

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:

- (1) The department shall prepare a tax expenditure report describing (a) the basic provisions of the Nebraska tax laws, (b) 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, (c) the actual or estimated revenue loss caused by failure to impose sales and use tax on services purchased for nonbusiness use, and (d) the elements which make up the tax base for state and local income, including income, sales and use, property, and miscellaneous taxes.
- (2) 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 list each tax expenditure relating to sales and use tax under the following categories:
 - (a) Agriculture, which shall include a separate listing for the following items: Agricultural machinery; agricultural chemicals; seeds sold to commercial producers; water for irrigation and manufacturing; commercial artificial insemination; mineral oil as dust suppressant; animal grooming; oxygen for use in aquaculture; animal life whose products constitute food for human consumption; and grains;
 - (b) Business across state lines, which shall include a separate listing for the following items: Property shipped out-of-state; fabrication labor for items to be shipped out-of-state; property to be transported out-of-state; property purchased in other states to be used in Nebraska; aircraft delivery to an out-of-state resident or business; state reciprocal agreements for industrial machinery; and property taxed in another state;
 - (c) Common carrier and logistics, which shall include a separate listing for the following items: Railroad rolling stock and repair parts and services; common or contract carriers and repair parts and services; common or contract carrier accessories; and common or contract carrier safety equipment;

(d) Consumer goods, which shall include a separate listing for the following items: Motor vehicles and motorboat trade-ins; merchandise trade-ins; certain medical equipment and medicine; newspapers; laundromats; telefloral deliveries; motor vehicle discounts for the disabled; and political campaign fundraisers;

(e) Energy, which shall include a separate listing for the following items: Motor fuels; energy used in industry; energy used in agriculture; aviation fuel; and minerals, oil, and gas severed from real property;

(f) Food, which shall include a separate listing for the following items: Food for home consumption; Supplemental Nutrition Assistance Program; school lunches; meals sold by hospitals; meals sold by institutions at a flat rate; food for the elderly, handicapped, and Supplemental Security Income recipients; and meals sold by churches;

(g) General business, which shall include a separate listing for the following items: Component and ingredient parts; manufacturing machinery; containers; film rentals; molds and dies; syndicated programming; intercompany sales; intercompany leases; sale of a business or farm machinery; and transfer of property in a change of business ownership;

(h) Lodging and shelter, which shall include a separate listing for the following item: Room rentals by certain institutions;

(i) Miscellaneous, which shall include a separate listing for the following items: Cash discounts and coupons; separately stated finance charges; casual sales; lease-to-purchase agreements; and separately stated taxes;

(j) Nonprofits, governments, and exempt entities, which shall include a separate listing for the following items: Purchases by political subdivisions of the state; purchases by churches and nonprofit colleges and medical facilities; purchasing agents for public real estate construction improvements; contractor as purchasing agent for public agencies; Nebraska lottery; admissions to school events; sales on Native American Indian reservations; school-supporting fundraisers; fine art purchases by a museum; purchases by the Nebraska State Fair Board; purchases by the Nebraska Investment Finance Authority and licensees of the State Racing Commission; purchases by the United States Government; public records; and sales by religious organizations;

(k) Recent sales tax expenditures, which shall include a separate listing for each sales tax expenditure created by statute or rule and regulation after July 19, 2012;

(l) Services purchased for nonbusiness use, which shall include a separate listing for each such service, including, but not limited to, the following items: Motor vehicle cleaning, maintenance, and repair services; cleaning and repair of clothing; cleaning, maintenance, and repair of other tangible personal property; maintenance, painting, and repair of real property; entertainment admissions; personal care services; lawn care, gardening, and landscaping services; pet-related services; storage and moving services; household utilities; other personal services; taxi, limousine, and other transportation services; legal services; accounting services; other professional services; and other real estate services; and

(m) Telecommunications, which shall include a separate listing for the following items: Telecommunications access charges; prepaid calling arrangements; conference bridging services; and nonvoice data services.

(3) 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 reports required under § 77-382 and subsection (2) of § 77-385. All state and local officials or agencies shall cooperate with the department with respect to any such request.

Neb. Rev. Stat. § 77-385 provides:

(1) The report required under § 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 report submitted to the executive board and the committees shall be submitted electronically. The department shall, on or before December 1 of each even-numbered year, appear at a joint hearing of the Appropriations Committee

of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request. The summary shall be included with or appended to the Governor's budget presented to the Legislature in odd-numbered years.

(2)(a) In addition to the tax expenditure report required under § 77-382, the department shall prepare an annual report that focuses specifically on the tax expenditures relating to sales and use tax as follows:

(i) For 2014 and every fourth year thereafter, the report shall analyze the actual or estimated revenue loss caused by the tax expenditures described in subdivisions (2)(a) through (c) of § 77-382;

(ii) For 2015 and every fourth year thereafter, the report shall analyze the actual or estimated revenue loss caused by the tax expenditures described in subdivisions (2)(d) through (f) of § 77-382;

(iii) For 2016 and every fourth year thereafter, the report shall analyze the actual or estimated revenue loss caused by the tax expenditures described in subdivisions (2)(g) through (j) of § 77-382; and

(iv) For 2017 and every fourth year thereafter, the report shall analyze the actual or estimated revenue loss caused by the tax expenditures described in subdivisions (2)(k) through (m) of § 77-382.

(b) The report required under this subsection shall be submitted to the Governor, the Executive Board of the Legislative Council, and the chairpersons of the Revenue Committee of the Legislature and the Appropriations Committee of the Legislature on or before October 15 of each year. The report submitted to the executive board and the committees shall be submitted electronically. The department shall, on or before December 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.