by city or county voters. The tax is collected and remitted to the state and is then remitted to the municipalities and counties after deducting refunds plus a three percent administrative fee. The 3% fee from municipalities is deposited in the Municipal Equalization Fund, the 3% fee from the counties is deposited in the State General Fund.

<sup>1</sup>The taxes collected are deposited into two funds: the State General Fund and the Highway Trust Fund. Deposits to the Highway Trust Fund are made from the sales and use taxes derived from registration of motor vehicles, trailers, and semi-trailers in Nebraska. The balance of taxes collected is deposited into the State General Fund.

# EXEMPTIONS

## Consumer Goods

### 1. Motor Vehicle/Motorboat Trade-ins

**Statutory citation:** 77-2701.35(3)(d)(ii)

**Description:** The value of a motor vehicle or motorboat taken by any person in trade as all or part of the consideration for a sale of another motor vehicle or motorboat.

**Estimate:** \$140,487,000

**Data source:** Nebraska Department of Revenue sales tax records

### 2. Merchandise Trade-ins

**Statutory citation:** 77-2701.35(3)(d)(i)

**Description:** The value of trade-ins taken in connection with a sale of property.

**Estimate:** \$4,304,000

### 3. Certain Medical Equipment and Medicine

**Statutory citation:** 77-2704.09(1)

**Description:** Insulin and prescription medicines, durable medical equipment, home medical supplies, mobility-enhancing equipment, prosthetic and orthotic devices, oxygen, and any oxygen equipment for a patient's use sold under a doctor's prescription.

**Estimate:** \$72,241,000

**Data source:** U.S. Department of Health and Human Services, Center for Medicare Services, Office of the Actuary

**4. Newspapers**

**Statutory citation:** 77-2704.07

**Description:** Newspapers issued at least once a week; newspaper advertising supplements distributed with newspapers.

**Estimate:** \$2,723,000

**Data source:** U.S. Census Bureau, Annual Services Survey

**5. Laundromats**

**Statutory citation:** 77-2704.14

**Description:** The use of coin-operated machines for laundering and cleaning, except the washing of motor vehicles.

**Estimate:** \$503,000

**Data source:** U.S. Census Bureau, 2007 Economic Census

**6. Tele-floral Deliveries**

**Regulation:** 1-052.03

**Description:** Amounts received by Nebraska florists who make deliveries in this state pursuant to instructions received from florists in other states.

**Estimate:** \$152,000

**Data source:** Nebraska Department of Revenue sales tax records

**7. Motor Vehicle Discounts for the Disabled**

**Statutory citation:** 77-2704.21

**Description:** The entire purchase price of a motor vehicle purchased when the maximum amount allowed by law is contributed by the United States Veterans' Administration or the Nebraska Department of Health and Human Services Finance and Support for a disabled person. If the amount contributed is less than the maximum amount, the exemption is based on the portion of the purchase price contributed.

**Estimate:** \$41,300

**8. Political Campaign Fundraisers**

**Statutory citation:** 77-2704.10(4)

**Description:** 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.

**Estimate:** Minimal

## Food

**9. Food for Home Consumption**

**Statutory citation:** 77-2704.24

**Description:** Food or food ingredients for human consumption, except for prepared food and food sold through vending machines. (Estimate excludes Supplemental Nutrition Assistance Program purchases.)

**Estimate:** \$139,373,000

**Data source:** U.S. Department of Labor, Bureau of Labor Statistics, Consumer Expenditure Report

**10. Supplemental Nutrition Assistance Program - SNAP (formerly “food stamps”)**

**Statutory citation:** 77-2704.54

**Description:** Food or food ingredients which are purchased by electronic benefits transfer or with food coupons. (State taxation prohibited.)

**Estimate:** \$7,182,000

**Data source:** U.S. Department of Agriculture, Food and Nutrition Service, Supplemental Nutrition Assistance Program

**11. School Lunches**

**Statutory citation:** 77-2704.10(1)

**Description:** 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, this 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, are exempt.

**Estimate:** \$3,534,000

**Data source:** Nebraska Department of Education Annual Financial Report

**12. Meals Sold by Hospitals**

**Statutory citation:** 77-2704.10(3)

**Description:** 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 Nebraska for care of human beings.

**Estimate:** \$586,000

**Data source:** U.S. Census Bureau Product Lines Data

**13. Meals Sold by Institutions at a Flat Rate**

**Regulation:** 1-083.04, 1-083.05

**Description:** Meals furnished at fraternities, sororities, cooperative student societies, and summer camps which charge a single amount to attend.

**Estimate:** \$373,000

**14. Food for Elderly, Handicapped, and Supplemental Security Income Recipients**

**Statutory citation:** 77-2704.10(5)

**Description:** Meals and food products sold to the elderly, handicapped, or recipients of Supplemental Security Income by an organization that accepts electronic benefits transfer or food coupons under regulations issued by the United States Department of Agriculture, although it is not necessary for the purchaser to use electronic benefits transfer or food coupons to pay for the meal.

**Estimate:** Minimal

**15. Meals Sold by Churches**

**Statutory citation:** 77-2704.10(2)

**Description:** Meals and food products, including soft drinks and candy, for human consumption when sold by a church at a church function.

**Estimate:** Not available

## Telecommunications

### 16. Telecommunications Access Charges

**Statutory citation:** 77-2704.51

**Description:** Gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in Nebraska of telecommunication services between telecommunications companies, including division of revenue, settlements, or access charges.

**Estimate:** \$8,183,000

**Data source:** Federal Communications Commission ARMIS Report 43-01 and 43-08

### 17. Prepaid Calling Arrangements

**Statutory citation:** 77-2704.52

**Description:** Telephone services using a prepaid telephone calling arrangement.

**Estimate:** \$420,000

**Data source:** Federal Communications Commission Form 499A

### 18. Conference Bridging Services

**Statutory citation:** 77-2701.16(2)(a)(i)

**Description:** Sales of conference bridging services associated with the provision of telephone communications services.

**Estimate:** Not available

### 19. Nonvoice Data Services

**Statutory citation:** 77-2701.16(2)(a)(i)

**Description:** Sales of value-added, nonvoice data service associated with the provision of telephone communications services.

**Estimate:** Not available

## Agriculture

### 20. Agricultural Machinery

**Statutory citation:** 77-2704.36

**Description:** Agricultural machinery and equipment for use in commercial agriculture.

**Estimate:** \$82,145,000

**Data source:** U.S. Department of Commerce, Bureau of Economic Analysis, Capital Flows Data

### 21. Agricultural Chemicals

**Statutory citation:** 77-2704.46(3)

**Description:** Agricultural chemicals, adjuvants, surfactants, bonding agents, clays, oils, and any other additives or compatibility agents for use in commercial agriculture and applied to land or crops.

**Estimate:** \$73,122,000

**Data source:** U.S. Department of Agriculture, 2007 Agricultural Census

### 22. Seeds Sold to Commercial Producers

**Statutory citation:** 77-2704.46(2)

**Description:** Seeds and annual plants, the products of which are food for human consumption, when sold to commercial producers of the products of such seeds and plants. Also includes seed legumes, grasses, and grains for agricultural purposes.

**Estimate:** \$33,081,000

**Data source:** U.S. Department of Agriculture, 2007 Agricultural Census

**23. Water for Irrigation and Manufacturing**

**Statutory citation:** 77-2704.13(3)

**Description:** Water used for irrigation of agricultural lands and manufacturing purposes.

**Estimate:** \$1,105,000

**Data source:** U.S. Geological Survey, Total Water Use Report

**24. Commercial Artificial Insemination**

**Statutory citation:** 77-2704.23

**Description:** Semen and insemination services for use in ranching, farming, commercial, or industrial uses.

**Estimate:** \$712,000

**Data source:** National Association of Animal Breeders; U.S. Department of Agriculture, National Agricultural Statistics Service

**25. Mineral Oil as Dust Suppressant**

**Statutory citation:** 77-2704.60

**Description:** Mineral oil to be applied to grain as a dust suppressant.

**Estimate:** \$193,600

**Data source:** Fiscal note

**26. Animal Grooming**

**Statutory citation:** 77-2701.16(3)(g)

**Description:** Animal grooming services performed by a licensed veterinarian or licensed veterinary technician in conjunction with the medical treatment of an animal.

**Estimate:** \$47,500

**Data source:** U.S. Census Bureau Product Lines Data

**27. Oxygen For Use in Aquaculture**

**Statutory citation:** 77-2704.46(4)

**Estimate:** Not available

**See 66. Energy Used in Agriculture in the Energy Section**

## **Common Carrier/Logistics**

**28. Railroad Rolling Stock; Repair Parts and Services**

**Statutory citation:** 77-2704.27

**Description:** The purchase, rental, or lease, whether purchased by a railroad or by another person; repair and replacement parts; associated repair labor charges.

**Estimate:** \$11,527,000 (does not include services)

**Data source:** Association of American Railroads; U.S. Census Capital Expenditure Report

**29. Common or Contract Carriers; Repair Parts and Services**

**Statutory citation:** 77-2704.50, 77-2704.30(1)

**Description:** The purchase, rental, or lease of motor vehicles, watercraft, or aircraft used as a common or contract carrier; repair and replacement parts; and any associated labor charges.

**Estimate:** Not available

### 30. Common or Contract Carrier Accessories

**Regulation:** 1-069.03C

**Description:** Accessories purchased for use with a common or contract carrier vehicle, watercraft, or aircraft which could have been included in the list price at the time of purchase.

**Estimate:** Not available

### 31. Common or Contract Carrier Safety Equipment

**Regulation:** 1-069.03E

**Description:** Equipment required by a federal or state regulatory agency to be included on a common or contract carrier vehicle, watercraft, or aircraft operating in or through the State of Nebraska for the health or safety of passengers or cargo.

**Estimate:** Not available

## General Business

### 32. Component/Ingredient Parts

**Statutory citation:** 77-2704.45(1)

**Description:** Property that becomes an ingredient or component part of property which is manufactured, processed, or fabricated for ultimate sale at retail.

**Estimate:** \$756,011,000

### 33. Manufacturing Machinery

**Statutory citation:** 77-2704.22(1), 77-2704.22(2)

**Description:** The sale, lease, rental, storage, use, or other consumption in Nebraska by a manufacturer of qualified manufacturing machinery and equipment.

**Estimate:** \$44,974,000

**Data source:** U.S. Department of Commerce, Bureau of Economic Analysis

**Note:** This figure includes installation, repair, and maintenance services performed on qualified manufacturing machinery and equipment.

### 34. Containers

**Statutory citation:** 77-2704.47(1)

**Description:** Nonreturnable containers sold to persons who place contents in the container and sell the contents with the container.

**Estimate:** \$16,032,000

**Data source:** U.S. Census Bureau, 2007 Economic Census

**Note:** The figure above includes containers which hold contents that are not subject to sales or use tax (77-2704.47[2]) and returnable containers when sold with the contents or resold for refilling (77-2704.47[3]).

### 35. Film Rentals

**Statutory citation:** 77-2704.53

**Description:** Gross income received from videotape, film rentals, and satellite programming when tax is to be charged on the admission or service.

**Estimate:** \$1,204,000

**Data source:** U.S. Census Bureau Product Lines Data

### 36. Molds and Dies

**Statutory citation:** 77-2704.40

**Description:** 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.

**Estimate:** \$886,000

**Data source:** Fiscal note

### **37. Syndicated Programming**

**Statutory citation:** 77-2704.39

**Description:** Sales of syndicated programming for rebroadcast by a radio or television station.

**Estimate:** \$855,000

**Data source:** U.S. Census Bureau Product Lines Data

### **38. Inter-company Sales**

**Statutory citation:** 77-2701.24(1), 77-2704.48

**Description:** An inter-company sale, but not a lease or rental of property to a parent or vice versa, from one subsidiary to another subsidiary having the same parent, or between brother-sister companies.

**Estimate:** Not available

### **39. Inter-company Leases**

**Statutory citation:** 77-2704.28

**Description:** An inter-company lease from a subsidiary to the parent company or vice versa, from one subsidiary to another subsidiary of the same parent company, or between brother-sister companies if the seller or transferor directly or indirectly has previously paid a sales or use tax on the leased property.

**Estimate:** Not available

### **40. Sale of a Business or Farm Machinery**

**Statutory citation:** 77-2701.24(3), 77-2704.48

**Description:** The sale of a business or farm machinery and equipment if each of the conditions in this subsection are met.

**Estimate:** Not available

### **41. Transfer of Property in Change of Business Ownership**

**Statutory citation:** 77-2701.24(5), 77-2704.48

**Description:** 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 on the property sold.

**Estimate:** Not available

**See 23. Water for Irrigation and Manufacturing in the Agriculture section.**

## **Business Across State Lines**

### **42. Property Shipped Out-of-State**

**Statutory citation:** 77-2704.11

**Description:** Property shipped outside Nebraska pursuant to a sales contract calling for out-of-state delivery by the retailer, or delivery by the retailer to a carrier, to the post office, or to a forwarding agent for its shipment out-of-state, to be installed/used in another state.

**Estimate:** \$3,438,000

### **43. Fabrication Labor for Items to be Shipped Out-of-State**

**Statutory citation:** 77-2704.11

**Description:** 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 Nebraska and then shipped by the Nebraska retailer performing the fabrication to a point outside Nebraska. This statute also exempts installation and application labor, and any other services.

**Estimate:** Not available



#### **44. Property to be Transported Out-of-State**

**Statutory citation:** 77-2704.44(1)

**Description:** Property purchased from a non-nexus seller and retained solely for transporting out-of-state or to be incorporated into other property which will then be transported out-of-state.

**Estimate:** Not available

#### **45. Property Purchased in Other States to be Used in Nebraska**

**Statutory citation:** 77-2704.44(2)

**Description:** Property purchased in another state, territory, or possession of the United States, the Commonwealth of Puerto Rico, or any foreign country which is intended to be used at that location, and which is actually used for its intended purpose (motor vehicles or motorboats registered in another state, commonwealth, territory, possession or country); and this property is brought into the State of Nebraska for use.

**Estimate:** Not available

#### **46. Aircraft Delivery to Out-of-State Resident or Business**

**Statutory citation:** 77-2704.26

**Description:** An aircraft delivered or any service listed in 77-2701.16(4) that is performed on an aircraft brought into Nebraska by an individual who is a resident of another state or any other person who has a business in another state when the aircraft is not to be registered or based in Nebraska and it will not remain in Nebraska more than ten days after the sale or service is completed.

**Estimate:** Not available

#### **47. State Reciprocal Agreements for Industrial Machinery**

**Statutory citation:** 77-2704.43

**Description:** Industrial machinery and equipment, including parts for repairs, by another state or political subdivision of another state if the other state provides a similar reciprocal exemption.

**Estimate:** Not available

#### **48. Property Taxed in Another State**

**Statutory citation:** 77-2704.49, 77-2704.31

**Description:** Property which has been taxed in another state, territory, or possession of the U.S., when a reciprocal exclusion or an exemption similar to transactions in Nebraska is granted.

**Estimate:** Not available

### **Nonprofits/Governments/Exempt**

#### **49. Purchases by Political Subdivisions of the State**

**Statutory citation:** 77-2704.15(1)

**Description:** Purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, any Nebraska county, township, city, village, rural or suburban fire protection district, city airport authority, county airport authority, joint airport authority, drainage district organized under sections 31-401 to 31-450, natural resource district, elected county fair board, housing agency as defined in section 71-1575 except for purchases for any commercial operation that does not exclusively benefit the residents of an affordable housing project, 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, the Integrated Solid Waste Management Act, or the Joint Public Agency Act, except for purchases for use in the business of furnishing gas, water, electricity, or 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.

**Estimate:** \$242,652,000

**Data source:** U.S. Census Bureau, State and Local Government Finances

## 50. Purchases by Churches and Nonprofit Colleges and Medical Facilities

**Statutory citation:** 77-2704.12(1)

**Description:** Purchases made by-

Nonprofit organizations created exclusively for religious purposes;

Nonprofit organizations providing services exclusively to the blind;

Nonprofit Nebraska-licensed schools, colleges, universities established under sections 79-1601 to 79-1607 or sections 85-1101 to 85-1111 (public or private) (not including Nebraska public post-secondary institutions);

Nonprofit Nebraska-licensed hospitals;

Nonprofit Nebraska-licensed 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 federal funds through the United States Public Health Service for the populations that are medically under-served;

Nonprofit Nebraska-licensed skilled nursing facilities;

Nonprofit Nebraska-licensed intermediate care facilities;

Nonprofit Nebraska-licensed assisted-living facilities;

Nonprofit Nebraska-licensed intermediate care facilities for the mentally retarded;

Nonprofit Nebraska-licensed nursing facilities;

Nonprofit Nebraska-licensed home health agency, hospice or hospice service, and respite care service;

Nonprofit Nebraska-licensed child-caring agencies or child placement agencies; and

Nonprofit organizations certified by the Department of Health and Human Services (HHS) to provide community-based services for persons with developmental disabilities.

**Estimate:** \$77,934,000

**Data source:** Nonprofit Almanac and Desk Reference, The Urban Institute

## 51. Purchasing Agents for Public Real Estate Construction Improvements

**Statutory citation:** 77-2704.15(2)

**Description:** The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are annexed to the structure and belong to the state or governmental subdivision. The appointment of purchasing agents must be in writing and occur prior to the annexing of any property to real estate.

