

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 574

Introduced by Davis, 43.

Read first time January 21, 2015

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-105, Revised Statutes Cumulative Supplement, 2014; to adopt the
- 3 Intangible Personal Property Tax Act; to redefine a term; to provide
- 4 an operative date; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and may be
2 cited as the Intangible Personal Property Tax Act.

3 Sec. 2. The Legislature finds that:

4 (1) The tax exemption for intangible personal property
5 disproportionately benefits the wealthiest citizens at the expense of the
6 middle class, the poor, and school children; and

7 (2) Eliminating the tax exemption for intangible personal property
8 will lead to a broader tax base and fairer tax system and will generate
9 revenue from a new source, which can be used to decrease property taxes,
10 increase funding for schools, or both.

11 Sec. 3. For purposes of the Intangible Personal Property Tax Act:

12 (1) Department means the Department of Revenue; and

13 (2) Intangible personal property has the same meaning as in section
14 77-105.

15 Sec. 4. (1) A tax is hereby levied annually as of January 1 of each
16 year at a rate equal to one dollar and fifty cents for every one hundred
17 dollars of valuation as determined pursuant to subsections (2) and (3) of
18 this section.

19 (2) Except as provided in subsection (3) of this section, intangible
20 personal property shall be valued for purposes of this section at its
21 fair market value as follows:

22 (a) Shares of stock of corporations that are listed on any public
23 stock exchange or are regularly traded over the counter will be valued at
24 their closing prices on the exchange where the primary trading takes
25 place. If closing prices are not available, the bid price shall be
26 considered fair market value;

27 (b) Shares or units of companies or trusts registered under the
28 federal Investment Company Act of 1940, as amended, including mutual
29 funds, money market funds, and trusts, will be valued at the net asset
30 value of such shares or units;

31 (c) Bonds regularly listed on any public stock exchange or regularly

1 traded over the counter shall be valued at their closing bid prices; and

2 (d) Shares of stock, bonds, or similar instruments of corporations
3 that are not listed on any public stock exchange or regularly traded over
4 the counter will be valued in accordance with generally accepted
5 accounting principles.

6 (3) Fair market value of intangible personal property may be
7 established by using methods other than those provided in subsection (2)
8 of this section upon presentation to the department of sufficient
9 evidence that an alternative method more accurately determines fair
10 market value.

11 Sec. 5. The tax levied in section 4 of this act does not apply to:

12 (1) Obligations or evidence of debt of the United States and
13 obligations of United States government agencies and corporations
14 established by acts of the Congress of the United States to the extent
15 required by federal law to be exempt from ad valorem taxation by the
16 states;

17 (2) Obligations or evidence of debt of the State of Nebraska and its
18 political subdivisions, including municipal bonds;

19 (3) Interests in retirement plans, including, but not limited to:

20 (a) Pensions and profit sharing, annuity, or stock bonus plans
21 exempt from federal income tax under section 401 of the Internal Revenue
22 Code;

23 (b) Annuity contracts or custodial accounts described in section 401
24 of the Internal Revenue Code;

25 (c) Individual retirement accounts or individual retirement
26 annuities exempt from federal income tax;

27 (d) Employee stock options, whether or not the options are subject
28 to section 421 of the Internal Revenue Code, and stock received upon
29 exercise of such options, unless the employee stock option or stock to be
30 received upon exercise has been included in the taxable income of the
31 holder of the options;

1 (e) Retirement plans provided by the federal government for civil
2 service, foreign service, and service in the United States Armed Forces;
3 and

4 (f) Retirement plans organized or created under the School Employees
5 Retirement System of the State of Nebraska;

6 (4) Life insurance and annuity policies;

7 (5) Processing of intangible personal property;

