

LEGISLATIVE BILL 531

Approved by the Governor May 21, 1973

Introduced by Burbach, 19, Chmn. of Revenue, for the Governor

AN ACT to amend sections 77-2717 and 77-2727, Reissue Revised Statutes of Nebraska, 1943, relating to income tax; to provide for the taxation of incomes of beneficiaries of estates or trusts and of partners; to provide an operative date; and to repeal the original sections.  
Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-2717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2717. (1) The tax imposed on, and the computation of the tax for, individuals shall apply to the tax liability of all estates and trusts except those trusts taxed as a corporation under the Internal Revenue Code.

(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed. The fiduciary shall be responsible for making the return for the estate or trust for which he acts, whether the income be taxable to the estate or trust or to the beneficiaries thereof. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income when such income is taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of this state shall include in their income their proportionate share of such estate's or trust's federal income.

(4) If any beneficiary of such estate or trust is a nonresident during any part of the estate's or trust's taxable year, he shall file a Nebraska income tax return which shall include in Nebraska adjusted gross income that portion of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his interest in the estate or trust, and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he will file a Nebraska

income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. The amount of remittance, in such instance, shall be ten per cent of the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state.

(6) The Tax Commissioner may require a nonresident beneficiary to file a Nebraska income tax return even though the nonresident beneficiary's only source of Nebraska income was his share of the estate's or trust's income which was derived from or attributable to sources within this state, and the amount of the remittance by the estate or trust on behalf of such nonresident beneficiary shall be allowed as a credit against the Nebraska income tax liability of the nonresident beneficiary.

Sec. 2. That section 77-2727, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2727. (1) A partnership as such shall not be subject to the income tax imposed by the provisions of sections 77-2701 to 77-27,135. Persons or their authorized representatives carrying on business as partners shall be liable for the income tax imposed by the provisions of sections 77-2701 to 77-27,135 only in their separate or individual capacities.

(2) The partners of such partnership, who are residents of this state, or corporations, shall include in their incomes their proportionate share of such partnership's income.

(3) If any partner of such partnership is a nonresident individual during any part of the partnership's reporting year, he shall file a Nebraska income tax return which shall include in Nebraska adjusted gross income that portion of the partnership's Nebraska income, as determined under the provisions of sections 77-2728 to 77-2729, allocable to his interest in the partnership and shall execute and forward to the partnership, on or before the original due date of the

Nebraska partnership return, an agreement which states that he will file a Nebraska income tax return and pay income tax on all income derived from or attributable to sources in this state, and such agreement shall be attached to the partnership's Nebraska return for such reporting year.

(4) In the absence of the nonresident individual partner's executed agreement being attached to the Nebraska partnership return, the partnership shall remit a portion of such partner's income which was derived from or attributable to Nebraska sources with its Nebraska return for the reporting year. The amount of remittance, in such instance, shall be ten per cent of the nonresident individual partner's share of the partnership income which was derived from or attributable to sources within this state.

(5) The Tax Commissioner may require a nonresident individual partner to file a Nebraska income tax return even though the nonresident individual partner's only source of Nebraska income was his share of the partnership's income which was derived from or attributable to sources within this state, and the amount of remittance by the partnership on behalf of such nonresident individual partner shall be allowed as a credit against the Nebraska income tax liability of the nonresident individual partner.

Sec. 3. This act shall become operative for all taxable years beginning after December 31, 1973.

Sec. 4. That original sections 77-2717 and 77-2727, Reissue Revised Statutes of Nebraska, 1943, are repealed.