**Note:** Estimate is included in Exemption #50, 77-2704.15(1) above.

## 52. Contractor as Purchasing Agent for Public Agencies

**Statutory citation:** 77-2704.12(3)

**Description:** A contractor may be appointed as purchasing agent for these entities and make tax exempt purchases of building materials that will be annexed to real property.

**Estimate:** \$9,681,000

## 53. Nebraska Lottery

**Statutory citation:** 77-2704.38

**Description:** Nebraska Lottery tickets sold pursuant to the State Lottery Act.

**Estimate:** \$7,182,000

**Data source:** Nebraska Department of Revenue, Charitable Gaming Division

## 54. Admissions to School Events

**Statutory citation:** 77-2704.10(6)

**Description:** Fees charged by a school district, student organization, or parent-teacher association for functions at elementary or secondary schools, public or private.

**Estimate:** \$616,000

**55. Sales on Native American Indian Reservations**

**Regulation:** 1-012.02C(22)

**Description:** Property sold to a Native American Indian living on an Indian Reservation or to a Native American Tribal Council when it is within the boundaries of an Indian Reservation.

**Estimate:** \$464,000

**Data source:** Nebraska Department of Revenue sales tax records

**56. School-supporting Fundraisers**

**Statutory citation:** 77-2704.25

**Description:** Property 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 are used to support school activities or the school itself.

**Estimate:** \$83,100

**Data source:** National Center for Charitable Statistics

**57. Fine Art Purchases by a Museum**

**Statutory citation:** 77-2704.56

**Description:** Sales and use tax shall not be imposed on purchases of fine art by a museum as defined by section 51-702.

**Estimate:** \$63,000

**Data source:** Fiscal note

**58. Purchases by the Nebraska State Fair Board**

**Statutory citation:** 77-2704.16

**Estimate:** \$61,875

**Data source:** Nebraska Department of Administrative Services, Monthly Fund Summary

**59. Purchases by the Nebraska Investment Finance Authority, and Licensees of the State Racing Commission**

**Statutory citation:** 77-2704.17, 77-2704.20

**Estimate:** Minimal

**60. Purchases by U.S. Government**

**Statutory citation:** 77-2704.02

**Description:** Purchases by the U.S. Government, its agencies, and wholly-owned corporations.

**Note:** State tax is prohibited

**61. Public Records**

**Statutory citation:** 77-2704.42

**Description:** Copies of public records, except those documents developed, produced, or acquired and made available for commercial sale to the general public.

**Estimate:** Not available

**62. Sales by Religious Organizations**

**Statutory citation:** 77-2701.24(4), 77-2704.48

**Description:** An annual sale of property by an organization created exclusively for religious purposes.

**Estimate:** Not available

## Lodging/Shelter

### 63. Room Rentals by Certain Institutions

**Statutory citation:** 77-2701.33(2)

**Description:** Room rentals made by certain facilities licensed under the Health Care Facility Licensure Act, college dormitories, and other facilities licensed by the State of Nebraska.

**Estimate:** \$61,596,000

**Data source:** U.S. Census Bureau, 2007 Economic Census; University of Nebraska on-campus enrollment and boarding rates

**Note:** Above figure includes lodging over 30 days.

## Energy

### 64. Motor Fuels

**Statutory citation:** 77-2704.05

**Description:** Motor vehicle fuels such as gasoline, including casing head or natural gasoline, and any other liquids or gases for use in motor vehicles or motorboats; diesel and compressed fuels delivered into the fuel supply tanks of other vehicles; and railroad use.

**Estimate:** \$147,944,000

**Data source:** Nebraska Department of Revenue, Motor Fuels Section

### 65. Energy Used in Industry

**Statutory citation:** 77-2704.13(2)

**Description:** Sales and purchases of the energy sources in section 77-2704.13(1) when more than 50% of the amount purchased is for use directly in processing, manufacturing, generation of electricity, refining of property, or by any hospital.

**Estimate:** \$121,313,000

**Data source:** U.S. Department of Energy, Energy Information Administration

### 66. Energy Used in Agriculture

**Statutory citation:** 77-2704.13(1)

**Description:** Sales and purchases of electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood as fuel, and corn as fuel when more than 50% of the amount purchased for use directly in irrigation or farming.

**Estimate:** \$44,646,000

**Data source:** U.S. Department of Agriculture, 2007 Agricultural Census

### 67. Aviation Fuel

**Statutory citation:** 77-2704.03

**Description:** Fuel for use in aircraft, specifically aviation gasoline and jet fuel.

**Estimate:** \$10,021,000

**Data source:** Nebraska Department of Revenue, Motor Fuels Section

### 68. Minerals, Oil, and Gas Severed from Real Property

**Statutory citation:** 77-2704.04

**Estimate:** \$6,420,000

**Data source:** Nebraska Department of Revenue, Form 61 returns

## Miscellaneous

### 69. Cash Discounts/Coupons

**Statutory citation:** 77-2701.35(3)(a)

**Description:** Cash discounts allowed and taken on sales not reimbursed by a third party, including coupons issued and redeemed by the retailer.

**Estimate:** \$2,268,000

### 70. Separately-stated Finance Charges

**Statutory citation:** 77-2701.35(3)(b)

**Description:** Separately-stated finance, carrying, service, or interest charges in connection with credit extended under a deferred payment plan.

**Estimate:** \$318,000

### 71. Casual Sales

**Statutory citation:** 77-2701.24(2), 77-2704.48

**Description:** Garage sales and sales made by individuals on an online auction site of household goods and personal belongings. The sale cannot be held more than three days in a year and the sales must meet additional criteria contained in these sections.

**Estimate:** Not available

### 72. Lease-to-Purchase Agreements

**Statutory citation:** 77-2704.08

**Description:** 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.

**Estimate:** Not available

### 73. Separately-stated Taxes

**Statutory citation:** 77-2701.35(3)(c)

**Description:** Any taxes legally-imposed on the consumer that are separately-stated on the invoice, bill of sale, or similar document given to the purchaser.

**Note:** An example of this type of tax is the federal luxury tax or the Universal Service Fund surcharge.

**Estimate:** Minimal

## RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# **SECTION B**

## **Income Tax: Individual, Fiduciary, Corporation, and Financial Institution Tax**

### **BASIC PROVISIONS AND TAX BASE**

#### **Individual Income Tax<sup>1</sup>**

Nebraska individual income tax is imposed for each taxable year on the entire income of every resident individual. Nonresident and partial-year resident individuals are taxed on income derived from Nebraska sources. For tax year 2010, the rates are 2.56%, 3.57%, 5.12%, and 6.84% of Nebraska taxable income. Brackets for each filing status are outlined in Neb. Rev. Stat. § 77-2715.02. A personal exemption credit is allowed against the tax computed for every federal personal exemption of the taxpayer. For tax year 2010, the credit is \$118.

The tax is calculated as a percentage of Nebraska taxable income. Additional taxes are computed on alternative minimum tax and premature and lump-sum distributions from qualified retirement plans at a rate equal to 29.6% of the federal tax amount. Nebraska taxable income starts with federal adjusted gross income (AGI), adds interest from non-Nebraska state and local government obligations, and subtracts U.S. government obligations and other adjustments decreasing income. Nebraska taxable income is further reduced by either federal itemized deductions less Nebraska income tax; or a standard deduction equal to the smaller of the federal standard deduction or the Nebraska standard deduction amounts specified in section 77-2716.01(2)(b). Additional standard deduction amounts are allowed to elderly and blind taxpayers. For 2010, the standard deduction, including the additional standard deduction amounts, is adjusted for inflation. An additional tax which phases out the benefit of lower tax rates in the lower income brackets is also computed by higher income taxpayers.

#### **Fiduciary Income Tax<sup>1</sup>**

Nebraska income tax is imposed for each taxable year on the federal taxable income of a resident estate or trust after the adjustments contained in section 77-2716. Nonresident estates and trusts have the Nebraska income tax imposed for each taxable year on the portion of their income derived from sources within Nebraska.

In both cases, the tax is calculated as a percentage of Nebraska taxable income. The rates are 2.56%, 3.57%, 5.12%, and 6.84%. The brackets are established in section 77-2715.02. Additional tax is imposed on alternative minimum tax and premature and lump-sum distributions from qualified retirement plans at a rate equal to 29.6% of the federal amount.

#### **Corporation Income Tax<sup>1</sup>**

Nebraska corporation income tax is imposed upon any corporation or any other entity taxed as a corporation (not including a corporation with a valid federal subchapter S election or any financial institution defined in section 77-3801) which is doing business in Nebraska. For a corporate taxpayer subject

<sup>1</sup>The taxes collected are deposited to the State General Fund for these tax programs.

to tax in another state, the entire federal taxable income of the unitary business, after the adjustments in sections 77-2716 and 77-2734.07(1), is apportioned according to the statutory formula to determine the portion attributable to sources within Nebraska. For a corporate taxpayer not subject to tax in another state, the entire taxable income is subject to tax in Nebraska. Each corporate taxpayer is required to file a single, combined unitary tax return for each taxable year.

The corporation income tax rate is calculated as a percentage of the primary individual rate. The primary individual rate is 3.70%. The corporation rate on the first \$100,000 of taxable income is 150.8% of the primary rate and 211% of the primary rate on the excess. The 2009 and 2010 rates are 5.58% and 7.81% respectively.

## Financial Institution Tax<sup>1</sup>

Every financial institution which is chartered or qualified to do business in Nebraska, or which maintains a permanent place of business in Nebraska and actively solicits deposits from residents of Nebraska, must file a Nebraska Financial Institution Tax Return, Form 1120NF. This franchise tax is based on the average deposits of the financial institution. The rate of tax on deposits is 12.3 times the limitation rate. The limitation rate is 48.8% of the maximum corporate income tax rate in effect for the taxable year. The maximum corporate income tax rate in effect for the 2010 taxable year is 7.81%. The franchise tax imposed cannot exceed the limitation amount. The limitation amount is the product of the net financial income of the financial institution multiplied by the limitation rate. Financial institutions pay a franchise tax of 47 cents per \$1,000 of average deposits, limited by the institution's net financial income multiplied by 3.81%. Each financial institution is required to file a separate franchise tax return.

The tax imposed is based on the amount of average deposits connected with the financial institution's operations in Nebraska. These deposits are deposits which are accepted at the financial institution's offices located in Nebraska, plus deposits solicited from residents in Nebraska even if accepted at an office of the financial institution outside of Nebraska.

<sup>1</sup>The taxes collected are deposited to the State General Fund for these tax programs.

# INDIVIDUAL, FIDUCIARY, AND CORPORATION INCOME TAXES

<b>Statutory Reference and Description</b>	<b>Actual or Estimated Tax Expenditure Cost (NA = Not Available)</b>
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## EXEMPTIONS

Nebraska utilizes the federal calculation of taxable income for corporations as a base for computing taxpayers' Nebraska liability. Federal adjusted gross income, plus and minus certain adjustments, is used to determine Nebraska taxable income for individuals. Income tax for fiduciaries is based on taxable income. Nebraska tax tables, rates,	NA <sup>2</sup>
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<sup>2</sup>Figures are not available, nor applicable for any deductions (corporate) and adjustments to income (individual, fiduciary, and corporate) allowed by the Internal Revenue Service and federal regulations; since Nebraska corporate income tax is based on federal taxable income, Nebraska individual income tax is based on federal adjusted gross income, plus and minus adjustments, and Nebraska fiduciary income tax is based on taxable income.

and credits are used to determine tax liability. Some deductions (Nebraska corporation income tax) and adjustments to income (Nebraska individual, fiduciary, and corporation income tax) adopted under the Internal Revenue Code and federal regulations are recognized by Nebraska due to the linkage between the two systems. Federal tax credits are not recognized unless specifically approved by the Legislature. Any federal taxable income that is exempt from state taxation pursuant to federal law is not taxed by Nebraska.

### **Nebraska income tax liability after nonrefundable credits no greater than federal income tax liability before credits.**

**Statutory citation:** 77-2715

**Description:** A taxpayer with less than \$5,000 in adjustments increasing income will not have a Nebraska tax larger than their federal tax.

**Estimate:** \$5,600,000

## **DEDUCTIONS**

### **Interest and Dividends on U.S. Obligations**

**Statutory citation:** 77-2716(1)(a)(b)

**Description:** A subtraction from the tax base is allowed for interest or dividend income derived from federal obligations. This applies to federal taxable income for corporations and fiduciaries and to adjusted gross income for individuals.

**Estimate:** \$41,000,000

### **Subtraction for Foreign Income Taxed in Excess of Maximum Federal Tax Rate**

**Statutory citation:** 77-2716(6)

**Description:** A subtraction is allowed from federal taxable income for any portion of income subject to tax by a foreign country that is higher than the maximum federal tax rate.

**Estimate:** \$39,100,000

### **Net Operating Losses**

**Statutory citation:** 77-2716(2)

**Description:** A subtraction is allowed a resident individual, estate, or trust for a federal net operating loss which is adjusted for the modifications to federal AGI in the statutes. A nonresident or partial-year resident individual, estate, or trust is allowed a subtraction for a federal NOL adjusted by the modifications in the statutes. Any carryovers or carrybacks are limited to the portion of the loss derived from Nebraska sources.

**Estimate:** \$6,200,000

### **State Income Tax Refund**

**Statutory citation:** 77-2716(3)

**Description:** A subtraction is allowed for any state income tax refund included in federal AGI.

**Estimate:** \$8,900,000

### **Foreign Dividend Subtraction**

**Statutory citation:** 77-2716(5)

**Description:** A subtraction is allowed from taxable income for any dividends received for a foreign corporation not subject to the Internal Revenue Code.

**Estimate:** Not available



**IRC Section 1341(A)(5) Exclusion****Statutory citation:** 77-2716(7)**Description:** Federal AGI is reduced by any amount repaid by the taxpayer under the federal claim of right principle.**Estimate:** Not available**Nebraska Educational Savings Trust Income Allowed as a Deduction****Statutory citation:** 77-2716(8)(a)**Description:** A subtraction from federal AGI, or for corporations and fiduciaries, from taxable income, is allowed for any income from interest and Nebraska contributions received from the Nebraska educational savings plan trust.**Estimate:** \$0**Donation to Nebraska Educational Savings Plan Trust****Statutory citation:** 77-2716(8)(b)**Description:** A subtraction is allowed for any gift or donation, not deducted federally, that is made to the Nebraska educational savings plan trust.**Estimate:** Minimal**Contributions to the Nebraska Educational Savings Plan Trust****Statutory citation:** 77-2716(8)(c)**Description:** A subtraction is allowed from AGI (for individuals), and from taxable income (for corporations and fiduciaries), for any contribution as a participant in the Nebraska educational savings plan trust. The subtraction cannot exceed \$2,500 for a married, filing separately return, or \$5,000 for any other return.**Estimate:** \$1,300,000**Nebraska Long-Term Care Savings Plan****Statutory citation:** 77-2716(11)(a)**Description:** Individuals may take a deduction for contributions to the Nebraska Long-Term Care Savings Plan. The deduction is limited to \$2,000 per year for married, filing jointly returns and \$1,000 for all other returns.**Estimate:** Not available**Nebraska Standard Deduction****Statutory citation:** 77-2716.01(2)**Description:** An individual taxpayer not itemizing deductions is allowed a standard deduction equal to the smaller of the federal standard deduction or the Nebraska standard deduction amounts in section 77-2716.01(2)(b). Additional standard deduction amounts are allowed to elderly and blind taxpayers.**Estimate:** \$178,100,000**Nebraska Itemized Deductions****Statutory citation:** 77-2716.01(3)**Description:** An individual taxpayer itemizing deductions is allowed the greater of either the Nebraska standard deduction or the federal itemized deduction, except for the amount deducted on the federal return for Nebraska income taxes paid.**Estimate:** \$264,200,000

**Corporation Allocable Income****Statutory citation:** 77-2734.06**Description:** Corporate taxpayers are allowed to deduct allocable/nonapportionable income, less related expenses from the income subject to apportionment.**Estimate:** Not available**Corporation Net Operating/Capital Losses (NOL's)****Statutory citation:** 77-2734.07**Description:** Corporate taxpayers are required to add to federal taxable income any federal deduction due to a carryforward of an NOL. Corporate taxpayers are allowed an NOL carryforward (if connected with operations in Nebraska) for the five years following the loss year.**Estimate:** \$16,500,000**Relocation Assistance Act Awards****Statutory citation:** 76-1235**Description:** Awards to displaced persons under the Relocation Assistance Act can be deducted if included in federal AGI.**Estimate:** Not available

## EXCLUSIONS

**Dividends and Capital Gains Deduction****Statutory citation:** 77-2715.09**Description:** Resident individuals or trusts may elect to subtract from federal AGI or from taxable income, respectively, the extraordinary dividends paid on, and the capital gain from the sale or exchange of, capital stock of a corporation acquired by the individual (i) on account of employment by the corporation, or (ii) while employed by the corporation.**Estimate:** \$29,300,000**Non-Nebraska S Corporation Income/Loss Deduction****Statutory citation:** 77-2716(4)**Description:** An exclusion is allowed from federal AGI (or for a fiduciary, federal taxable income) for the portion of the income or loss received from an S corporation or from a limited liability company, that is not connected with Nebraska sources as determined in section 77-2734.01.**Estimate:** \$41,500,000

## CREDITS

**Credit for Elderly and Disabled****Statutory citation:** 77-2715.07(1)(a)**Description:** A nonrefundable credit for qualified residents is allowed in an amount equal to 100% of the federal credit for the elderly and the disabled.**Estimate:** \$15,000**Credits for Child/Dependent Care****Statutory citation:** 77-2715.07(1)(a)**Description:** A nonrefundable credit for qualified residents is allowed in an amount equal to 25% of the federal credit. For returns reporting federal AGI of \$29,000 or less, a refundable credit equal to a

percentage of the federal credit under section 21 of the Internal Revenue Code is allowed, whether or not the federal credit was limited by the federal tax liability. The percentage of the federal credit varies for incomes between \$22,000 and \$29,000.

