

Nebraska's Governor Proposes Significant Tax Law Changes

February 15, 2013

Overview

Nebraska Governor Heineman recently announced his proposals to overhaul the tax structure in the state to make Nebraska more tax competitive and to create more and higher paying jobs. The proposals generally focused on reducing or eliminating the corporate and personal income taxes as well as eliminating certain sales tax exemptions. Governor Heineman's proposals were formalized in two bills introduced in the Nebraska legislature in late January, LB 405 and LB 406.¹ Hearings for the bills were conducted on February 6th and 7th, respectively. In this Tax Alert we summarize the proposed law changes.

LB 405

Under LB 405, the corporate² and personal income³ taxes would be eliminated effective January 1, 2014, as well as the franchise tax on financial institutions.⁴

Additionally, effective January 1, 2014, numerous sales tax exemptions would be eliminated. The elimination of exemptions is broad and would significantly impact manufacturers, agribusiness, health care and non-profits. Under the pending bill, exemptions applicable to the following would be completely repealed:

- Direct mail sourcing (Neb. Rev. Stat. §77-2704.03)
- Minerals, oil, or gas (Neb. Rev. Stat. §77-2704.04)
- Leased property (Neb. Rev. Stat. §77-2704.08)
- Insulin, prescription drugs, mobility enhancing equipment, and medical equipment (Neb. Rev. Stat. §77-2704.09)
- Shipments outside the state (Neb. Rev. Stat. §77-2704.11)
- Fuel, energy, or water sources (Neb. Rev. Stat. §77-2704.13)
- Manufacturing machinery and equipment and related services (Neb. Rev. Stat. §77-2704.22)
- Semen and insemination services (Neb. Rev. Stat. §77-2704.23)
- Aircraft (Neb. Rev. Stat. §77-2704.26)
- Railroad rolling stock (Neb. Rev. Stat. §77-2704.27)
- Agricultural machinery and equipment (Neb. Rev. Stat. §77-2704.36)
- Molds, dies, and patterns (Neb. Rev. Stat. §77-2704.40)
- Industrial machinery and equipment (Neb. Rev. Stat. §77-2704.43)
- Containers (Neb. Rev. Stat. §77-2704.47)
- Ingredients or component parts (Neb. Rev. Stat. §77-2704.45)
- Railroad rolling stock; common or contract carrier (Neb. Rev. Stat. §77-2704.50)
- Mineral oil applied to grain as dust suppressant (Neb. Rev. Stat. §77-2704.60)
- Biochips (Neb. Rev. Stat. §77-2704.61)
- Data center (Neb. Rev. Stat. §77-2704.62)⁵

¹ LB 405 is accessible at: http://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=18705.

LB 406 is accessible at: http://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=18668.

² LB 405, page 67, lines 5-10.

³ LB 405, page 46, lines 18-19.

⁴ LB 405, page 94, lines 14-15.

⁵ LB 405, page 2, lines 2-10.

In addition to the repeal of the foregoing enumerated exemptions, effective January 1, 2014, other provisions would be amended to eliminate certain sales tax exemptions or expand the scope of the sales tax. The noteworthy proposed amendments include:

- The revision of Neb. Rev. Stat. §2704.46 to eliminate the exemptions related to purchases of seed and annual plants used for agricultural purposes, agricultural chemicals and additives applied to crops, and oxygen used in aquaculture.
- The broadening of the definition of a “sale” under Neb. Rev. Stat. §2701.33 to include the “renting or furnishing of any room..., lodgings, or accommodations...” by a licensed Health Care Facility or an educational institution, thus expanding the scope of the sales tax.⁶
- The revision of Neb. Rev. Stat. §2704.12 to eliminate exemptions for religious organizations, non-profit organizations, private educational institutions and non-profit hospitals and health care facilities.⁷

LB 406

Under LB 406, the corporate income tax⁸ and the franchise tax on financial institutions⁹ would be eliminated. Under the proposed law change, the currently applicable corporate income tax and franchise tax shall apply only “for taxable years beginning or deemed to begin before July 1, 2014.”

The personal income tax would not be eliminated; however, an exemption for retirement payments of up to \$12,000 for married persons and \$6,000 for single persons would be applicable effective January 1, 2014.¹⁰

Regarding the sales tax, the proposed changes contained in LB 406 would be less broad than those proposed in LB 405. Under LB 406, exemptions applicable to the following would be repealed effective January 1, 2014:

- Railroad rolling stock (Neb. Rev. Stat. §77-2704.27)
- Molds, dies, and patters (Neb. Rev. Stat. §77-2704.40)
- Containers (Neb. Rev. Stat. §77-2704.47)¹¹

However, as with LB 405, LB 406 also includes amendments that would eliminate certain specified sales tax exemptions effective January 1, 2014. The noteworthy amendments include:

- The revision of Neb. Rev. Stat. §2704.46 to eliminate the exemptions related to purchases of seed and annual plants used for agricultural purposes, agricultural chemicals and additives applied to crops and oxygen used in aquaculture.¹²
- The revision of Neb. Rev. Stat. §2704.09 to eliminate the exemptions related to durable medical equipment, mobility enhancing equipment, prosthetic devices, home medical supplies and oxygen and oxygen equipment.¹³
- The revision of Neb. Rev. Stat. §2704.13 to eliminate from an existing exemption purchases of various fuels used “directly in irrigation or farming” and in “processing, manufacturing, or refining, in the generation of electricity, or by any hospital.”¹⁴

Considerations

The introduction of the bills has not been well received by various industries in Nebraska and opposition is mounting. The Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce and the Nebraska Chamber of Commerce have all come out against the bills. However, proponents of the bills also exist, such as the Veterans of Foreign Wars Council and Americans for Prosperity. Whether one or both bills will move forward is yet to be seen.

⁶ LB 405, page 22 lines 22-25.

⁷ LB 405, page 30, lines 14-21; page 31, lines 1-11.

⁸ LB 406, page 30, lines 19-24.

⁹ LB 406, page 37, lines 10-11.

¹⁰ LB 406, page 30, lines 1-16.

¹¹ LB 406, page 1, lines 14-16.

¹² LB 406, page 17, lines 19-25; page 18, lines 1-8.

¹³ LB 406, page 13, lines 1-7 and 20-25; page 14, lines 1-12 and 19-24; page 15, lines 4-9.

¹⁴ LB 406, page 15, lines 14-22; page 16, lines 1-11.

Contacts

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