

SECTION B — Income Tax: Individual, Fiduciary, Corporation, and Financial Institution Tax

BASIC PROVISIONS AND TAX BASE

Individual Income Tax¹

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 2012, 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 2012, the credit is \$123.

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 § [77-2716.01\(2\)\(b\)](#). Additional standard deduction amounts are allowed to elderly and blind taxpayers. For 2012, 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 Tax¹

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 § [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 § [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 Tax¹

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 § [77-3801](#)) which is doing business in Nebraska. For a corporate taxpayer subject to tax in another state, the entire federal taxable income of the unitary business, after the adjustments in §§ [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 2011 and 2012 rates are 5.58% and 7.81% respectively.

Financial Institution Tax¹

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

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

[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 2012 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.

INDIVIDUAL, FIDUCIARY, AND CORPORATION INCOME TAXES

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

<p>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, 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.</p>	<p>NA²</p>
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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: \$5,400,000

²Figures 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.

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: \$45,300,000

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:** \$27,100,000**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:** \$6,800,000**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 § 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**Contributions to the Nebraska Educational Savings Plan Trust****Statutory citation:** [77-2716\(8\)\(b\)](#)**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:** \$2,100,000**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:** \$125,000**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 § 77-2716.01(2)(b). Additional standard deduction amounts are allowed to elderly and blind taxpayers.**Estimate:** \$187,700,000**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:** \$252,000,000

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 (NOLs)****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:** \$17,400,000**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:** \$26,000,000**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 (LLC), that is not connected with Nebraska sources as determined in § [77-2734.01](#).**Estimate:** \$45,000,000

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:** \$16,000**Credits for Child/Dependent Care****Statutory citation:** [77-2715.07\(2\)](#)**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 IRC § 21 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:** \$5,600,000

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: \$39,000,000

Beginning Farmer Tax Credit

Statutory citation: [77-2715.07\(2\)\(c\)](#), [77-3403\(3\)](#), [77-5701 through 5715](#).

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

Estimate: \$900,000

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: \$150,000

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 who 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: \$4,100,000

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: \$29,000,000

Nebraska Personal Exemption Credit

Statutory citation: [77-2716.01](#)

Description: A nonrefundable credit of \$120 for 2011 is allowed to resident individuals for every federal personal exemption.

Estimate: \$171,000,000

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, provided the other taxing jurisdiction allows a similar reduction.

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: \$21,700,000

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

Employment and Investment Growth Act (LB 775) Tax Incentive Credits

Statutory citation: [77-4101](#)

Description: A taxpayer's business may be eligible for tax incentives under LB 775 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.

Estimate: See [Section U](#).

Quality Jobs Act Credits

Statutory citation: [77-4901](#)

Description: Taxpayers who have previously been approved may qualify for additional benefits beyond those received under § [77-4101](#) (LB 775). Each taxpayer must make an investment of \$50,000,000 in qualified property and hire 500 new employees, or \$100,000,000 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 U](#).

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 [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, whose annual wage must exceed 110% of the Nebraska average annual wage; or (3) \$200,000,000 investment and 500 new employees whose annual wage must exceed 125% of the Nebraska average annual wage. If the company reaches and maintains the selected levels, it is eligible for benefits. New applications are no longer being accepted.

Estimate: See [Section U](#).

Nebraska Advantage Act Credits

Statutory citation: [77-5701](#)

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 U](#).

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 IRC § 41 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: See [Section U](#).

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: See [Section U](#).

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 separate required levels of employment and investment for counties with populations of less than 25,000 and for those with less than 15,000.

Estimate: See [Section U](#).

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: Minimal

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 2011 tax year are 2.56%, 3.57%, 5.12%, and 6.84% of Nebraska taxable income, using the brackets listed in § 77-2715.02. The preferential rate is the difference between the top rate, 6.84%, and the lowest rate, 2.56%.

Estimate: \$639,300,000

Corporation Income Tax Rates

Statutory citation: [77-2734.02\(1\)](#)

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

Estimate: \$7,400,000

Insurance Company Tax Rates

Statutory citation: [77-2734.02\(2\)](#)

Description: Insurance companies are subject to the lesser of the rates set under § [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: \$40,000

RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.