**Estimate:** \$5,900,000

#### **Credit for Tax Paid to Another State**

**Statutory citation:** 77-2715.07(1)(b), 77-1507(4)(a), 77-2730

**Description:** A resident individual and a resident estate or trust are allowed a credit against income tax for some or all of any income tax imposed on them for the taxable year by another state, political subdivision, or the District of Columbia on income derived from sources therein which is also subject to Nebraska income tax.

**Estimate:** \$38,000,000

#### **Beginning Farmer Tax Credit**

**Statutory citation:** 77-2715.07(2)(c), 77-3403(3), 77-5701through 5715.

**Description:** Individuals, estates, trusts, and corporations are allowed a refundable credit under the Beginning Farmer Tax Credit Act.

**Estimate:** \$560,000

#### **Community Development Tax Credit**

**Statutory citation:** 77-2715.07(3)(b), 77-2715.07(4)(b), 77-2734.03(2),13-203 through 13-207

**Description:** Individuals, estates, trusts, and corporations are allowed a credit for contributions to certified community betterment programs.

**Estimate:** \$175,000

#### **Credits for Franchise Tax Paid by Financial institution**

**Statutory citation:** 77-2715.07(5)(b)

**Description:** A nonrefundable credit for partners, S corporation shareholders, LLC members, or beneficiaries of an estate or trust which have ownership in a financial institution is allowed against an individual's income tax liability for 100% of the individual's share of the franchise taxes paid by the financial institution.

**Estimate:** \$3,200,000

#### **Refundable Earned Income Credits**

**Statutory citation:** 77-2715.07(2)

**Description:** A refundable credit is allowed to resident individuals equal to 10% of the federal earned income credit.

**Estimate:** \$28,500,000

#### **Nebraska Personal Exemption Credit**

**Statutory citation:** 77-2716.01

**Description:** A nonrefundable credit of \$118 for 2010 is allowed to resident individuals for every federal personal exemption.

**Estimate:** \$170,000,000

#### **Resident of Two States**

**Statutory citation:** 77-2731

**Description:** An individual considered to be a resident of Nebraska and of another state (dual state resident), is allowed a reduction of tax on the portion of income subject to tax in both jurisdictions.

**Estimate:** Minimal

### **Credit for In-lieu-of Intangible Tax Paid**

**Statutory citation:** 77-2734.03, 77-908, 81-523, 44-4233

**Description:** A credit is allowed to insurers, electric cooperatives, or credit unions for certain in-lieu-of intangible taxes paid.

**Estimate:** \$22,000,000

### **Income Tax Credit for Investment in Biodiesel Facility**

**Statutory citation:** 77-2734.03(6), 77-27,236(1), 77-27,236(2)(a)through(f)

**Description:** A nonrefundable credit is allowed a taxpayer investing in a biodiesel facility.

**Estimate:** \$0

### **LB775 (Tax Incentive) Credits**

**Statutory citation:** 77-4101

**Description:** A taxpayer's business may be eligible for tax incentives under the Employment and Investment Growth Act if the business is in a qualified activity and the plans result in (a) the investment in qualified property of at least \$3,000,000 and the hiring of at least 30 new employees, (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. New applications are no longer being accepted after January 1, 2006.

**Estimate:** See Section V

### **Quality Jobs Act Credits**

**Statutory citation:** 77-4901

**Description:** Taxpayers who have previously been approved may qualify for additional benefits beyond those received under section 77-4101 (LB775). Each taxpayer must make an investment of \$50 million in qualified property and hire 500 new employees, or \$100 million in investment and hire 250 new employees by the end of the sixth year after filing of the application. New applications are no longer being accepted.

**Estimate:** See Section V

### **Rural Economic Opportunities Credit**

**Statutory citation:** 77-5401

**Description:** Any taxpayer who qualifies for incentives by adding the number of employees, wages, and investment required in section 77-5405 is entitled to: (1) A credit equal to five percent of the amount by which the total compensation paid during the year exceeds the average compensation paid at the project multiplied by the number of equivalent base-year employees; and (2) A credit equal to ten percent of the investment made in qualified property at the project. New applications are no longer being accepted.

**Estimate:** See Section V

### **Invest Nebraska Act Credits**

**Statutory citation:** 77-5501

**Description:** A qualifying business selects one of the following options in its application: (1) \$10,000,000 investment and 25 new employees whose annual wage exceeds the Nebraska average annual wage. This option is only available for projects located outside of counties with 100,000 or more population; (2) \$50,000,000 investment and 500 new employees, or \$100,000,000 investment and 250 new employees. The new employee's annual wage must exceed 110% of the Nebraska average annual wage; or (3) \$200,000,000 investment and 500 new employees. The new employee's annual wage must exceed 125% of the Nebraska average annual wage. If the company reaches and maintains the selected level, it is eligible for benefits. New applications are no longer being accepted.

**Estimate:** See Section V

### **Nebraska Advantage Act Credits**

**Statutory citation:** 77-5426

**Description:** Businesses may qualify for benefits under six different tiers of new investment and new jobs ranging from an investment of at least \$1,000,000 and the hiring of at least ten new employees to \$30,000,000 of new investment and maintaining the same number of employees.

**Estimate:** See Section V

### **Nebraska Advantage Research and Development Act Credits**

**Statutory citation:** 77-5801

**Description:** Businesses which make investments in research and experimental activities in Nebraska are allowed a research tax credit equal to 15% of any federal credit allowed under section 41 of the IRC of 1986, as amended. If the investment in research and experimental activities takes place on the campus of a college or university in Nebraska or at a facility in Nebraska owned by a college or university, the credit is increased to 35%. The credit may be used to obtain a refund of sales and use taxes paid, or as a refundable income tax credit.

**Estimate:** Not available

### **Nebraska Advantage Act Microenterprise Tax Credit Act**

**Statutory citation:** 77-5901

**Description:** Businesses creating or expanding microbusinesses (five or fewer employees) are entitled to refundable tax credits equal to 20% of new investment or employment.

**Estimate:** Not available

### **Nebraska Advantage Rural Development Act Credits**

**Statutory citation:** 77-27,188

**Description:** Income tax credits are available to businesses which make investment in new property and/or add employees. There are required levels of employment and investment for counties with populations of less than 25,000 and for those with less than 15,000.

**Estimate:** Not available

### **Renewable Energy Tax Credit**

**Statutory citation:** 77-27,235

**Description:** Income tax credits or sales tax refunds are available to producers of electricity generated by a new zero emission facility based on kilowatt-hours generated.

**Estimate:** Not available

## **PREFERENTIAL TAX RATES**

### **Individual and Fiduciary Income Tax Rates**

**Statutory citation:** 77-2715.02

**Description:** The individual and fiduciary income tax rates are calculated as a percentage of the primary rate of 3.7%. The primary rate set by the Legislature is multiplied by the following factors to compute the tax rates. The factors for the brackets, from lowest to highest bracket, are .6932, .9646, 1.3846, and 1.848. The tax rates for the 2010 tax year are 2.56%, 3.57%, 5.12%, and 6.84% of Nebraska taxable income, using the brackets listed in section 77-2715.02. The preferential rate is the difference between the top rate, 6.84%, and the lowest rate, 2.56%.

**Estimate:** \$633,500,000

### **Corporate Income Tax Rates**

**Statutory citation:** 77-2734.02(1)

**Description:** The corporate income tax rates are calculated as a percentage of the primary rate of 3.7%. This results in a corporate rate of 5.58% applied to the first \$100,000 of taxable income and a rate of 7.81% applied to the excess.

**Estimate:** \$7,300,000

### **Insurance Company Tax Rates**

**Statutory citation:** 77-2734.02(2)

**Description:** Insurance companies are subject to the lesser of the rates set under section 77-2734.02(1) or the rate of tax imposed in the state or country in which the insurance company is domiciled, if the state or country of domicile imposes a retaliatory tax on Nebraska insurance companies, which includes the Nebraska corporate income tax.

**Estimate:** Not available

## **FINANCIAL INSTITUTION TAX EXEMPTIONS**

### **Federal Credit Unions & Mutual Fund Companies**

**Statutory citation:** 77-3802(1), 77-3801(4)(a), 77-3801(4)(b)

**Description:** The franchise tax is not imposed on federal credit unions and mutual fund companies.

**Estimate:** \$350,000

## **CREDITS**

### **Community Development Tax Credit**

**Statutory citation:** 13-201 through 13-208

**Description:** Financial institutions are allowed a credit for contributions to certified community betterment programs.

**Estimate:** \$41,000

## **RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.

# **SECTION C**

## **Property Assessment and Homestead Exemptions**

### **BASIC PROVISIONS AND TAXATION LAWS**

All property in the State of Nebraska is subject to property tax unless an exemption is mandated by the Nebraska Constitution, Article VIII, or is permitted by the Constitution and enabling legislation is adopted by the Legislature. Federal law may supersede the Nebraska Constitution with regard to taxation of property owned by the federal government or its agencies or instrumentalities. All property in the State of Nebraska, which is subject to taxation, shall be valued as of January 1, 12:01 a.m., of each year.

The county assessor is responsible for valuing all real and personal property with the exception of railroads, public service entities, and specific personal property of air carrier and rail car line companies, which are assessed by the Property Tax Administrator. The valuation of real property is determined according to professionally accepted mass appraisal techniques, including but not limited to the following: (1) sales comparison approach; (2) income approach; and (3) cost approach. The valuation of personal property is determined using a statutory method of depreciated values similar to the Federal Modified Accelerated Cost Recovery System and 150% declining balance depreciation schedules.

All real property is assessed at or near 100% of actual value, except agricultural and horticultural land which is assessed at or near 75% of actual value. Agricultural and horticultural land receiving special valuation pursuant to Neb. Rev. Stat. § 77-1344 is assessed at or near 75% of its special value which is the uninfluenced value of the land for agricultural and horticultural purposes. Personal property is assessed at 100% of the net book taxable value as determined by the statutory method.

Permissive exemptions are allowed for certain organizations such as religious, charitable, educational, and agricultural societies pursuant to Neb. Rev. Stat. § 77-202. The organization must file an application for exemption of real and/or personal property. The county assessor will recommend approval or denial to the county board of equalization which will meet to make the final decision regarding the application for exemption.

There is an exemption for certain business personal property belonging to qualifying companies under the Employment and Investment Growth Act and the Nebraska Advantage Act.

There is an exemption for certain personal property belonging to qualified beginning farmers, pursuant to Neb. Rev. Stat. § 77-5209.02 of the Beginning Farmer Act.

For individuals, the homestead exemption program is designed to provide local property tax relief to qualifying elderly individuals, certain disabled veterans, and certain disabled individuals and their widowers who own and live in the home for which an exemption application is made. The exemption applies to all or part of the property taxes levied against the home, within the State of Nebraska reimbursing local governments from general fund revenues for those taxes exempted under the program (see Homestead Exemption section).

Between January 1 and March 19 of each year, the assessor updates and revises the real property assessment roll. Each year between early April and May 15 the Tax Equalization and Review Commission has the authority to adjust the valuation of classes or subclasses of real property in any county in order to achieve equalization of property values. Decisions of the Tax Equalization and Review Commission may be appealed to the Nebraska Court of Appeals.

The assessor revises the real property assessment rolls for any orders issued by the Tax Equalization and Review Commission and notifies property owners of value increases or decreases by June 1. Individual protests of real property valuations may be made to the county board of equalization. The county board of equalization may adjust the protested value of individual properties. Decisions of the county board of equalization may be appealed to the Tax Equalization and Review Commission.

Personal property is self-reported by the taxpayer, on or before May 1. If the county assessor makes changes to the reported valuation, a notice must be sent to the taxpayer. The action may be appealed to the county board of equalization.

On or before August 10, the Tax Equalization and Review Commission shall equalize the real property of centrally-assessed railroad and public service companies with the statewide level of assessment. The Property Tax Administrator certifies centrally-assessed values to the counties.

On or before August 20, the county assessor compiles and certifies the total taxable value (real, personal, and centrally-assessed) to each local government taxing subdivision for rate-setting purposes.

Each year, on or before October 15, the county board of equalization levies the necessary taxes, within the limits of the law, for operation of all functions of county government, school districts, cities, etc. The tax rates for these various local government taxing subdivisions are determined by dividing the subdivision's annual tax request by the current total taxable value within their boundaries. The tax rates are expressed as \$1 per \$100 of taxable value.

Property taxes are determined by multiplying the property's taxable value by the total consolidated tax rate for the tax district in which the property is located. The tax district is comprised of various governing bodies empowered to levy property taxes for services, such as county government, school district, city, etc.

On or before November 22, the county assessor transcribes the real property tax list and delivers it to the county treasurer for collection of property taxes. All real and personal property taxes, including taxes of centrally-assessed railroad and public service companies, are due December 31. The first half of the tax becomes delinquent on the following May 1, and the second half becomes delinquent on September 1; except in Douglas, Lancaster, and Sarpy counties, where the first half is delinquent on April 1 and the second half becomes delinquent on August 1.

More information is available at [www.pat.ne.gov](http://www.pat.ne.gov).

## HOMESTEAD EXEMPTIONS

A homestead exemption provides relief from property taxes by exempting all or a portion of the valuation of the homestead from taxation. The State of Nebraska reimburses the counties and other governmental subdivisions for the taxes lost due to the homestead exemptions. A homestead exemption is available to three categories of homeowners: (1) persons over age 65; (2) certain disabled individuals; or (3) certain disabled veterans and their widowers.

More information regarding the homestead exemption program and the property tax relief it provides for qualified homeowners is available at [www.pat.ne.gov](http://www.pat.ne.gov).



**Statutory Reference  
and Description**

**Actual or Estimated  
Tax Expenditure Cost  
(NA = Not Available)**

## **EXEMPTIONS**

The taxable value of exempt property (e.g., governmental or permissive exempt) is not available. Due to the exempt status of the real property, the assessed value may not have been determined. The county assessor allocates time and resources to establishing the assessed values of taxable properties.

**Section 2-4243**

Property belonging to the Conservation Corporation. NA

**Section 3-209**

Airports and landing fields acquired by a municipality. NA

**Section 3-511**

Property belonging to city airport authorities. NA

**Section 3-621**

Property belonging to county airport authorities. NA

**Section 3-714**

Property belonging to joint airport authorities. NA

**Section 12-506**

Property belonging to cemetery associations. NA

**Section 12-517**

Burial lots sold by a cemetery association for interment. NA

**Section 14-812**

Property belonging to metropolitan cities. NA

**Section 14-1721**

Property belonging to municipal parking authorities. NA

**Section 14-1810**

Property belonging to metropolitan transit authorities. NA

**Section 15-844**

Property belonging to primary class cities. NA

**Section 21-2311**

Property belonging to industrial development public corporations. NA

**Section 23-35,117**

Property belonging to hospital authorities. NA

<b>Section 37-301</b> Property held by the Nebraska Game and Parks Commission.	NA
<b>Section 51-512</b> Property belonging to public museums.	NA
<b>Section 58-268</b> Property belonging to the Nebraska Investment Finance Authority.	NA
<b>Section 77-202(1)(a)&amp;(b)</b> Property of Nebraska and its governmental subdivisions.	NA
<b>Section 77-202(1)(c)</b> Property owned by and used exclusively for agricultural and horticultural societies.	NA
<b>Section 77-202(1)(e)</b> Household goods and personal effects when not used for profit.	NA
<b>Section 77-202(2)</b> Increased value of land due to shade or ornamental trees planted along the highway.	NA
<b>Section 77-202(3)</b> Tangible personal property which is not depreciable.	NA
<b>Section 77-202(4)</b> Motor vehicles required to be registered for operation on the highways of Nebraska.	NA
<b>Section 77-202(5)</b> Business and agricultural inventory.	NA
<b>Section 77-202(6)</b> Any qualifying personal property conditions specified in the Employment and Investment Growth Act and the Beginning Farmer Act.	(See Section V)
<b>Section 77-202(7)</b> Livestock.	NA
<b>Section 77-202(8)</b> Any qualifying personal property pursuant to the Nebraska Advantage Act.	(See Section V)
<b>Section 77-202(9)</b> Any property used directly in the generation of electricity using wind as the fuel source.	NA
<b>Section 77-202.24</b> A mobile home owned and occupied by a disabled or blind veteran.	NA

**Section 77-212**

Space provided for supportive medical services to patients in hospitals is exempt from the in-lieu-of payment provided for in section 77-211.

NA

**Sections 77-4101, 77-4105, 77-5701, and 77-5725**

(See Section V)

A taxpayer’s business may qualify for tax incentives under the Employment and Investment Growth Act and/or the Nebraska Advantage Act based upon certain levels of investment and hiring of employees. If the taxpayer meets the criteria required, then certain personal property of the project may qualify for property tax exemption.

**Sections 77-5201 through 77-5215**

NA

The Beginning Farmer Act provides beginning farmers and livestock producers with personal property exemptions. Beginning farmers and livestock producers must be approved and certified by the Beginning Farmer Board to be eligible for the programs, or exemption of personal property.

