

LEGISLATIVE BILL 1069

Approved by the Governor January 19, 1972

Introduced by William F. Swanson, 27th District

AN ACT to amend sections 77-317, 77-319, 77-1311, 77-1320.04, 77-1320.05, and 77-2340, Reissue Revised Statutes of Nebraska, 1943, and section 77-1918.01, Revised Statutes Supplement, 1971, relating to revenue and taxation; to remove obsolete matter; to harmonize the provisions with previous legislation; to correct internal references; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-317. Upon receipt of copy of inventory the county assessor shall check the listed tangible property ~~;-both-tangible--and--intangible;~~ to determine whether it was returned for taxation during the three taxing periods prior to the taxing period during which deceased died; Provided, that in counties, where the county clerk acts as county assessor or where the county assessor is not on active duty throughout the year and has completed the duties required of him in section 77-1315, such copy shall be furnished to the county clerk, and he shall perform the duties herein required of the county assessor.

Sec. 2. That section 77-319, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-319. Upon receiving the certification above provided, the county treasurer shall forthwith file a claim, against the estate of such deceased person, for the amount of taxes, interest and penalties as certified. Claims so filed shall be received, examined, adjusted and allowed by the county judge in the manner provided for other claims by Chapter 30, article 6, and any claim so filed shall be a preferred claim. The tax so paid to the county treasurer shall be by him distributed to the ~~state;-and-its governmental subdivisions,~~ in proportion to the levies on tangible ~~and--intangible~~ property, ~~for state-and-other-purposes;~~ for the year or years during which the payment on the tangible personal property was

avoided.

Sec. 3. That section 77-1311, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1311. The county assessor, in addition to the other duties provided by law, shall (1) check and verify with the aid of his assistants all personal tax returns; and (2) annually revise the real estate assessment for the correction of errors and, where properties have been assessed as entities and afterward part or parts transferred to other parties, to set off and apportion to each its just and equitable portion of the assessed valuation. He shall have general supervision over and direction of the assessment of all property in his county. The county assessor shall obey all rules and regulations made under this chapter and the instructions sent out by the State Board of Equalization and Assessment or Tax Commissioner. It shall be the duty of the county assessor to examine the records in the office of the register of deeds and county clerk for the purpose of ascertaining whether mortgages on real estate and security interests on personal property, producing mineral leases, title notes, contracts and bills of sale, intended to operate as a lien in the county, have been fully and correctly listed. He shall add to the assessment roll all omitted mortgages, security interests, producing mineral leases, title notes, contracts and bills of sale intended to operate as a lien and belonging to residents of his county, and not otherwise assessed, upon notice to the owner thereof or his agents. He shall examine the records in the office of the county judge and ascertain whether the property belonging to minors, insane and idiotic persons, and estates of deceased persons has been fully and correctly listed, and shall add to or change any such assessments so that the same shall be fully assessed. He shall examine the records in the office of the clerk of the district court to ascertain whether any judgments or liens thereon filed, belonging to residents of his county, and not otherwise assessed, have been omitted from the assessment rolls. In case of any such omission, he shall add the same to the assessment roll after notice to the owner. He shall make up the assessment books as provided in section 77-1303. He shall work full time and his office shall be separate from that of the county clerk except in counties which do not elect a full-time assessor.

Sec. 4. That section 77-1320.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1320.04. If a return is voluntarily filed or omitted property is voluntarily reported after the final date for returning such property has passed for the current taxing period and the three previous taxing periods or any taxing period included therein, the property shall be taxed at the same rate as imposed upon the property in the governmental subdivision of the State of Nebraska in which the property should have been returned for taxation. To the tax shall be added a penalty of ~~11~~ on tangible property ten per cent of the amount of tax due on tangible personal property, and ~~12~~ on intangible property forty per cent of ~~the amount of tax due~~. A return shall be deemed to be voluntarily filed or omitted property shall be deemed to have been voluntarily reported if the action is done without notice from any taxing official or if the taxpayer prior to such notice notified the county assessor in writing that such return would be filed late and the return was subsequently filed within thirty days. Returns voluntarily filed or omitted property voluntarily reported as provided in this section shall not be subjected to any other penalty nor shall the penalty provided by this section be subject to waiver. The provisions of this section shall not be so construed as to prohibit any taxing official from the proper discovery, assessment, taxation and penalization of and for any property not listed or returned, regardless of when or in what manner the return was filed.

Sec. 5. That section 77-1320.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1320.05. When penalties have been assessed under the provisions of either section 77-412 or ~~77-716~~, and the county assessor, upon the approval of the Tax Commissioner, finds upon written protest and the evidence submitted in support thereof, that any omission or failure to return tangible or intangible property was the result of an innocent mistake, all of the penalty in such case shall be waived except ten per cent of the tax due on tangible property, and ~~forty per cent of the tax due on intangible property~~. Negligence or ignorance on the part of the taxpayer or unavoidable absence from the state shall not be sufficient to constitute an innocent mistake; Provided, that if the omission or failure to return or report property was because such property had not been required to be reported in previous years, or the property was timely reported in the wrong taxing district the entire penalty shall be waived. If the county assessor refuses to act or rules against such written protest, appeal may be taken to the Tax Commissioner within twenty days after receipt of notice

of the county assessor's decision. The notice from the county assessor must be sent to the taxpayer's last-known address by first class mail and must advise the taxpayer of his right to appeal the county assessor's decision to the Tax Commissioner. The Tax Commissioner shall review the evidence presented to the county assessor and shall hold a hearing at the State Capitol, or such other place determined by the Tax Commissioner, if the taxpayer requests such a hearing in writing. Notice of the decision of the Tax Commissioner shall be sent by first class mail to the taxpayer, the county board of equalization and the county assessor by the Tax Commissioner. Appeal de novo may be taken from the decision of the Tax Commissioner to the district court of the county in which the assessment is made upon receipt of notice of the Tax Commissioner's decision, in the same manner as appeals are taken from the action of the county board of equalization under the provisions of sections 77-1510 and 77-1511.

Sec. 6. That section 77-1918.01, Revised Statutes Supplement, 1971, be amended to read as follows:

77-1918.01. Section ~~77-1947~~ 77-1918 shall be so interpreted as to effectuate its general purpose, to provide, in the public interest, adequate compensation as therein provided for county attorneys, and to give effect to such salary as soon as same may become operative under the Constitution of the State of Nebraska.

Sec. 7. That section 77-2340, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2340. The county treasurers of the various counties of the state may, upon resolution of their respective county boards authorizing the same, make time deposits in banks, selected as depositories of county funds under the provisions of sections 77-2312 to 77-2315. The time deposits made as aforesaid shall bear interest, and shall be secured as set forth in section 77-2304 or 77-2320; provided, that the first ~~ten~~ twenty thousand dollars of each time deposit insured under the Federal Deposit Insurance Act shall be exempt from the requirement of being secured as provided by section 77-2320 or by bonds similar to the bond required and set forth in section 77-2304.

Sec. 8. That original sections 77-317, 77-319, 77-1311, 77-1320.04, 77-1320.05, and 77-2340, Reissue Revised Statutes of Nebraska, 1943, and section 77-1918.01, Revised Statutes Supplement, 1971, are repealed.