

LEGISLATIVE BILL 300

Approved by the Governor June 1, 1995.

Introduced by Hall, 7; Hartnett, 45; Will, 8.

AN ACT relating to revenue and taxation; to amend section 77-2734.02, Reissue Revised Statutes of Nebraska, and section 77-2716.03, Revised Statutes Supplement, 1994; to change income tax calculations; to change the corporate tax rate for insurance companies subject to retaliatory taxes; to provide an operative date; and to repeal the original sections.

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

Section 1. Section 77-2716.03, Revised Statutes Supplement, 1994, is amended to read:

77-2716.03. (1) Any taxpayer whose federal adjusted gross income is larger than the threshold amount determined under section 68 of the Internal Revenue Code of 1986, as amended, for the disallowance of itemized deductions shall calculate the amount of the excess and make the following adjustments.

(2) The amount of the federal standard deduction actually allowed shall be reduced by one dollar for every ten dollars of the excess calculated in subsection (1) of this section. The standard deduction shall not be reduced below zero.

(3) For the purposes of calculating the adjustment in subsection (4) of this section, the following definitions shall be used:

(a) Protected deductions shall be those itemized deductions excepted from the federal disallowance under section 68 of the Internal Revenue Code of 1986, as amended; and

(b) Disallowable deductions shall be all itemized deductions other than (i) protected deductions, (ii) and the deduction for state and local income taxes, and (iii) charitable deductions.

(4) The amount of itemized deductions shall be reduced to the sum of the protected deductions plus charitable deductions plus the greater of:

(a) Twenty percent of the disallowable deductions; or

(b) The disallowable deductions reduced by the following amounts:

(i) An amount calculated as one dollar for every ten dollars of the excess calculated in subsection (1) of this section, multiplied by a fraction, the numerator of which is disallowable deductions minus charitable contributions and the denominator of which is disallowable deductions; and

(ii) An amount calculated as one dollar for every thirty-three and one-third dollars of the excess calculated in subsection (1) of this section, multiplied by a fraction, the numerator of which is charitable contributions and the denominator of which is disallowable deductions.

(5) After making the adjustments provided for in subsections (2) and (4) of this section, the tax liability shall be increased by an amount determined under this subsection. The amount shall be calculated by multiplying the maximum individual tax rate by ten percent of the excess calculated in subsection (1) of this section and subtracting the amount of the tax from the tax tables on ten percent of the excess from the result. The difference shall be the increase in the tax liability. If taxable income is less than ten percent of the excess, the calculation in this subsection shall be made using taxable income.

Sec. 2. Section 77-2734.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-2734.02. (1) A Except as provided in subsection (2) of this section, a tax is hereby imposed for each taxable year on the taxable income of every corporate taxpayer that is doing business in this state at a rate equal to one hundred fifty and eight-tenths percent of the primary rate imposed on individuals under section 77-2701.01 on the first fifty thousand dollars of taxable income and at the rate of two hundred eleven percent of such rate on all taxable income in excess of fifty thousand dollars. The resultant rates shall be rounded to the nearest one hundredth of one percent.

(a) For corporate taxpayers with a fiscal year that does not coincide with the calendar year, the individual rate used for this subsection shall be the rate in effect on the first day, or the day deemed to be the first day, of the taxable year.

(b) For fiscal years beginning before January 1, 1968, the rate initially set shall apply for the period from January 1, 1968, to the end of that fiscal year.

(2) An insurance company shall be subject to taxation at the lesser

of the rate described in subsection (1) of this section or the rate of tax imposed by the state or country in which the insurance company is domiciled if the insurance company can establish to the satisfaction of the Tax Commissioner that it is domiciled in a state or country other than Nebraska that imposes on Nebraska domiciled insurance companies a retaliatory tax against the tax described in subsection (1) of this section.

(3) For a corporate taxpayer that is subject to tax in another state, its taxable income shall be the portion of the taxpayer's federal taxable income, as adjusted, that is determined to be connected with the taxpayer's operations in this state pursuant to sections 77-2734.05 to 77-2734.15.

~~(3)~~ (4) Each corporate taxpayer shall file only one income tax return for each taxable year.

Sec. 3. This act is operative for all taxable years beginning or deemed to begin on or after January 1, 1995, under the Internal Revenue Code of 1986, as amended.

Sec. 4. Original section 77-2734.02, Reissue Revised Statutes of Nebraska, and section 77-2716.03, Revised Statutes Supplement, 1994, are repealed.