## HOMESTEAD EXEMPTIONS

**The total tax expenditure for the State of Nebraska in FY 2009-10 was \$65,938,260.** One hundred percent was reimbursed to the counties by the State of Nebraska. The table on page C10 lists the total homestead exemption to each county.

The taxable value of exempt property (e.g., governmental or permissive exempt) is not available. Due to the exempt status of the real property, the assessed value may not have been determined. The county assessor allocates time and resources to establishing the assessed values of taxable properties.

**Section 77-3507**

For homesteads valued at or below the maximum value as defined in section 77-3505.02, a percentage of the exempt amount defined in section 77-3501.01(1), for married claimants 65 years of age or over with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$29,100.99	100%
29,101 through 30,700.99	85%
30,701 through 32,200.99	70%
32,201 through 33,800.99	55%
33,801 through 35,300.99	40%
35,301 through 36,900.99	25%
36,901 and over	0%

For a single claimant 65 years of age or over with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$24,800.99	100%
24,801 through 26,100.99	85%
26,101 through 27,400.99	70%
27,401 through 28,700.99	55%
28,701 through 30,000.99	40%
30,001 through 31,300.99	25%
31,301 and over	0%

#### **Section 77-3508**

For homesteads valued at or below the maximum value as defined in section 77-3505.02, a percentage of the exempt amount defined in section 77-3501.01(1), for a married veteran totally disabled by a non-service connected accident or illness with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$32,000.99	100%
32,001 through 33,500.99	85%
33,501 through 35,100.99	70%
35,101 through 36,600.99	55%
36,601 through 38,200.99	40%
38,201 through 39,700.99	25%
39,701 and over	0%

For a single veteran totally disabled by a non-service connected accident or illness with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$27,900.99	100%
27,901 through 29,200.99	85%
29,201 through 30,500.99	70%
30,501 through 31,800.99	55%
31,801 through 33,100.99	40%
33,101 through 34,400.99	25%
34,401 and over	0%

For a married disabled individual with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$32,000.99	100%
32,001 through 33,500.99	85%
33,501 through 35,100.99	70%
35,101 through 36,600.99	55%
36,601 through 38,200.99	40%
38,201 through 39,700.99	25%
39,701 and over	0%

For a single disabled individual with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$27,900.99	100%
27,901 through 29,200.99	85%
29,201 through 30,500.99	70%
30,501 through 31,800.99	55%
31,801 through 33,100.99	40%
33,101 through 34,400.99	25%
34,401 and over	0%

#### **Section 77-3509**

For homesteads valued at or below the maximum value as defined in section 77-3505.02, a percentage of the exempt amount defined in section 77-3501.01(1), for a married veteran drawing compensation from the Department of Veterans Affairs for 100% service-connected disability with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$32,000.99	100%
32,001 through 33,500.99	85%
33,501 through 35,100.99	70%
35,101 through 36,600.99	55%
36,601 through 38,200.99	40%
38,201 through 39,700.99	25%
39,701 and over	0%

For a single veteran drawing compensation from the Department of Veterans Affairs for 100% service-connected disability including any un-remarried widow or widower of such veteran with household income as set out below:

<b>2010 Household Income</b>	<b>Percentage of Relief</b>
\$0 through \$27,900.99	100%
27,901 through 29,200.99	85%
29,201 through 30,500.99	70%
30,501 through 31,800.99	55%
31,801 through 33,100.99	40%
33,101 through 34,400.99	25%
34,401 and over	0%

**Section 77-3501.01 Exempt amount, defined:**

(1) For purposes of section 77-3507, exempt amount shall mean the lesser of (a) the taxable value of the homestead or (b) 100% of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or \$40,000, whichever is greater. (2) For purposes of sections 77-3508 and 77-3509, exempt amount shall mean the lesser of (a) the taxable value of the homestead or (b) 120% of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or \$50,000, whichever is greater.

**Section 77-3505.02 Maximum value, defined:**

Maximum value shall mean - (1) For applicants eligible under section 77-3507, 200% of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or \$95,000, whichever is greater; and (2) For applicants eligible under sections 77-3508 and 77-3509, 225% of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or \$110, 000, whichever is greater.

## PREFERENTIAL TAX RATES AND VALUATION

<b>Statutory Reference and Description</b>	<b>Actual Tax Expenditure Cost (NA = Not Available)</b>
<b>Section 18-2137</b> Whenever a city community redevelopment authority purchases or acquires real property pursuant to sections 18-2101 to 18-2144, the authority shall annually, so long as it shall continue to own this property, pay in lieu of taxes to the respective political subdivisions applicable to the property during the immediately preceding the purchase or acquisition of this real property.	\$23,213 <sup>1</sup>
<b>Section 37-335</b> Whenever the Game and Parks Commission acquires title to private lands for wild-life management purposes, the Commission shall annually make the same payments in lieu of taxes as were made by private landowners for the year prior to these acquisitions to the county treasurer of the county in which the land is located.	\$588,780 <sup>1</sup>
<b>Section 71-1590</b> Pursuant to section 71-5190(2), a housing agency may agree to make payments in lieu of taxes. The in lieu of taxes for this section are based upon the amount of property taxes that would have been levied for property if it was not exempt from taxation.	\$519,262 <sup>1</sup>

<sup>1</sup>These amounts are the in lieu of taxes paid as reported by county assessors on the 2009 Certificate of Taxes Levied Report.

**Section 77-211**

Pursuant to section 77-211, any political subdivision, tax-exempt corporation or proprietorship acting with respect to any hospital and which provides office buildings or office space to tenants engaged in private enterprise shall charge tenants a sufficient amount of rent so that a portion of the rent payments shall be in lieu of taxes. The in lieu of taxes for this section are based upon the amount of property taxes that would have been levied for property if it was not exempt from taxation.

\$24,463<sup>1</sup>

**Section 77-1344**

Land valued for agricultural use where actual value for other use would be higher.

NA

**Nebraska Constitution Article VIII, Section II**

(Sections 70-651.01 through 70-651.05) Public corporations and political subdivisions making an in lieu of taxes payment equal to the amount of taxes paid in 1957, or five percent of annual gross revenue less the amount of taxes paid in 1957, less any city occupation tax.

1957 fixed:	\$1,115,822 <sup>1</sup>
5% gross revenue:	\$30,837,816 <sup>1</sup>
City occupation tax:	\$363,663 <sup>1</sup>

<sup>1</sup>These amounts are the in lieu of taxes paid as reported by county assessors on the 2009 Certificate of Taxes Levied Report.

# FY 2009-10 HOMESTEAD EXEMPTION REIMBURSEMENT

ADAMS	\$1,226,947.44	JEFFERSON	\$303,413.40
ANTELOPE	219,532.88	JOHNSON	215,981.70
ARTHUR	8,389.88	KEARNEY	216,079.28
BANNER	14,831.80	KEITH	426,029.16
BLAINE	6,376.56	KEYA PAHA	17,183.48
BOONE	174,840.94	KIMBALL	148,960.60
BOX BUTTE	333,166.98	KNOX	301,158.32
BOYD	63,631.88	LANCASTER	9,075,599.46
BROWN	134,218.64	LINCOLN	1,527,240.54
BUFFALO	1,603,192.18	LOGAN	16,847.18
BURT	385,355.26	LOUP	12,435.13
BUTLER	263,153.04	MADISON	1,251,808.08
CASS	1,089,595.42	MCPHERSON	9,662.32
CEDAR	344,201.09	MERRICK	310,031.40
CHASE	133,634.36	MORRILL	178,725.18
CHERRY	189,465.76	NANCE	138,029.37
CHEYENNE	379,947.22	NEMAHA	241,899.90
CLAY	201,975.14	NUCKOLLS	154,088.20
COLFAX	365,252.86	OTOE	778,756.06
CUMING	335,871.37	PAWNEE	99,594.52
CUSTER	423,988.80	PERKINS	102,115.54
DAKOTA	614,841.34	PHELPS	324,079.94
DAWES	340,198.56	PIERCE	362,754.70
DAWSON	736,713.04	PLATTE	1,132,067.76
DEUEL	75,481.24	POLK	211,969.66
DIXON	217,822.24	RED WILLOW	356,187.16
DODGE	1,883,244.66	RICHARDSON	300,477.28
DOUGLAS	18,683,816.92	ROCK	46,392.08
DUNDY	34,494.86	SALINE	598,780.86
FILLMORE	185,248.88	SARPY	4,383,745.98
FRANKLIN	127,095.47	SAUNDERS	1,221,283.82
FRONTIER	104,558.60	SCOTTS BLUFF	1,772,836.06
FURNAS	142,341.22	SEWARD	653,745.94
GAGE	1,210,221.66	SHERIDAN	172,541.76
GARDEN	77,432.66	SHERMAN	140,685.74
GARFIELD	71,214.28	SIOUX	19,912.06
GOSPER	96,405.16	STANTON	197,904.62
GRANT	15,554.08	THAYER	171,009.44
GREELEY	101,715.22	THOMAS	28,001.70
HALL	2,253,180.62	THURSTON	113,705.52
HAMILTON	323,932.80	VALLEY	205,343.52
HARLAN	103,185.79	WASHINGTON	997,799.50
HAYES	22,512.08	WAYNE	274,960.12
HITCHCOCK	93,974.42	WEBSTER	160,590.62
HOLT	366,951.94	WHEELER	8,976.19
HOOKER	29,890.92	YORK	405,037.90
HOWARD	342,233.14	<b>STATE TOTAL</b>	<b>\$65,938,260.05</b>



# RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# **SECTION D**

## **Railroads, Public Service Entities, Car Lines, and Air Carrier Flight Equipment Property Tax**

### **BASIC PROVISIONS AND TAX BASE**

Property valued by the state includes those companies or industries for which the Property Tax Administrator is statutorily responsible for determining a taxable valuation each year. Companies owning or leasing operating property are required to furnish information annually, on prescribed forms, to the Property Tax Administrator. "Taxable value" has been defined to be actual value for real property and net book value for tangible depreciable personal property, excluding registered motor vehicles, which is determined by using a statutory method.

#### **Railroads**

Neb. Rev. Stat. § 77-601, et. al., requires the Property Tax Administrator to value the operating property of any company owning, controlling, or operating property used for railroad purposes.

The Property Tax Administrator shall ascertain the total taxable value of the railroad company, including real, franchise, and net book personal property, attributable to Nebraska. The Property Tax Administrator apportions the railroad's taxable value by taxing subdivision based on a statutory formula, as follows: (1) five percent is distributed to all taxing subdivisions where the railroad company has investment in general office buildings or machine and repair facilities; and (2) the balance is distributed to all taxing subdivisions based 50% on track mileage and 50% on traffic density. The value per mile of main track shall equal twice the value per mile of side track. The apportioned value is certified by the Property Tax Administrator to the county assessor for assessment and tax collection.

#### **Public Service Entities**

Neb. Rev. Stat. § 77-801, et. al., requires the Property Tax Administrator to determine the total taxable value of public service entities, organized for-profit under the laws of this state or any other state or government and engaged in the business of waterworks, electrical power, gas works, natural gas, telecommunications, and pipeline transmissions. Generally, the entities affected by this law fall into three groups: telecommunications; pipeline companies; and certain utility companies.

The Property Tax Administrator shall ascertain the total taxable value, including real, franchise, and net book personal property value attributable to Nebraska.

The Property Tax Administrator distributes the public service entity's taxable value to the various taxing subdivisions based on a ratio of the public service entity's original cost of all operating property located in the taxing subdivision compared to the original cost of all operating property located in the state. The Property Tax Administrator certifies the distributed taxable value of public service entities to the county assessor for assessment and tax collection at the local government level.

## Car Line Companies

Neb. Rev. Stat. § 77-679, et. al., requires the assessment and taxation of car line companies. A “car line company” means any person, other than a railroad company, owning or operating any railroad cars of any description through, in, or into the State of Nebraska. The Property Tax Administrator shall ascertain the total taxable value (i.e., net book personal property value) of the car line company cars attributable to Nebraska. The Property Tax Administrator shall levy against the value assessed, for property tax purposes, at a rate equal to the state’s average tax rate. The taxes are payable to the Property Tax Administrator which are remitted, less a three percent collection fee, to the State Treasurer for distribution to the counties. The car line taxes are distributed among the various taxing subdivisions in proportion to all railroad taxes levied pursuant to section 77-684. The collection fee is remitted to the State Treasurer for credit to the Department of Revenue Property Assessment Division Cash Fund.

## Air Carrier Flight Equipment

Neb. Rev. Stat. § 77-1245, et. al., requires the assessment and taxation of air carriers. An “air carrier” means any person, firm, or assignee engaged in interstate carriage of persons or cargo for hire by company or corporate aircraft. The Property Tax Administrator shall ascertain the total taxable value (i.e., net book personal property value of the air carrier’s flight equipment) attributable to Nebraska. The Property Tax Administrator shall levy against the value assessed, for property tax purposes, at a rate equal to the state’s average tax rate. The taxes are payable to the Property Tax Administrator which are remitted, less a three percent collection fee, to the State Treasurer for distribution to the counties. The air carrier taxes are distributed to the counties as a credit to the county general fund in proportion to the amount the total property taxes levied in the county bears to the total property taxes levied in the state as a whole. The collection fee is remitted to the State Treasurer for credit to the Department of Revenue Property Assessment Division Cash Fund.

<b>Statutory Reference And Description</b>	<b>Actual Tax Expenditure Cost (NA = Not Available)</b>
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## EXEMPTIONS

### Section 77-202(1)

Governmental Subdivision and Nonprofit Organizations	NA
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### Section 77-4105 and/or Section 77-5725

Railroad Personal Property	\$0 <sup>1</sup>
Public Service Entity Personal Property	\$0 <sup>1</sup>
Air Carrier Flight Equipment	\$0 <sup>1</sup>

<sup>1</sup>Based on tax year 2009 net book taxable personal property value exempted, multiplied by the state’s average tax rate for 2009.

## DEDUCTIONS

### Section 77-684

Car line companies collection fee

\$192,090<sup>2</sup>

### Section 77-1250

Air carriers collection fee

\$45,891<sup>2</sup>

<sup>2</sup>Based on tax year 2009 net book taxable personal property of car line companies and air carriers; the three percent collection fee retained by the state as a credit to the Department of Revenue Property Assessment Division Cash Fund (The year 2009 taxes are collected during 2010).

## RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# SECTION E

## Alcoholic Beverages Tax and Fees

### BASIC PROVISIONS AND TAX BASE

Neb. Rev. Stat. § 53-160 imposes a tax upon the privilege of doing business in Nebraska as a manufacturer or distributor of alcoholic liquors. The tax is imposed at the rate of 31 cents per gallon on all beer, 95 cents per gallon for wine, \$3.75 per gallon on alcohol and spirits, and six cents per gallon for wine produced in farm wineries. Revenue raised from the gallonage tax is placed in the State General Fund.

Neb. Rev. Stat. §§ 53-124 and 53-131.01 provide for the payment of registration and annual license fees to the Nebraska Liquor Control Commission. The law provides a schedule of license fees to be paid by manufacturers, distributors, and retailers of alcoholic beverages. In addition, Neb. Rev. Stat. § 53-132 allows for an occupation tax to be imposed by cities and villages.

The fees paid by manufacturers and distributors vary depending upon whether beer, wine, and/or spirits are handled by the licensee. Retailer's license fees vary depending upon: what alcoholic beverages are sold; whether sold for consumption on- or off-premises; whether sold in a village or larger community; whether issued to a privately owned recreation area; whether issued to a nonprofit corporation for on-premise consumption; whether issued to a municipal corporation, fine arts museum, or nonprofit religious or fraternal organization; whether issued to a restaurant for on-premise consumption; whether issued to a railroad, passenger boat operator, nonbeverage user, airline, or bottle club; or whether issued to a farm winery or brewpub. Nonprofit corporations can obtain a special designated permit for limited purposes.

The fees derived from local retail license fees by cities or villages are placed in the School Fund of the district lying wholly or partially within the corporate limits of the city or village. The fees raised from Special Designated Licenses are deposited into the State General Fund.

Annual license fees received by the Nebraska Liquor Control Commission are paid to the State Treasurer for deposit in the Temporary School Fund. Registration fees received by the Commission are placed in the State General Fund.

