

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

## Basic Provisions and Tax Base

**All estimates are independent of each other and cannot be summed.**

### 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 2014, the rates are 2.46%, 3.51%, 5.01%, and 6.84% of Nebraska taxable income. Brackets for each filing status are outlined in Neb. Rev. Stat. § [77-2715.03](#). A personal exemption credit is allowed against the tax computed for every federal personal exemption of the taxpayer. For tax year 2014, the credit is \$128.

The tax is calculated as a percentage of Nebraska taxable income. Additional taxes are computed on premature and lump-sum distributions from qualified retirement plans at a rate equal to 29.6% of the federal tax liability. 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 increasing and 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. The standard deduction, including the additional standard deduction amounts, are adjusted for inflation. An additional tax that 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 § [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 2.46%, 3.51%, 5.01%, and 6.84%. The brackets are established in § [77-2715.03](#). Additional tax is imposed on premature and lump-sum distributions from qualified retirement plans at a rate equal to 29.6% of the federal tax liability.

### 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 § [77-3801](#)) that 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 for 2013 and 2014 is 5.58% on the first \$100,000 of taxable income and 7.81% on the excess.

The statutory language was changed for years beginning on and after January 1, 2013, from a percent of the primary rate to just specifying the rate. See [77-2734.02\(1\)\(a\)](#) and [\(b\)](#).

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

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

Every financial institution which is chartered or qualified to do business in Nebraska, or that 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 corporation income tax rate in effect for the taxable year. The maximum corporation income tax rate in effect for the 2014 taxable year is 7.81% so the limitation rate is equal to 3.81%. 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

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

Nebraska utilizes the federal calculation of taxable income for corporations as a base for computing taxpayers' Nebraska liability. Federal AGI, 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, tax rate schedules, 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. NA<sup>2</sup>

**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:** \$5,200,000

<sup>2</sup>Figures are not available, nor applicable for any deductions (corporation) and adjustments to income (individual, fiduciary, and corporation) allowed by the Internal Revenue Service and federal regulations; since Nebraska corporation income tax is based on federal taxable income, Nebraska individual income tax is based on federal AGI, 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\(1\)\(a\) and \(b\)](#)

**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 AGI for individuals.

**Estimate:** \$38,700,000

### 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:** Not available

### 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 (NOL), 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:** \$9,800,000

### 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:** \$7,600,000

### 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 \$5,000 for a married, filing separately return, or \$10,000 for any other return.

**Estimate:** \$2,300,000

### 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:** \$25,000

### **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.

**Assumption:** No standard deduction and no itemized deduction.

**Estimate:** \$442,000,000

### **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.

**Assumption:** Itemizers will take the Nebraska standard deduction if no itemized deductions are allowed.

**Estimate:** \$80,900,000

### **Corporation Nonapportionable Income**

**Statutory citation:** [77-2734.06](#)

**Description:** Corporate taxpayers are allowed to deduct nonapportionable income, less related expenses from the income subject to apportionment.

**Estimate:** Not available

### **Corporation NOL and Capital Loss**

**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 or capital loss. Corporate taxpayers are allowed an NOL carryforward (if connected with operations in Nebraska). An NOL and a capital loss incurred in tax years beginning before January 1, 2014, may be carried forward for five taxable years following the year of the loss, and an NOL incurred in tax years beginning on and after January 1, 2014, may be carried forward for 20 tax years following the year of the loss. Corporate taxpayers are allowed a capital loss carryforward (if connected with operations in Nebraska) for five taxable years following the year of the loss. No carrybacks are allowed for either NOLs or capital losses.

**Estimate:** \$13,300,000

### **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:** \$25,600,000

### **Non-Nebraska S Corporation and LLC Income/Loss Exclusion**

**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:** \$59,000,000

## 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:** \$10,000

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

### Credit for Income Taxes 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:** \$49,000,000

### Beginning Farmer Tax Credit

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

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

**Estimate:** \$830,000

### 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:** \$110,000

### 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:** \$4,700,000

### 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 \$128 for 2014 is allowed to resident individuals for every federal personal exemption.

**Estimate:** \$178,000,000

**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:** Minimal**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 million and the hiring of at least 30 new employees, or (b) the investment in qualified property of at least \$10 million and the hiring of at least 100 new employees. 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 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 U](#).**Invest Nebraska Act Credits****Statutory citation:** [77-5501](#)**Description:** A qualifying business selects one of the following options in its application: (1) \$10 million 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 million investment and 500 new employees, or \$100 million investment and 250 new employees, whose annual wage must exceed 110% of the Nebraska average annual wage; or (3) \$200 million 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 by meeting specified employment and/or investment requirements.**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 I.R.C. § 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 FTEs) 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 that 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

### **New Markets Tax Credit**

**Statutory citation:** [77-1113](#)

**Description:** A person or entity that acquires a qualified equity investment earns a nonrefundable tax credit that may be used to offset the corporate income tax, the franchise tax imposed on a financial institution, or the premium tax imposed on an insurance company. The credit is equal to 39% of the qualified equity investment. No taxpayer may claim this credit until the 2014 tax year return is filed in 2015.

**Estimate:** Not available

## **Preferential Tax Rates**

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

**Statutory citation:** [77-2715.02](#)

**Description:** The preferential rate is the difference between the top rate, 6.84%, and the lowest rate, 2.46%.

**Estimate:** \$665,092,000

### **Corporation Income Tax Rates**

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

**Description:** The corporation income tax rates are 5.58% applied to the first \$100,000 of taxable income and a rate of 7.81% applied to the excess.

**Estimate:** \$8,200,000

### **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:** \$39,000

#### **New Markets Tax Credit**

**Statutory citation:** [77-3806\(4\)](#)

**Description:** A person or entity that acquires a qualified equity investment earns a nonrefundable tax credit that may be used to offset the corporate income tax, the franchise tax imposed on a financial institution, or the premium tax imposed on an insurance company. The credit is equal to 39% of the qualified equity investment. No taxpayer may claim this credit until the 2014 tax year return is filed in 2015.

**Estimate:** Not available