<b>Statutory Reference and Description</b>	<b>Actual Tax Expenditure Cost (NA = Not Available)</b>
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### EXEMPTIONS

#### **Section 53-168.06**

The following activities are excluded from the definition of manufacturing and distribution and, therefore, are not subject to the Liquor Tax:

- |   |    |
|---|----|
| (1) The possession and transportation of alcoholic liquors for the personal use of the possessor, his or her family, and guests;  | NA |
| (2) The making of wine, cider, or other alcoholic beverages by an individual from fruits, vegetables, or grains (or the product thereof) by fermentation and without distillation if used solely for the use of the maker, his or her family, and guests; | NA |

- |   |         |
|---|---------|
| (3) The possession and use by a licensed practicing physician or dentist in the strict practice of his or her profession;   | Minimal |
| (4) The possession and use by a hospital or other institution caring for the sick and diseased persons, for the treatment of patients of the hospital or institution;                     | NA      |
| (5) The possession and use by a drug store employing a licensed pharmacist in the compounding of prescriptions from licensed physicians; and  | NA      |
| (6) The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by the church. | NA      |

**Section 53-164.01**

Liquors shipped out-of-state for sale or consumption outside Nebraska are exempt. NA

**Section 53-160**

Dry or fortified wines manufactured or imported solely and exclusively for sacramental purposes are exempt. NA

The tax is not imposed upon any beer sold to a manufacturer consumer for use in the manufacture of: patent and proprietary medicines and medicinal, antiseptic, and toilet preparation; flavoring extracts in syrups and food products; scientific, industrial and chemical products, excepting denatured alcohol; and for scientific, chemical, experimental or mechanical purposes. \$0

The tax is not imposed upon the privilege of engaging in any business in interstate commerce or otherwise where taxation is prohibited under the United States Constitution and Federal Law. NA  
(State taxation prohibited)

**Section 53-160.01**

No direct or indirect excise tax is imposed upon the sale, use, delivery, or storage of articles of merchandise to or by any instrumentality of the United States armed forces engaged in resale activity. NA  
(State taxation prohibited)

## DEDUCTIONS

**Section 53-164.01**

The manufacturer or distributor is allowed a discount of one percent of the tax on alcoholic liquors for the timely payment of the tax due the Nebraska Liquor Control Commission. \$283,831

## CREDITS

**Section 53-161**

A credit is allowed to a distributor or manufacturer for tax paid on: (1) beer shipped out-of-Nebraska for sale and consumption outside the state; or (2) beer returned to the manufacturer for credit, substitution, or replacement. \$78,638

**Section 53-164.01**

A credit is allowed to a manufacturer or distributor for the amount of tax paid on beer sold or delivered to any instrumentality of the United States armed forces engaged in resale activities. \$31,804

## PREFERENTIAL TAX RATES

**Section 53-160**

Different rates of tax per gallon are levied depending upon the class of alcoholic beverage and its alcoholic content. The following are the applicable rates per gallon effective July 1, 2003.

<b>Beer</b> - \$0.31 per gallon	A one cent increase would generate \$459,246 in additional revenue.
<b>Wine</b> - \$0.95 per gallon (14% or under of alcohol content)	A five-cent increase would generate \$129,100 in additional revenue.
<b>Alcohol and Spirits</b> - \$3.75 per gallon	A five-cent increase would generate \$635,040 in additional revenue.
<b>Wine from Farm Wineries</b> - \$.06 per gallon	A five-cent increase would generate \$3,422 in additional revenue.
<b>Wine from Direct Shippers</b> - \$0.95 per gallon	A five-cent increase would generate \$1,267 in additional revenue.
<b>Micro Distilleries</b> - \$3.75 per gallon (New license type in 2009--only had two months of reporting.)	A five-cent increase would generate \$17 in additional revenue.

## RECOMMENDATIONS

The Nebraska Liquor Control Commission has no recommendations.

# **SECTION F**

## **Bingo, Lottery, Raffle, and Lottery by Pickle Card Tax**

### **BASIC PROVISIONS AND TAX BASE**

#### **Bingo**

A nonprofit organization wishing to conduct bingo where: (1) a charge is made to participate; or (2) any prize to be awarded exceeds \$25 in value, must apply for and obtain a license from the Nebraska Department of Revenue (Department).

All licensed organizations are subject to a tax of three percent of the bingo gross receipts. Bingo gross receipts include the sale or rental of all bingo cards, any rental fees charged for the use of bingo card monitoring devices, and admission charges. The bingo tax return is filed on a quarterly basis. A licensed organization cannot hold more than ten bingo occasions per month. The sale or rental of bingo cards to the public is not subject to sales tax.

A qualifying nonprofit organization not holding a bingo license can apply for a Special Event Bingo permit. A Special Event Bingo permit allows the conduct of small-stakes bingo games by an organization at a special event where bingo is not the primary function of the event. An organization may apply for two Special Event Bingo permits per calendar year, for an aggregate total of not more than fourteen days. Special Event bingo cards cannot be sold for more than 25 cents per card, and individual prizes are limited to no more than \$25 in value. Special Event Bingo is exempt from the licensing, tax, and reporting requirements imposed on licensed organizations.

All licensed organizations must purchase bingo equipment only from a licensed distributor. A licensed distributor must purchase bingo equipment only from a licensed manufacturer. Both distributors and manufacturers must obtain their licenses from the Department.

#### **Lottery by Pickle Card**

A nonprofit organization wishing to sell pickle cards must apply for and obtain a license from the Department. There are two types of licenses that authorize the sale of pickle cards. The first type of license allows pickle card sales at the nonprofit organization's location, including where it conducts bingo games. The second type of license also permits the sale of pickle cards at certain retail locations, known as pickle card operators. Any person or business holding a retail liquor license with the Nebraska Liquor Control Commission may apply to the Department to obtain a pickle card operator's license. If a licensed organization sells pickle cards at the location of a pickle card operator, it must also license at least one of its members as a sales agent. A sales agent is responsible for all marketing activity with a pickle card operator relative to selling the licensed organization's pickle cards. A licensed organization must apply for and obtain a pickle card operator authorization from the Department for each pickle card operator location selling the licensed organization's pickle cards.

All licensed organizations must purchase pickle card units only from a licensed distributor. A licensed distributor must purchase pickle card units only from a licensed manufacturer. Both distributors and manufacturers must obtain licenses from the Department.



A licensed distributor selling pickle card units to a licensed organization is subject to a tax of 10% of the definite profit of each pickle card unit sold. The definite profit of a pickle card unit is the gross proceeds of the unit less all possible prizes. The gross proceeds of a unit is determined by multiplying the number of pickle cards in the unit by the selling price per individual pickle card. The pickle card tax return is filed on a monthly basis. The tax paid by the licensed distributor is passed along to the licensed organization as a part of the selling price of a pickle card unit. The appropriate sales tax is also due on the sale of each pickle card unit, unless the licensed organization purchasing the unit is exempt from the payment of sales tax. The sale of individual pickle cards to the public either by a licensed organization or a licensed pickle card operator is not subject to sales tax.

If a licensed organization or pickle card operator uses a coin or currency-activated pickle card dispensing device, this device must be registered with the Department. An annual registration fee is required and each device must be affixed with a registration decal issued by the Department.

## **Lottery/Raffle**

A nonprofit organization wishing to conduct a lottery (primarily cash prizes) with gross proceeds in excess of \$1,000 or a raffle (at least 80% of prizes are merchandise) with gross proceeds in excess of \$5,000 must first apply for and obtain a license from the Department. The permissible forms of winner determination for a lottery or raffle are limited to: (1) a random ticket drawing; or (2) a race using inanimate, buoyant objects floated along a river, canal, or other waterway (duck races). Lotteries exceeding \$1,000 in gross proceeds and raffles exceeding \$5,000 in gross proceeds are subject to a tax of two percent of the gross proceeds. The gross proceeds are based upon the selling price of the lottery or raffle ticket and include the value of any free tickets given away and any other consideration which is required to be paid by a participant in order to be eligible for the drawing. The sale of lottery or raffle tickets to the public is not subject to sales tax. The lottery/raffle tax return is filed on a quarterly basis, even if the gross proceeds for the tax period do not exceed the \$1,000/\$5,000 threshold. Upon the conclusion of the lottery or raffle, if the licensed organization's actual gross proceeds did not exceed the \$1,000/\$5,000 threshold, the licensed organization may request a refund of any tax previously paid.

## **County/City Lottery**

Any county, city, or village that has approved a lottery in a special or regularly-scheduled election must apply for and obtain a license from the Department prior to commencing the lottery activity.

There are two forms of authorized lottery activity for a county, city, or village: (1) a traditional ticket drawing where winners are determined by a random drawing; and (2) keno. A community which has approved a lottery may conduct the lottery on its own or contract with another person or business to conduct the lottery on its behalf. The person or business that contracts with the community is called a lottery operator. A lottery operator must apply for and obtain a license from the Department. In addition to the licensing requirements for the community and the lottery operator, all persons who perform any work directly related to the conduct of the lottery must apply for and obtain a lottery worker license from the Department. Any location where tickets are to be sold, other than the lottery operator's location, must also be licensed as a sales outlet location.

A tax of two percent of the gross proceeds must be remitted to the Department on a quarterly basis by the county, city, or village. The net proceeds of the lottery must be used by the county, city, or village for community betterment purposes. Lottery equipment must be purchased only from a licensed manufacturer-distributor. A manufacturer-distributor of lottery equipment must obtain a license from the Department.

## Tax Allocation

Forty percent of all taxes collected and referred to in this section are credited to the Charitable Gaming Operations Fund for administration and enforcement of the charitable gaming laws by the Department's Charitable Gaming Division. The remaining 60% is transferred to the General Fund. On or before November 1 of each year, \$50,000 is transferred from the Charitable Gaming Operations Fund to the Compulsive Gamblers Assistance Fund if these funds are available. Any funds remaining in the Charitable Gaming Operations Fund after the transfer to the Compulsive Gamblers Assistance Fund, which was not used by the Charitable Gaming Division for its administrative and enforcement duties, may be transferred to the General Fund at the direction of the Legislature.

<b>Statutory Reference and Description</b>	<b>Estimated Tax Expenditure Cost (NA = Not Available)</b>
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## EXEMPTIONS

### Section 9-230

The bingo tax does not apply to any bingo game for which no charge is made to participate, or no prize awarded exceeds \$25 in value. The bingo tax does not apply to Special Event Bingo.

Minimal

### Regulation 35-215.01A

The bingo tax applies to the bingo gross receipts of the licensed organization. This tax does not apply to the sale of bingo equipment and supplies by a licensed distributor to a licensed organization, or to the sale of bingo supplies by some other retail business to the general public.

Minimal

### Section 9-429

The lottery/raffle tax does not apply to any lottery conducted by a nonprofit organization when the gross proceeds do not exceed \$1,000, or to any raffle when the gross proceeds do not exceed \$5,000.

NA

### 4 U.S.C. 109 and 25 U.S.C. 2701, et al.

The bingo tax imposed on the gross receipts of a licensed organization is not applicable to bingo activity conducted by a federally recognized Indian tribe on Indian land within Nebraska. In addition, the pickle card tax imposed on a licensed distributor is not applicable to pickle card units sold by a licensed distributor to a federally recognized Indian tribe located either within Nebraska or located in another state if the sale of these pickle cards occurs only at the tribe's bingo operation on Indian land. Federal law prohibits state taxation relative to these activities.

NA  
(State taxation  
prohibited)

## RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# SECTION G

## Cigarette Tax

### BASIC PROVISIONS AND TAX BASE

The Nebraska cigarette tax is a special privilege tax paid by every person engaged in distributing or selling cigarettes at wholesale in Nebraska. Each wholesale dealer who obtains an annual Nebraska Wholesale Cigarette Dealer's License must pay an application fee of \$500, which is placed in the State General Fund. On packages containing 20 or fewer cigarettes, a tax of 64 cents per package is paid. On packages containing more than 20 cigarettes, a tax of 64 cents for the first 20 cigarettes plus a tax of 1/20 of 64 cents on each cigarette in excess of 20 cigarettes is paid, in addition to all other taxes. A cigarette tax stamp is placed on each package of cigarettes as proof of cigarette tax paid.

The distribution of Nebraska cigarette tax revenues can be found on the Department of Revenue's website [www.revenue.ne.gov](http://www.revenue.ne.gov) under Research Reports. The Nebraska Tax Rate Chronologies are updated quarterly.

<b>Statutory Reference and Description</b>	<b>Estimated Tax Expenditure Cost (NA = Not Available)</b>
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### EXEMPTIONS

#### **Section 77-2607**

The portion of the wholesale dealer's stock of cigarettes which is not intended to be sold or given away in Nebraska is exempt from the tax, unless the stock is not out of the dealer's possession within 30 days of receipt.

NA

#### **4 U.S.C. 107**

Federal law prohibits state taxation of cigarettes sold to the U.S. government or any of its agencies.

\$0

### DEDUCTIONS

#### **Section 77-2608**

The Tax Commissioner sells the cigarette tax stamps only to licensed wholesale dealers. The sale of cigarette tax stamps to licensed wholesale dealers in Nebraska or outside of Nebraska is authorized at a discount of one and eighty-five hundredths percent of the face value of the cigarette tax as a commission for affixing and canceling the cigarette tax stamps.

\$1,223,500

## CREDITS

### **Section 77-2610**

Any unused or spoiled stamps are redeemed by the Tax Commissioner and a refund is made in the amount of the stamps less the commission for affixing the stamps. \$179,200

### **4 U.S.C. 109, et al.**

Federal statutes and treaties prohibit state taxation of cigarettes sold to Native American Indians on Indian reservation land within Nebraska. A credit is allowed by the state to licensed cigarette wholesale dealers for the amount of tax credited by them to their retailers who make exempt sales of cigarettes to Native American Indians. (State taxation prohibited) \$281,400

**Source:** U.S. Census; U.S. Department of Health and Human Services, National Survey of Drug Use and Health

## RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# 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.

<b>NEBRASKA CORPORATION OCCUPATION TAX FEE SCHEDULE</b>					
<b>Amount of Paid-Up Capital Stock<sup>1</sup></b>		<b>Tax Fee</b>	<b>Amount of Paid-Up Capital Stock<sup>1</sup></b>		<b>Tax Fee</b>
\$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.”

<sup>1</sup>For 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).

<b>NEBRASKA CORPORATION OCCUPATION TAX FEE SCHEDULE FOR FOREIGN CORPORATIONS</b>					
<b>Amount of Assets in Nebraska</b>		<b>Tax Fee</b>	<b>Amount of Assets in Nebraska</b>		<b>Tax Fee</b>
\$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:

- |  |    |
|--|----|
| (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.



# SECTION I

## Documentary Stamp Tax

### BASIC PROVISIONS AND TAX BASE

The documentary stamp tax is a tax imposed on the grantor executing a deed for the privilege of transferring beneficial interest in or legal title to real estate. The tax rate is \$2.25 for each \$1,000 of value (or fraction thereof) of the real estate transferred. All deeds are presumed taxable unless it clearly appears on the face of the deed or sufficient documented proof is presented to the register of deeds that the instrument is exempt under Neb. Rev. Stat. § 76-902.

From each \$2.25 of the tax collected, the register of deeds retains \$0.50 to be placed in the county general fund, and remits the balance to the State Treasurer. The State Treasurer credits \$1.20 of this amount to the Affordable Housing Trust Fund, \$0.25 to the Homeless Shelter Assistance Trust Fund, and \$0.30 to the Behavioral Health Services Fund.

For tax year 2009, there were a total of 69,717 transactions (41,429 taxable and 28,288 nontaxable). Total collections for tax year 2009 were \$12,970,829. From this total, \$2,882,118 was retained by the counties and \$10,088,711 was credited to the above-mentioned funds.

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

<b>Section 76-902(1)</b> Deeds recorded prior to November 18, 1965.	NA
<b>Section 76-902(2)</b> Deeds to property transferred by or to the United States of America, the State of Nebraska or any of their instrumentalities, agencies, or subdivisions.	NA
<b>Section 76-902(3)</b> Deeds which secure or release a debt or other obligation.	NA
<b>Section 76-902(4)</b> Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded; that do not extend or limit existing title or interest.	NA
<b>Section 76-902(5)</b> Deeds between husband and wife, or parent and child, without consideration, and deeds to or from a family corporation, partnership, or limited liability company.	NA
<b>Section 76-902(6)</b> Tax deeds.	NA

<b>Section 76-902(7)</b> Deeds of partition.	NA
<b>Section 76-902(8)</b> Deeds for mergers, consolidations, sales, or transfers of the assets of corporations due to the plans of merger or consolidation.	NA
<b>Section 76-902(9)</b> Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.	NA
<b>Section 76-902(10)</b> Cemetery deeds.	NA
<b>Section 76-902(11)</b> Mineral deeds.	NA
<b>Section 76-902(12)</b> Deeds executed pursuant to court decrees.	NA
<b>Section 76-902(13)</b> Land contracts.	NA
<b>Section 76-902(14)</b> Deeds which release a reversionary interest, a condition subsequent or precedent, a restriction, or any other contingent interest.	NA
<b>Section 76-902(15)</b> Deeds of distribution by a personal representative conveying property passing by testate or intestate succession.	NA
<b>Section 76-902(16)</b> Deeds transferring property located within the boundaries of an Indian reservation if the grantor or grantee is a reservation Indian.	NA
<b>Section 76-902(17)</b> Deeds transferring property into a trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to the beneficiaries under the trust.	NA
<b>Section 76-902(18)</b> Deeds transferring property from a trustee to a beneficiary of a trust.	NA
<b>Section 76-902(19)</b> Deeds which convey property held in the name of any partnership or limited liability company not subject to subdivision (5) of this section to any partner in the partnership or member of the limited liability company or his or her spouse.	NA

**Section 76-902(20)**

Leases.

NA

**Section 76-902(21)**

Easements.

NA

**Section 76-902(22)**

Deeds which transfer title from a trustee to a beneficiary pursuant to a power of sale exercised by a trustee under a trust deed.

NA

## **RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.

# **SECTION J**

## **Estate Tax and Generation-Skipping Transfer Tax**

### **BASIC PROVISIONS AND TAX BASE**

The Nebraska estate tax and generation-skipping transfer tax have been repealed for decedents dying or transfers made on or after January 1, 2007 (LB367, 2007 Legislative session). The tax was assessed on the gross value of the estate of a resident decedent and the gross estate of a non-resident decedent with property located in Nebraska. The tax was calculated from a table with rates that increased with the size of the gross estate from 0.8% for estates under \$90,000 to 16% for estates larger than \$10,000,040.

### **RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.

# SECTION K

## Inheritance Tax

### BASIC PROVISIONS AND TAX BASE

The inheritance tax in Nebraska is administered by the county court of the county in which the decedent resided or in which real or personal property is located. The tax is levied as a percentage of the clear market value of the property, including proceeds of insurance upon the life of the decedent, transferred by will or by the intestate laws from any person who, at the time of death, was a Nebraska resident or if a nonresident, possessed nonexempt property located within the State of Nebraska. The rate is determined by the identity of the beneficiary. Interests passing to the surviving spouse are not subject to inheritance tax.

Effective September 1, 2007 (under LB364), the inheritance tax is required to be apportioned among the counties in the same ratio that the gross property (including both taxable and nontaxable property), in each county bears to the gross value of all property reportable for inheritance tax purposes.

**All inheritance tax is credited to the county general fund or to any other fund of the county selected by the county board.**

<b>Statutory Reference and Description</b>	<b>Estimated Tax Expenditure Cost (NA = Not Available)</b>
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### EXEMPTIONS

#### **Sections 77-2004 and 30-2322**

The homestead allowance is exempt. A surviving spouse of a decedent who was domiciled in Nebraska is entitled to a homestead allowance of \$7,500. If there is no surviving spouse, each minor or dependent child of the decedent is entitled to a homestead allowance of \$7,500 divided by the number of minor and dependent children of the decedent.

NA

#### **Sections 77-2004 and 30-2323**

Exempt property is not subject to the tax. The surviving spouse or children of a decedent who was domiciled in Nebraska is entitled to an amount not exceeding \$5,000 in excess of any security interest, of household furniture, automobiles, furnishings, appliances, and personal effects.

NA

#### **Sections 77-2004, 30-2324, and 30-2325**

The family maintenance allowance is exempt. If the decedent was domiciled in Nebraska, the surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent, are entitled to a reasonable allowance during the administration of the estate in money up to \$9,000 total without a court order.

NA

**Section 77-2004**

The first \$40,000 of the clear market value of property transferred to lineal relatives or siblings of the decedent is exempt.

NA

**Section 77-2004**

Interests passing to the surviving spouse are exempt.

NA

**Section 77-2005**

The first \$15,000 of the clear market value of property transferred to cousins and other remote relatives of the decedent is exempt.

NA

**Section 77-2006**

The first \$10,000 of the clear market value of the beneficial interest in the estate received by someone other than a relative is exempt.

NA

**Section 77-2007**

Payments received by an estate under an employee benefit plan are exempt to the extent that the benefit is life insurance otherwise excluded from the tax or the benefit is not subject to the federal estate tax.

NA

**Section 77-2007.03**

Property transferred to either: (1) the United States or any of its departments, instrumentalities, or agencies; or (2) Nebraska or any of its governmental subdivisions, departments, agencies, or instrumentalities, any municipal corporation or body politic created by or under the laws of Nebraska, or any agency, institution, foundation, or fund administered or operated by any of these entities is exempt.

NA  
(State taxation prohibited)

**Section 77-2007.04**

All inheritances to or for the use of any corporation, organization, association, society, institution, or foundation organized and operating exclusively for religious, charitable, public, scientific, or educational purposes, is exempt if certain conditions are met.

NA

## DEDUCTIONS

**Sections 77-2018.04(1) through (5)**

The following deductions from the value of the property subject to the tax are allowed to the extent paid from, chargeable to, paid, payable, or expected to become payable with respect to property subject to the tax:

1. The cost of the funeral of the decedent, including cost for interment and grave site marker; NA
2. All expenses of administration due to the death of the decedent, including but not limited to, attorney's fees, court costs, and expenses concerning property not subject to probate; NA
3. All expenses of the last illness of the decedent which were incurred within six months of the death of the decedent; NA

- |    |   |    |
|----|---|----|
| 4. | All other debts upon which the decedent was liable for payment at the date of his or her death and not otherwise listed; and                  | NA |
| 5. | Any federal estate tax paid, after deduction of all applicable credits which is attributable to property subject to Nebraska inheritance tax. | NA |

## CREDITS

### Section 77-2018.06

When a decedent has received property from another person who died within five years prior to the death of the decedent, upon which Nebraska inheritance tax was paid, the tax paid is allowed as a credit against the amount of inheritance tax assessed against the recipients of property from the estate of the decedent.

NA

## PREFERENTIAL TAX RATES

### Sections 77-2004, 77-2005, and 77-2006

Property transferred to lineal relatives and siblings, remote relatives, and others are taxed at the rates noted below:

Classification	Amount of Property	Tax Rate	
Lineal relatives and siblings	\$40,000.01 & over	1%	NA
Remote relatives	\$0-15,000	0%	NA
	\$15,000.01 & over	13%	
Non-relatives	\$0-10,000	0%	NA
	\$10,000.01 & over	18%	

## RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations. The State Court Administrator may or may not have recommendations.

# **SECTION L**

## **Insurance Premium Tax**

### **BASIC PROVISIONS AND TAX BASE**

Each insurance company organized as a stock, mutual, assessment, or reciprocal insurer, and each nonprofit hospital service corporation, except fraternal benefit societies, which transact business in Nebraska is required to pay a tax to the Director of Insurance (Director), on or before March 1 of each year. This tax is in lieu of any other intangible property tax. The tax rate is one percent of the gross amount of direct written premiums received by the insurance company during the preceding calendar year for business done in Nebraska, except business done for group sickness and accident insurance, the rate of tax is five-tenths of one percent.

The taxable premiums include premiums paid on the lives of persons residing in Nebraska and premiums paid for risks located in Nebraska, whether or not the insurance was written in Nebraska. When insurance is written on a group which exceeds 500 lives, the taxable premium includes the portion of the premium paid for insurance on Nebraska residents or risks located in Nebraska. The tax also applies to premiums received by domestic companies for insurance written on individuals residing outside Nebraska, or risks located outside Nebraska if no comparable tax is paid by the direct writing domestic company to any other appropriate taxing authority.

The Director is required to transmit 50% of the taxes paid to the Insurance Tax Fund, 40% to the General Fund, and 10% to the Mutual Finance Assistance Fund promptly upon completion of an audit and examination of the tax returns submitted by the insurers, but in no event later than May 1 of each year. Commencing with the taxable year ending December 31, 2001, all premium and retaliatory taxes paid by insurers writing health insurance in Nebraska are remitted to the Comprehensive Health Insurance Pool Distributive Fund in lieu of transmitting 50% of the taxes paid to the Insurance Tax Fund, 40% to the General Fund, and 10% to the Mutual Finance Assistance Fund.

In 1998, legislation was enacted (LB1120) which required ten percent of the premium taxes collected to be transferred to the Mutual Finance Assistance Fund. This fund is used to provide assistance to rural or suburban fire protection districts and mutual finance organizations which qualify under the Mutual Finance Assistance Act. For tax year 2009, \$3,023,224 was allocated to this fund which would have gone to the General Fund prior to the enactment of this legislation.

The statutes direct the State Treasurer to disburse all of the funds in the Insurance Tax Fund prior to June 1 of each year as follows:

- Ten percent to the counties proportionately in the proportion that the population of each county bears to the entire Nebraska population, as shown by the latest United States Government census;
- Thirty percent to the Municipal Equalization Fund; and
- Sixty percent to the State Department of Education for distribution to school districts as equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act. The Commissioner of Education shall: (a) include the amount certified by the State Treasurer pursuant to this section with the amount appropriated to the Tax Equity and Education



Opportunities Fund for distribution in the ensuing school fiscal year; (b) include the amount in state aid certified to each school district; and (c) distribute this fund as equalization aid under the provisions of the Act during the ensuing fiscal year.

An insurance company whose annual tax for the preceding taxable year was \$4,000 or more must make prepayments of its annual taxes on or before April 15, June 15, and September 15 of the current taxable year. The amount of each prepayment must be at least one-fourth of either: (1) the total tax paid for the immediately preceding taxable year; or (2) 80% of the actual tax due for the current taxable year.

The Director is required to deposit one-half of the prepayments received to the Premium and Retaliatory Tax Suspense Fund and the other half to the General Fund. Commencing with the taxable year ending December 31, 2001, all prepayments paid by insurers writing health insurance in Nebraska are remitted to the Comprehensive Health Insurance Pool Distributive Fund in lieu of transmitting one-half of the taxes paid to the Premium and Retaliatory Tax Suspense Fund and one-half to the General Fund.

The Director is authorized to impose retaliatory taxes, licenses, and other fees upon insurers from other states or countries which tax Nebraska insurers at a higher level than the tax rate currently imposed in the State of Nebraska. The retaliatory taxes are transmitted and deposited in the same manner as the insurance premium tax. The licenses and fees are deposited by the State Treasurer to the Department of Insurance Cash Fund to be appropriated and expended for the supervision, control, and regulation of the business of insurance in Nebraska.

In 1993, legislation was enacted (LB757) which imposed a one percent tax on the gross amount of direct written workers' compensation insurance premiums received by the company, the proceeds of which are transmitted by the Director to the State Treasurer for credit to the Compensation Court Cash Fund. For tax year 2009, \$3,260,883 was allocated to this fund which would have gone to the General Fund, Mutual Finance Assistance Fund, counties, municipalities, and school districts prior to the enactment of this legislation.

<b>Statutory Reference and Description</b>	<b>Actual Tax Expenditure Cost (NA = Not Available)</b>
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## EXEMPTIONS

	Domestic	Foreign
<b>Section 77-907</b> Premiums on all annuity contracts and pension, profit sharing, individually sponsored retirement plans, and other pension plan contracts which are described in the Internal Revenue Code (IRC) of 1986 § 818(a), as amended, shall be exempt from taxation.	\$3,341,923	\$12,903,530
<b>Section 77-907 (other than annuities)</b> Premiums for pensions, profit sharing, individually sponsored retirement plans, and other pension plan contracts which are described in the IRC of 1986, as amended § 818(a).	\$884,427	\$998,596

	<b>Domestic</b>	<b>Foreign</b>
<b>Section 77-908</b>		
Fraternal beneficiary associations		
On gross premiums written:	\$35,194	\$1,840,367
If dividend deduction were allowed:	\$31,333	\$1,800,924

## **DEDUCTIONS**

<b>Sections 44-2407(1)(d) and 44-2716(2)</b>		
Contributions to the Nebraska Property and Liability Insurance Guaranty Association, and Life and Health Insurance Guaranty Association.	\$191,819	\$2,154,776
<b>Section 77-908</b>		
Companies whose scheme of operation contemplates the return of a portion of premiums to policyholders, without policyholders being claimants under the terms of their policies.	\$33,253	\$464,580
<b>Section 77-908</b>		
Credit for contributions to Community Development Assistance Act.	\$0	\$0
<b>Section 44-4233</b>		
Contributions to the Comprehensive Health Insurance Pool.	\$0	\$0

## **RECOMMENDATIONS**

The Nebraska Department of Insurance has no recommendations.

# **SECTION M**

## **Local Occupation and License Tax**

### **BASIC PROVISIONS AND TAX BASE**

Neb. Rev. Stat. §§ 14-109, 15-202, 15-203, 16-205, and 17-525 allow cities of the metropolitan class, cities of the primary class, first class cities, and second class cities and villages respectively, to raise revenue by levying, and collecting an occupation tax on any occupation or business, including a public service corporation, within the limits of the city or village. The monies raised by these local taxes are for use by local governments in their governmental operations.

<b>Statutory Reference and Description</b>	<b>Estimated Tax Expenditure Cost (NA = Not Available)</b>
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### **EXEMPTIONS**

**Sections 14-109, 15-203, 16-205, and 17-525**

Exclude from imposition of any occupation tax all scientific and literary lectures and entertainments; also concerts and all other musical entertainment given exclusively by the citizens of the city or village.

NA

### **RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.

# SECTION N

## Nebraska and County Lodging Tax

### BASIC PROVISIONS AND TAX BASE

The lodging tax is a sales tax imposed upon the total gross receipts charged for the occupancy of any space furnished by any hotel (including a Nebraska-operated hotel), motel, tourist home, campground, court, inn, bed and breakfast, or lodging house in Nebraska for less than 30 consecutive days. The lodging tax is imposed in addition to the sales and use tax. Nebraska lodging tax is one percent. Receipts from Nebraska lodging tax are paid to the State Visitors Promotion Cash Fund.

Each county in Nebraska may impose a lodging tax of two percent or less. The county lodging tax receipts are paid to the County Visitors Promotion Fund. Each county may also impose an additional lodging tax of two percent or less. Receipts from this additional county lodging tax are paid to the County Visitors Improvement Fund. A three percent administrative fee is deducted by the Nebraska Department of Revenue and deposited in the General Fund.

Both county lodging taxes are in addition to the one percent state lodging tax and regular sales and use tax.

<b>Statutory Reference and Description</b>	<b>Actual Tax Expenditure Cost (NA = Not Available)</b>
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### EXEMPTIONS

	<b>State</b>	<b>Counties</b>
<b>Sections 81-1260, 77-2704.02, 77-2704.12(1), and 77-2704.15 through 77-2704.20</b>	\$395,256	\$1,264,819

Purchases by:

- Nonprofit organizations created exclusively for religious purposes;
- Nonprofit organizations providing services exclusively to the blind;
- Nonprofit Nebraska-licensed schools, colleges, universities established under sections 79-1601 to 79-1607 or sections 85-1101 to 85-1111 (public or private) (not including Nebraska public post-secondary institutions);
- Nonprofit Nebraska-licensed hospitals;
- Nonprofit Nebraska-licensed 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 federal funds through the United States Public Health Service for the populations that are medically under-served;
- Nonprofit Nebraska-licensed skilled nursing facilities;
- Nonprofit Nebraska-licensed intermediate care facilities;
- Nonprofit Nebraska-licensed assisted-living facilities;
- Nonprofit Nebraska-licensed intermediate care facilities for the mentally retarded;
- Nonprofit Nebraska-licensed nursing facilities;

Nonprofit Nebraska-licensed home health agency, hospice or hospice service, and respite care service;  
 Nonprofit Nebraska-licensed child-caring agencies or child placement agencies; and  
 Nonprofit organizations certified by the Department of Health and Human Services (HHS) to provide community-based services for persons with developmental disabilities.

Purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, or any Nebraska county, township, city, village, rural or suburban fire protection district, city airport authority, county airport authority, joint airport authority, drainage district organized under sections 31-401 to 31-450, natural resource district, elected county fair board, housing agency as defined in section 71-1575 except for purchases for any commercial operation that does not exclusively benefit the residents of an affordable housing project, 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, the Integrated Solid Waste Management Act, or the Joint Public Agency Act, except for purchases for use in the business of furnishing gas, water, electricity, or 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.

Purchases by the Nebraska State Fair Board

Purchases by the Nebraska Investment Finance Authority, and Licensees of the State Racing Commission

Purchases by the federal government are exempt from lodging tax when payment is made directly by the federal government.

State tax is prohibited

## DEDUCTIONS

	<b>State</b>	<b>Counties</b>
<b>Section 81-1261</b>		
The state retains three percent of the county lodging tax receipts as an administrative fee to defray the cost of collecting and administering the tax.	\$0	\$215,962 <sup>1</sup>

<sup>1</sup>This is a tax expenditure for the applicable counties only.

## RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# SECTION O

## Motor Vehicle, Aircraft, Diesel, and Compressed Fuels Taxes

### BASIC PROVISIONS AND TAX BASE

#### Motor Vehicle Fuels Tax

Motor vehicle fuels are subject to an excise tax imposed upon the importing, producing, refining, manufacturing, compounding, or blending of motor vehicle fuels in the State of Nebraska for use, distribution, sale, or delivery in Nebraska. Motor vehicle fuels include all products commonly or commercially known as gasoline, gasohol, ethanol, casing head gasoline, and natural gasoline. Products such as naphtha, methanol, benzine, and benzol, although not defined as motor vehicle fuels, are subject to tax, if placed directly into a licensed motor vehicle or blended into gasoline at a point in the distribution chain after the refinery.

Reporting and remittance of the motor vehicle fuels tax is done by businesses licensed as a producer, supplier, distributor, wholesaler, importer, or exporter. Retailers, while licensed, are not required to file returns. Instead, they are subject to field record reviews. Liquid fuel carrier licenses and terminal operator licenses are required for businesses involved in the movement of motor vehicle fuels in the State of Nebraska. The proper license may be obtained by completing a Nebraska Motor Fuels License Application, Form 20MF.

The fuels tax is subject to change on a semi-annual calendar basis. Prior to July 1, 2009, the tax was the total of the excise tax rate of 12.5 cents per gallon plus a variable excise tax rate set to meet appropriations, based upon the statewide average cost of motor vehicle fuels and diesel fuels purchased by Nebraska. Effective July 1, 2009, the fixed portion excise tax was reduced to 10.3 cents per gallon, and in addition to the variable excise tax rate set to meet appropriations, a second variable component was added. The second variable component is five percent of the average wholesale price of gasoline for the previous six months. The total motor vehicle fuels tax per gallon for the first half of 2009 was 26.4 cents. For the second half of 2009, it remained at 26.4 cents. For the first half of 2010, it was 26.8 cents. For the second half of 2010, it is 27.1 cents.

The business producing, importing, or removing motor vehicle fuels from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability on to a customer who is a licensed supplier, distributor, exporter, or wholesaler. If the tax liability is passed onto the customer, the customer must remit the tax to Nebraska, and cannot subsequently sell that fuel tax-free unless a qualified exemption applies.

Qualified exemptions are: sales in a state other than Nebraska; sales to the United States government or its agencies, and federal corporations wholly owned by the United States government; sales to a metropolitan transit authority; natural gasoline purchased by ethanol producers for use as a denaturant; or sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation.<sup>1</sup>

<sup>1</sup>Pursuant to Neb. Rev. Stat. § 66-741, agreements are in effect with the Winnebago Tribe, the Santee Sioux Tribe, and the Omaha Tribe which eliminate this exemption on their reservations. These agreements provide that the tribes will collect a tribal tax equivalent to the Nebraska motor fuels tax on all reservation retail pump sales. It further provides that the tribes and the State of Nebraska shall share the motor fuels tax revenue in accordance with the negotiated apportionment. These agreements extend to all products subject to the Nebraska motor fuels tax.

While natural gasoline purchased for use as a denaturant in the production of ethanol is exempted from the motor vehicle fuels tax, it is subject to an excise tax reported and remitted by licensed ethanol producers. A tax of two and one-half cents per gallons was imposed through December 31, 2009, with one half of the tax credited to the Ethanol Production Incentive Cash Fund, and the remaining half deposited into the Agricultural Alcohol Fuel Tax Fund (AAFTF). Effective January 1, 2010, the tax was decreased to one and one-quarter cents per gallon and is credited to the AAFTF.

A refund of the motor vehicle fuels tax paid on gallons used in unlicensed equipment may be claimed by completing a Nebraska Non-Ag Use Motor Fuels Tax Refund Claim, Form 84, or a Nebraska Ag Use Motor Fuels Tax Refund Claim, Form 84AG. Claims may be submitted whenever the tax claimed on motor vehicle fuels exceeds \$25 within a calendar year.

## **Aircraft Fuels Tax**

Aircraft fuels are subject to an excise tax imposed upon aircraft fuels purchased for and used in aircraft within the State of Nebraska. Aircraft fuels include aviation gasoline, jet fuel, or any other fuel used and consumed exclusively for the purpose of propelling aircraft. Aviation gasoline is taxed at five cents per gallon, and aviation jet fuel is taxed at three cents per gallon.

Reporting and remittance of the aircraft fuels tax is done by businesses licensed as a supplier, distributor, wholesaler, importer, or exporter. Retailers, while licensed, are not required to file reports. Instead, they are subject to field record reviews. Liquid fuel carrier licenses and terminal operator licenses are required for businesses involved in the movement of aircraft fuels in the State of Nebraska. The proper license may be obtained by completing a Nebraska Motor Fuels License Application, Form 20MF.

The aircraft fuels tax is administered in the same manner as the tax on motor vehicle fuels with regard to the point of taxation.

## **Diesel Fuels Tax**

Diesel fuels are subject to an excise tax imposed on undyed diesel fuel received, imported, produced, refined, manufactured, blended, or compounded within the State of Nebraska; and on dyed diesel fuel placed in licensed motor vehicles by governmental agencies. Governmental agencies placing dyed diesel fuel in a licensed motor vehicle must remit diesel fuel use tax by filing the Nebraska Motor Fuels Consumer's Use Tax Return, Form 74. Diesel fuels include all combustible liquids suitable for use in diesel-powered motor vehicles including biodiesel blends. It does not include kerosene which is subject to tax if it is blended with undyed diesel fuel.

Reporting and remittance of the tax is done by businesses licensed as a producer, supplier, distributor, wholesaler, importer, or exporter. Retailers, while licensed, are not required to file reports. Instead, they are subject to field records reviews. Liquid fuel carrier licenses and terminal operator licenses are required for businesses involved in the movement of diesel fuels in the State of Nebraska. The proper license may be obtained by completing a Nebraska Motor Fuels License Application, Form 20MF.

Diesel fuels are taxed at the same rate as motor vehicle fuels.

The business producing, importing, or removing undyed diesel fuel from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability onto a customer who is a licensed supplier, distributor, exporter, or wholesaler. If the tax liability is passed on to the customer, the customer must remit the tax to Nebraska, and cannot subsequently sell that fuel tax-free unless a qualified exemption applies.

Qualified exemptions are: exports with sales or use in a state other than Nebraska; sales to the United States government, its agencies, and federal corporations wholly owned by the United States government; sales to a metropolitan transit authority; sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation<sup>1</sup>; and sales of 50 gallons or less for use in a temperature control unit (reefer) or power-take-off unit. The consumer of the reefer fuel must submit an approved exemption certificate to the retailer and must also pay applicable sales tax.

Tax paid on the purchase of undyed diesel fuel is subject to refund if the taxed fuel is used in unlicensed equipment. Refunds are requested by completing a Nebraska Non-Ag Use Motor Fuels Tax Refund Claim, Form 84, or a Nebraska Ag Use Motor Fuels Tax Refund Claim, Form 84AG. Claims may be submitted whenever the tax claimed on diesel fuels exceeds \$25 within a calendar year.

## Compressed Fuel Tax

The Nebraska Compressed Fuel Tax is an excise tax imposed on retail sales of compressed fuel being placed in a licensed motor vehicle, or to an end user who intends to use the fuel by placing it in a licensed motor vehicle. Compressed fuel includes compressed natural gas, liquified petroleum gas, liquefied natural gas, and any other compressed fuel used to power a motor vehicle. Persons required to be licensed as compressed fuel retailers are those who are engaged in the business of selling or otherwise providing compressed fuel to consumers of the fuel for use in a motor vehicle. A retailer who has equipment capable of dispensing compressed fuel into a motor vehicle must also be licensed as a compressed fuel retailer. Application for the required license is completed by submitting a Nebraska Motor Fuels License Application, Form 20MF.

Compressed fuel is taxed at the same rate as motor vehicle or diesel fuels. Purchases of compressed fuel to be placed in licensed motor vehicles by the Federal government, and purchases made on a Nebraska Indian reservation by a Native American that resides on a Nebraska Indian reservation, are exempt from the compressed fuel tax.<sup>1</sup>

<sup>1</sup>Pursuant to Neb. Rev. Stat. § 66-741, agreements are in effect with the Winnebago Tribe, the Santee Sioux Tribe, and the Omaha Tribe which eliminate this exemption on their reservations. These agreements provide that the tribes will collect a tribal tax equivalent to the Nebraska motor fuels tax on all reservation retail pump sales. It further provides that the tribes and the State of Nebraska shall share the motor fuels tax revenue in accordance with the negotiated apportionment. These agreements extend to all products subject to the Nebraska motor fuels tax.

<b>Statutory Reference and Description</b>	<b>Estimated Tax Expenditure Cost (NA = Not Available)</b>
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## EXEMPTIONS

### Section 14-1810

Motor vehicle, compressed, and diesel fuels sold to and used in the operations of a metropolitan transit authority are exempt from tax.	\$260,000
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### Sections 66-4,103 and 66-4,116

Exempts foreign or interstate commerce from motor fuels tax.	NA (State taxation prohibited)
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<b>Section 66-489</b> Natural gasoline purchased by producers for use as denaturant.	\$8,060,000
<b>Section 66-489</b> Sold one-time only to another licensed motor fuels distributor or wholesaler for resale purposes.	\$52,870,000
<b>Section 66-489</b> Diesel fuel that has been dyed at the terminal rack and sold for non-highway use is not taxed.	NA
<b>Section 66-489</b> Federal law prohibits the state from taxing the U.S. government or its agencies on their motor fuel purchases.	\$340,000 (State taxation prohibited)
<b>Section 66-495</b> Undyed diesel fuel used in the operation of temperature control units or power take-off units may be purchased tax-free, if the fuel is purchased in quantities of 50 gallons or less, and placed directly into the supply tank of an engine not connected to the main supply tank of a licensed motor vehicle. The consumer of the fuel must submit an approved exemption certificate to the retailer and must also pay applicable sales tax.	\$280,000

## DEDUCTIONS

<b>Section 66-486</b> A motor vehicle fuel producer, supplier, distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 of tax, and two and one-half percent upon all amounts above \$5,000 of tax remitted each month.	\$5,790,000
<b>Sections 66-486, 3-148, and 3-149</b> An aircraft fuel supplier, distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 of tax, and two and one-half percent upon all amounts above \$5,000 of tax remitted each month.	\$50,000
<b>Section 66-486</b> A diesel fuel producer, supplier, distributor, wholesaler, or importer can deduct a commission of two percent of the first \$5,000 of tax, and one-half of one percent upon all amounts above \$5,000 of tax remitted each month.	\$640,000
<b>Section 66-6,113</b> A compressed fuel retailer can deduct a commission of two percent of the first \$5,000 of tax, and one-half of one percent upon all amounts above \$5,000 of tax remitted each tax period.	\$5,000

# CREDITS AND REFUNDS

**Section 66-489**

Motor fuels sold and used in buses equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities or within a radius of six miles. Minimal

**Sections 66-489 and 66-741**

Diesel, compressed, and motor vehicle fuels sold on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation. This exemption does not apply to retail pump sales made on the Winnebago, Santee Sioux, and Omaha Reservations per agreements between the tribes and Nebraska (see footnote 1 of Section O, page 1). Minimal

**Section 66-726**

Refund of motor fuels tax which was paid on fuel:

Destroyed	Minimal
Sold in a state outside Nebraska	\$120,000
On which there was an overpayment of taxes	Minimal
Agricultural, quarrying, industrial, or other non-highway use	\$1,860,000
Errors in payment (including fuel consumed by the U.S. Government or its agencies)	\$230,000

**Section 66-726**

Refund of aircraft fuels tax which was paid on fuel:

Destroyed	Minimal
Sold in a state outside Nebraska	Minimal
On which there was an overpayment of taxes	Minimal
Errors in payment (including fuel consumed by the U.S. Government or its agencies)	Minimal

**Section 3-150**

Any person who buys and uses aviation fuels for use in an FAA approved air school is entitled to a refund of the amount of tax paid. Minimal

**Section 66-1344 (2)**

Beginning January 1, 2002, any new ethanol facility in production at the minimum rate on or before June 30, 2004, shall receive a non-refundable transferable credit of 18 cents per gallon up to 15,625,000 gallons per year. New facilities are eligible for 96 consecutive months, while any existing facility which had not received credits prior to June 1, 1999, is eligible for 48 consecutive months. \$26,500,000

# PREFERENTIAL TAX RATES

**Section 3-148**

Aviation gasoline is subject to a tax of five cents per gallon; aviation jet fuel is subject to a tax of three cents per gallon. \$1,460,000

# RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# SECTION P

## Motor Vehicle Registration and Licensing Fees

### BASIC PROVISIONS AND TAX BASE

Motor vehicles, trailers, semi-trailers, or cabin trailers operated on Nebraska highways must be registered and have specified fees paid as directed by the Nebraska statutes. Every snowmobile operated in Nebraska must also be registered.

The **Highway Trust Fund** is credited with:

1. All registration fees collected by county treasurers, except as provided in sections 60-3,156, 39-2215(3), and 60-3,141;
2. Seventy percent of all registration fees collected for apportioned vehicles (section 60-3,202);
3. Up to \$3.50 per plate fee as set by the Nebraska Department of Motor Vehicles (DMV) (section 60-3,102);
4. The amount of unladen weight registration fees (section 60-3,198[10]);
5. All film vehicle fees collected by the DMV (section 60-383);
6. A portion of all personalized message plate fees (section 60-3,119); and
7. A portion of all organizational license plate fees (section 60-3,104.01).

The **Highway Cash Fund** is credited with the amount of registration fees collected from:

1. Trip permits issued by carrier enforcement (section 60-3,198 [11]);
2. Permanent trailer plate fees for apportioned vehicles (section 60-3,203);
3. Grain hauling permits (section 60-3,112);
4. Nonresident carnival operator permits (section 60-384); and
5. Local trucks operating beyond their specified limits for the purpose of equipping, modifying, or servicing the truck (section 60-3,110).

The DMV Cash Fund is credited with \$1.50 from each registration issued, a portion of the fees collected from the sale of personalized message plates, a portion of the fees collected from the sale of spirit plates, and a portion of the fees collected from the sale of organizational plates. Twenty-five percent of the net registration fees obtained from snowmobile registrations is credited to the State General Fund. The Nebraska Snowmobile Trail Cash Fund is credited with 75% of the net registration fees obtained from snowmobile registrations.

The International Registration Plan Distributive Fund is credited with fees obtained from owners operating fleets of apportionable commercial motor vehicles in Nebraska for interstate commerce who, in lieu of general registration, register and license their fleet under the prorate provision contained in the statutes.

Effective July 1, 1996, LB1218 transferred responsibility for the International Fuel Tax Agreement (IFTA) program to the DMV, Division of Motor Carrier Services. Effective January 1, 1997, the Interstate Motor Carrier (IMC) jurisdictions joined IFTA, resulting in the termination of the IMC program.

Beginning January 1, 1998, under Chapter 60, Article 30 of the Nebraska Revised Statutes, motor vehicle fees and taxes are collected by county officials and administered by the DMV.

**Statutory Reference  
and Description**

## EXEMPTIONS

**Section 60-339**

The following are not included in the definition of motor vehicles and are therefore exempted from registration fees:

NA

- mopeds;
- farm tractors;
- self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops;
- other implements of husbandry designed for and used primarily for tilling the soil, harvesting crops, or feeding livestock;
- vehicles which run only on rails or tracks;
- off-road designed vehicles including, but not limited to, golf carts, go-carts, riding lawn mowers, garden tractors, all terrain vehicles, utility-type vehicles, snowmobiles, and mini bikes;
- road, general purpose construction, and maintenance machinery not designed or used primarily for the transportation of persons or property including, but not limited to, ditch digging apparatus, asphalt spreaders, bucket loaders, leveling graders, earth moving carryalls, power shovels, earth moving equipment, and crawler tractors;
- self-propelled invalid chairs;
- electric personal assistive mobility devices; and
- low-speed vehicles.

**Sections 60-366 and 60-367**

A nonresident owner operating a foreign vehicle in Nebraska is not required to register this vehicle or pay any fees if the car has been properly registered in the foreign state and the number plates are displayed while in operation. However, any nonresident owner whose passenger car is operated in Nebraska for 30 or more days shall register this car in the same manner as a Nebraska resident, unless the state of his or her residence grants immunity from these requirements to residents of Nebraska operating a passenger car in that state.

NA

**Section 60-373**

Each licensed dealer in motor vehicles or dealer in trailers doing business in Nebraska, instead of registering each motor vehicle or trailer which the dealer owns that is a type otherwise required to be registered, or any employee of such dealer, may: (a) operate or move the same upon the streets and highways of Nebraska solely for purposes of transporting, testing, demonstrating, or use in the ordinary course and conduct of his or her business as a motor vehicle or trailer dealer, including the personal or private use of the dealer, and including the personal or private use of any bona fide employee, or for transporting industrial equipment held by the licensee for purposes of demonstration, sale, rental, or delivery; or (b) sell the same without registering each motor vehicle or trailer if dealer number plates are displayed on the vehicle.

Each licensed manufacturer who manufactures or assembles motor vehicles, motorcycles, or trailers, in lieu of the registering of each motor vehicle or trailer which the manufacturer owns which is a type otherwise required to be registered, or any employee of the manufacturer, may operate or move the same upon the streets and highways of Nebraska solely for purposes of transporting, testing, demonstrating to prospective customers, or use in the ordinary course and conduct of business as a motor vehicle, motorcycle, or trailer manufacturer, upon the condition that the dealer number plates be displayed on the vehicle. NA

Finance companies licensed to do business in Nebraska may, in lieu of registering each motor vehicle or trailer repossessed, make an application for a repossession certificate and one repossession plate for a fee of \$10. NA

Any transporter doing business in Nebraska may, in lieu of registering each motor vehicle or trailer which the transporter is transporting, make an application to the DMV for a transporter's certificate and one transporter number plate for a fee of \$10. NA

**Section 60-368**

Nonresidents, certified by the Nebraska Department of Labor as being engaged in temporary agricultural employment within Nebraska, are exempt from licensing passenger vehicles for 60 days, provided the vehicle is duly licensed in their state of residence. NA

**Section 60-3,160**

No registration fee is collected on any motor vehicle owned by any city or village of Nebraska used in connection with police, street, public transportation, park, library, or fire prevention activity, fire trucks owned and used by any rural fire protection district, and motor vehicles owned and operated by the Civil Air Patrol; nor any motor vehicle owned and used by any public school district, county, state, or United States government, municipal public body, or authority used in operating a public passenger transportation system. \$767,952

**Section 60-3,185**

In addition to the registration fees provided by Chapter 60, article 3, and the motor vehicle fee imposed in section 60-3,190, a motor vehicle tax is imposed on motor vehicles registered for operation upon the highways of Nebraska except:

- (1) Motor vehicles exempt from the registration fee in section 60-3,160;
- (2) One motor vehicle owned and used for his or her personal transportation by a disabled or blind honorably discharged veteran of the United States Armed Forces as defined in section 77-202.23 whose disability or blindness is recognized by the United States Department of Veterans Affairs if an application for the exemption has been approved under subsection (1) of section 60-3,189;
- (3) Motor vehicles owned by Indians as defined in 25 U.S.C. 479;
- (4) Motor vehicles owned by a member of the United States Armed Forces serving in Nebraska in compliance with military or naval orders if this person is a resident of a state other than Nebraska;
- (5) Motor vehicles owned by the state and its governmental subdivisions and exempt as provided in subdivision (1)(a) of section 77-202; and
- (6) Motor vehicles owned and used exclusively by an organization or society qualified for a tax exemption provided in subdivision (1)(b) or (1)(c) of section 77-202 if an application for the exemption provided in this subdivision has been approved under subsection (2) of section 60-3,189.

NA

**Soldiers' and Sailors' Civil Relief Act (section 77-1242.01)**

This federal act allows nonresident military personnel stationed at a military base in Nebraska, or in one of the various recruiting services, to obtain tax-free license plates. Only the motor vehicle tax is exempt; the license fee and sales tax must be paid.

NA  
(Federal law prohibits state taxation)

## DEDUCTIONS

**Section 60-3,142**

The county treasurers, acting as agents for the DMV in collection of registration fees from nonresident grain hauling permits, are allowed to retain five percent of each fee collected.

NA

**Section 60-6,217**

The county treasurers are allowed to deduct and retain 25 cents for each snow-mobile registration fee they collect as agent for the DMV.

\$188

## CREDITS

**Section 60-398**

A nonresident may, if he or she applies within 90 days from the original registration date and surrenders the registration certificate and the license which were assigned, receive a refund in the amount of 50% of the original license fee; except no refund shall be made on any license surrendered after the ninth month of the registration period for which the vehicle was registered.

NA

**Section 3,198(8)**

A Nebraska-based fleet owner may file an application with the DMV to delete a registered motor vehicle from a fleet of registered motor vehicles because the vehicle is disabled and has been removed from service, and return the registration certificate or certificates. The fleet owner receives a credit for that portion of the registration fee deposited in the Highway Trust Fund based upon the number of unexpired months remaining in the registration year.

NA

**Section 60-3,200**

Whenever a motor vehicle has been registered by the owner under the provisions of section 60-362, the motor vehicle taxes imposed in section 77-1240.01 have been paid on that motor vehicle for the registration period, and the motor vehicle is registered under the prorated provisions of section 60-3,198, the DMV, upon application of the owner of the motor vehicle, is to certify that the motor vehicle owner is entitled to receive the refund of the unused registration fees and personal property taxes for the registration period.

NA

**Section 60-393**

An owner who has two or more vehicles required to be registered under the statutes may elect to register all of these vehicles on a calendar year or annual basis for the same registration period beginning in a month chosen by the owner. The owner, when electing to establish the same registration date for all of these vehicles, pays the registration fees and motor vehicle tax on each vehicle for the number of months

NA

necessary to extend the current registration period to the registration period under which all of these vehicles will be registered. Credit is to be given for registration paid on each vehicle when the vehicle has a later expiration date than the one chosen by the owner.

**Section 60-395**

The registered owner of a motor vehicle or cabin trailer which is sold or lost due to fire, theft, dismantlement, junking, or when a salvage certificate of title is issued, may, or whenever a type or class of motor vehicle previously registered is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated on the public roads and no longer subject to registration fees or taxes, or in case of a change in the tax situs of a motor vehicle to a location outside of Nebraska, may, by returning the registration certificate, the number plates and renewal tabs, and after making an affidavit to the county treasurer of such transfer of loss, receive a refund of that part of the unused fees on passenger vehicles, trucks, and cabin trailers based on the number of unexpired months remaining in the registration period. The registered owner must make claim for refund or credit within 60 days from the date of the event. The date of the event shall be the date of the transfer or loss, the date of registration in another state, the effective date of the legislative act, or the date the court decision is rendered.

NA

**Section 60-396**

Whenever the registered owner files an application with his or her county treasurer showing that a motor vehicle is disabled and has been removed from service, the registered owner may, by returning the registration certificate, number plates, and when appropriate, the renewal tabs, or in the case of the unavailability of these certificates, number plates or tabs, then by making an affidavit to the treasurer of such disablement and removal from service, receive a credit for a portion of the registration fee from the fee deposited with the State Treasurer at the time of registration based upon the number of unexpired months remaining in the registration year.

NA

## PREFERENTIAL TAX RATES

**Section 60-3,198**

Any owner engaged in operating a fleet of apportionable vehicles in Nebraska in interstate commerce may, in lieu of registration of these vehicles under the general provisions of sections 60-301 to 60-3,220, register and license this fleet for operation in Nebraska by filing a sworn statement and the application required by section 60-3,203 with the DMV. Upon receipt of this statement and application, the DMV shall determine the total fee payment which shall be equal to the amount of fees due pursuant to section 60-3,203 and the amount obtained by applying the proportion of in-state fleet miles to total fleet miles, as reported in these states, to a fee of \$32 per ton based upon gross vehicle weight of the empty weights of any trailer, semi-trailer, or combination thereof with which it is to be operated in combination at any one time, plus the weight of the maximum load to be carried thereon at any one time. The registered vehicles shall be exempt from all further registration and license fees under sections 60-301 to 60-3,220 for movement or operation in the State of Nebraska, except as provided in section 60-3,203.

NA

**Section 60-3,145**

Local vehicles operated solely within a ten-mile radius of an incorporated city or village's corporate limits must pay a registration fee of 30% of the regular commercial registration, but never less than \$18. \$240,202

**Section 60-3,146**

For farm trucks, except for farm trucks or combinations of trucks or truck-tractors and trailers or semi-trailers having a gross vehicle weight exceeding 16 tons, the registration fee shall be \$18 for up to and including five tons gross vehicle weight. In excess of five tons, the fee shall be \$22. For a truck or a combination of truck or truck-tractor and trailer or semi-trailer, the registration fees are: for a gross weight in excess of 16 tons up to and including 20 tons, \$40 plus five dollars for each ton of gross weight over 17 tons; and for gross weight exceeding 20 tons, \$65 plus \$10 for each ton of gross weight over 20 tons. Fees are based on the combined gross weight as provided in section 60-3,147, but at a reduced rate. \$29,565,112

**Section 60-3,147(4)(6)**

Commercial trucks used exclusively for the transportation of livestock, unprocessed milk, poultry, grain, sugar beets, potatoes, and hay, must pay fees at a rate of 10% less than other commercial trucks. NA

**Section 60-3,149**

Trucks, truck-tractors, trailers, or semi-trailers which are not for hire, owned by those engaged in soil and water conservation work, and used for the purpose of transporting pipe and equipment used exclusively by these contractors, must pay registration fees at one-half of the commercial truck fee rate, but in no case less than the minimum fee of \$18. \$109,579

**Section 60-3,111**

Special 30-day farm permits at one-twelfth of the commercial truck fee, but never less than \$25, can be used by farmers or ranchers for trucks used exclusively to carry their own supplies, farm equipment, and household goods to and from the owner's farm and ranch, and used to carry the owner's agricultural products, livestock, and produce to or from storage or market. Minimal

**Section 60-3,151**

Trailers in Nebraska are registered and pay differing fees depending upon their classification: NA

**Utility trailer** - \$1 per 1,000 pounds of gross weight up to 9,000 pounds;

**Farm trailer** - \$1 regardless of weight;

**Fertilizer trailer** - \$1 regardless of weight, or \$3 per ton when the registration weight is to a separate unit;

**Commercial trailer or semi-trailer** - \$1 regardless of weight; and

**Pole and cable reel trailer** - \$2 per 1,000 pounds of gross weight up to 16,000 pounds.



**Section 60-3,151**

Recreational vehicles are registered and pay differing fees depending upon their classification:

NA

**Self-propelled mobile home -**

8,000 pounds or less = \$18

8,001-11,999 pounds = \$30

12,000 pounds and over = \$42

**Cabin trailers without motive power -**

1,000 pounds or less = \$ 9

1,001-1,999 pounds = \$12

2,000 pounds and over = \$15

**Section 60-3155**

Well-boring apparatus pay a registration fee of one-twelfth of the regular commercial registration fee.

\$356,139

## RECOMMENDATIONS

The Nebraska Department of Motor Vehicles has no recommendations.

# **SECTION Q**

## **Oil and Gas Severance Tax and Oil and Gas Conservation Tax**

### **BASIC PROVISIONS AND TAX BASE**

The severance tax is levied at the rate of three percent of the value of non-stripper oil and natural gas severed from the soil of Nebraska. Stripper wells producing oil remit severance tax at the rate of two percent. The tax is paid by the first purchaser if the oil or natural gas is sold in Nebraska, or by the person doing the severing if the oil or natural gas is sold outside Nebraska. The tax collected is identified either as coming from school lands or from all other lands. The entire amount is credited to the Severance Tax Fund.

The Severance Tax Administration Fund receives one percent of the gross severance tax receipts, excluding those receipts from tax derived from oil and natural gas severed from school lands. The balance of the Severance Tax Fund received from school lands is credited to the Permanent School Fund. The balance of the Severance Tax Fund received from other than school lands is allocated as follows:

- (a) The Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to \$300,000 for each year to the State Energy Office Cash Fund;
- (b) The Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to \$30,000 for each year to the Public Service Commission for administration of the Municipal Rate Negotiations Revolving Loan Fund; and
- (c) The remainder shall be credited to the Permanent School Fund.

The State Treasurer transferred \$250,000 from the Severance Tax Administration Fund to the Department of Revenue Enforcement Fund on July 1, 2010.

In addition to the severance tax, the value of oil or gas is subject to the conservation tax. The conservation tax is levied and assessed in the same manner as the severance tax. The tax is imposed on the value at the well of all oil and gas produced, saved, and sold or transported from the premises in Nebraska. The producer of the oil or gas pays the tax unless the oil or gas is sold within Nebraska. If the oil or gas is sold in Nebraska, then the first purchaser in Nebraska pays the tax.

The conservation tax rate is set by the Oil and Gas Conservation Commission. Effective April 1, 2010, the tax rate is 0.2%. Revenue from the conservation tax is deposited in the Oil and Gas Conservation Fund.

**Statutory Reference  
and Description**

**Estimated Tax  
Expenditure Cost  
(NA = Not Available)**

## **EXCLUSIONS**

**Section 57-702**

Oil or gas used only in severing operations or for re-pressuring or recycling purposes is excluded from the oil and gas severance tax.

NA

## **EXEMPTIONS**

The Nebraska Department of Revenue has received an Attorney General's Opinion that interests of government units and Native American Indian tribes are exempt from the severance tax.

None

## **PREFERENTIAL TAX RATES**

**Section 57-701(7) & (8)**

Oil produced from stripper wells that have a base production level of ten or fewer barrels per day is subject to a severance tax of two percent, rather than three percent.

Minimal

## **RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.

# SECTION R

## Pari-Mutuel Wagering Tax

### BASIC PROVISIONS AND TAX BASE

A pari-mutuel tax is imposed on the gross amount wagered in excess of \$10 million dollars at each horserace track during a calendar year. Any amount wagered over \$10 million, but not more than \$73 million, is taxed at the rate of two and one-half percent. Amounts wagered in excess of \$73 million are taxed at the rate of four percent.

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

**Section 2-1208.01**

The first \$10 million wagered by the pari-mutuel method at every race meeting is not taxed.	\$1,011,300
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### CREDITS

**Section 2-1208.01**

All licensed race meets, except for race meets conducted at the location where the Nebraska State Fair is held, retain as a credit against the tax, an amount equal to two percent of the first taxable \$70 million. Race meets conducted at the location where the Nebraska State Fair is held retain two and one-half percent. The amount retained is used for capital improvements and maintenance.	\$3,651,000
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### RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# SECTION S

## Public Power and Irrigation Districts' Gross Revenue Tax

### BASIC PROVISIONS AND TAX BASE

Every public corporation and political subdivision in Nebraska, organized primarily to provide electricity, or irrigation and electricity, and which sells electricity at retail within incorporated cities or villages, pays a tax equal to five percent of this gross revenue. A deduction is allowed for in lieu of taxes paid. The in lieu of tax is the dollar amount paid in property taxes to the city or village in calendar year 1957 with respect to its properties in the city or village. In addition, the public power districts are allowed to deduct the city occupation tax from the gross revenue tax.

<b>Statutory Reference and Description</b>	<b>Actual Tax Expenditure Cost (NA = Not Available)</b>
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### DEDUCTIONS

**Section 70-651.03**

Public power districts are allowed to deduct from the gross revenue tax remitted to county treasurers an amount equivalent to the amount paid by the public corporation in lieu of taxes with respect to its properties in the cities or villages from which it derived its gross revenues.	\$1,115,822 <sup>1</sup>
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**Section 70-651.05**

Public power districts are allowed to deduct from the gross revenue tax remitted to county treasurers the city occupation tax.	\$363,663 <sup>1</sup>
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*<sup>1</sup>This may not be considered a true tax expenditure since the public power districts still pay the fixed in-lieu-of taxes and the city occupation taxes in addition to the (net) gross revenue tax (tax amounts per 2009 Certificate of Taxes Levied Reports).*

### RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.

# SECTION T

## Waste Reduction and Recycling Incentive Act

### BASIC PROVISIONS AND TAX BASE

The Nebraska Waste Reduction and Recycling Incentive Act imposes a fee of one dollar on each tire of every new motor vehicle, trailer, or semi-trailer registered in Nebraska. The fee is collected by the county treasurer at the time of registration, and is remitted to the Nebraska Department of Revenue for deposit in the Waste Reduction and Recycling Incentive Fund. This Fund is administered by the Nebraska Department of Environmental Quality.

In addition, a fee of one dollar is imposed on every new tire sold at retail for a motor vehicle, trailer, semi-trailer, or farm tractor. The fee is collected by the retailer in the same manner as sales tax and is remitted to the Department for deposit in the Waste Reduction and Recycling Incentive Fund.

The Nebraska Waste Reduction and Recycling Incentive Act imposes an annual waste reduction and recycling fee on all businesses with retail sales of tangible personal property which are subject to the tax. The fee is \$25 for each Nebraska location with retail sales of tangible personal property of \$50,000 or more.

The Tax Commissioner deducts and withholds from the fees a collection fee to reimburse the Department for the actual cost of collecting and administering the fees. The Legislature appropriates money from this collection fund for the Department to cover the actual costs of administering the program.

<b>Statutory Reference and Description</b>	<b>Estimated Tax Expenditure Cost (NA = Not Available)</b>
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### EXEMPTIONS

**Sections 81-15,159 through 81-15,165**

A qualified tire does not include: any recapped or re-grooved tire; any new tire sold specifically for use on off-road vehicles (e.g., bicycles, golf carts, riding lawnmowers); and farm implements (e.g., plows, disks, wagons, except farm tractor tires, which are subject to the fee).	NA
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**Sections 81-15,159 through 81-15,165**

Qualified tires sold for resale purposes.	\$304,806
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**Sections 81-15,159 through 81-15,165**

Qualified tires sold and delivered to another state.	\$15,263
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**Sections 81-15,159 through 81-15,165**

Qualified tires sold to the federal government and its agencies.	\$1,370
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**Sections 81-15,159 through 81-15,165**

Qualified tires sold to Native American Indians if the Native American Indian resides on a Nebraska Indian reservation, holds a Nebraska tax exemption identification card, and delivery of the tires takes place on the reservation.

(Included  
in above)

## **DEDUCTIONS**

**Section 81-15,165**

Collection fee allowed the Department of Revenue.

\$42,000

## **RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.

# SECTION U

## Petroleum Release Remedial Action Fee (PRF)

### BASIC PROVISIONS AND TAX BASE

The Nebraska Petroleum Release Remedial Action Act imposes a fee upon the producer, importer, refiner, distributor, wholesaler, or supplier who engages in the sale, distribution, delivery and use of petroleum (motor vehicle fuels, diesel fuels, and aviation fuels) in Nebraska. The fee is nine-tenths of one cent per gallon on aviation gasoline and motor vehicle fuels, such as gasoline, and three-tenths of one cent per gallon on jet fuel and diesel fuels, including dyed diesel.

The revenue raised from this fee is placed in the Nebraska Petroleum Release Remedial Action Cash Fund. Revenues for this fund totaled \$10,697,721 for fiscal year 2009-10.

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

<b>Section 66-1510</b> Natural gasoline used as a denaturant by a Nebraska ethanol facility.	\$290,000
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### CREDITS

<b>Section 66-1521</b> Any fee paid on petroleum which was taxed and then exported.	\$4,000
<b>Section 66-1521</b> Any fee paid on petroleum which was taxed and then sold to a federal agency.	\$5,000

### DEDUCTIONS

<b>Section 66-1521</b> Collection fee allowed the Department of Revenue.	\$150,000 <sup>1</sup>
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<sup>1</sup>The fee could not exceed \$28,000 for fiscal years prior to July 1, 2009. Beginning with fiscal year 2009-10, this amount was increased to a maximum of \$150,000 per year. The fee is deposited in the Petroleum Release Remedial Action Collection Fund.

### RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.



## **SECTION V**

**Employment and Investment Growth Act,  
Employment Expansion and Investment Incentive Act  
(including the Enterprise Zone Act),  
Quality Jobs Act,  
Invest Nebraska Act,  
Nebraska Advantage Act,  
Nebraska Advantage Rural Development Act,  
Nebraska Advantage Microenterprise Act, and  
Nebraska Advantage Research and Development Act**

### **BASIC PROVISIONS AND TAX BASE**

For a complete analysis of credits, refunds, and exemptions provided under the above acts, please refer to the Nebraska Tax Incentives 2009 Annual Report to the Nebraska Legislature prepared by the Department of Revenue. A copy of this Report is provided annually to all members of the Unicameral.

### **RECOMMENDATIONS**

The Nebraska Department of Revenue has no recommendations.