8 (6) Non-profit, charitable, religious, and educational intangible
9 property and intangible property owned and used exclusively for cemetery
10 purposes, including, but not limited to, interests in charitable trusts,
11 charitable lead trusts, charitable annuities, intangible personal
12 property owned by or irrevocably held in trust for the exclusive benefit
13 of an educational, religious, or charitable institution, no part of the
14 net profit from the operation of which inures to the benefit of any
15 private person, interests in qualified tuition plans, as defined in
16 section 530 of the Internal Revenue Code, and educational savings
17 accounts, as defined in section 530 of the Internal Revenue Code;

18 (7) Mandatory and required banking assets, including, but not
19 limited to, assets representing mandatory reserve requirements, imposed
20 by statute or otherwise, on depository institutions subject to the tax on
21 intangible personal property, mandatory deposits with the Federal Reserve
22 Bank or others required by statute or regulations, intangible personal
23 property owned by an international banking agency or domestic
24 international banking facility licensed to do business in the State of
25 Nebraska, cash and cash equivalents including checking accounts and
26 demand deposits with banks and other financial institutions; and

27 (8) Intercompany financing instruments, including, but not limited
28 to, intercompany loans or advances from a parent corporation to a
29 subsidiary, or vice versa, or from one subsidiary to another, provided
30 the parent company owns either directly or through other subsidiaries
31 more than eighty-five percent of the common voting stock of any

1 subsidiary which is involved in such a transaction, and obligations of an
2 employer to an employee for services rendered.

3 Sec. 6. (1) Except as provided in subsection (2) of this section,
4 every individual is allowed an exemption not to exceed one hundred fifty
5 thousand dollars of the fair market value of intangible personal property
6 otherwise subject to the tax levied in section 4 of this act.

7 (2) A married couple who files a joint intangible tax return is
8 allowed an exemption not to exceed three hundred fifty thousand dollars
9 of the fair market value of intangible personal property otherwise
10 subject to the tax levied in section 4 of this act, whether such property
11 is owned by either of them or by them jointly.

12 Sec. 7. Each taxpayer must determine his or her tax liability under
13 the Intangible Personal Property Tax Act, file an intangible personal
14 property tax return along with his or her income tax return each year,
15 and remit all taxes due at the same time the return is filed. The
16 department shall collect such taxes and remit them to the State Treasurer
17 for credit to the Intangible Personal Property Tax Fund.

18 Sec. 8. (1) The Intangible Personal Property Tax Fund is created.
19 The fund shall consist of all money credited to the fund under section 7
20 of this act. Any money in the fund available for investment shall be
21 invested by the state investment officer pursuant to the Nebraska Capital
22 Expansion Act and the Nebraska State Funds Investment Act.

23 (2) Money in the fund shall be used by the Legislature to provide
24 public school funding sufficient to maintain school funding levels in
25 effect on the effective date of this act and to reduce the overall tax
26 burden of real and tangible personal property.

27 Sec. 9. The department may adopt and promulgate rules and
28 regulations to carry out the Intangible Personal Property Tax Act.

29 Sec. 10. Section 77-105, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 77-105 The term tangible personal property includes all personal

1 property possessing a physical existence, excluding money. The term
2 tangible personal property also includes trade fixtures, which means
3 machinery and equipment, regardless of the degree of attachment to real
4 property, used directly in commercial, manufacturing, or processing
5 activities conducted on real property, regardless of whether the real
6 property is owned or leased, and all depreciable tangible personal
7 property described in subsection (9) of section 77-202 used in the
8 generation of electricity using wind as the fuel source. The term
9 intangible personal property includes, but is not limited to, money on
10 hand, on deposit, or in transit; shares of stock and other units of
11 interest in corporations and joint stock of companies and other
12 associations conducted for profit or investment; securities such as
13 bonds, certificates of indebtedness, debentures, and notes receivable;
14 land contracts receivable, real estate and chattel mortgages receivable,
15 and other obligations for the payment of money, whether secured or
16 unsecured; shares or units of companies or trusts including mutual funds,
17 money market funds, unit investment trusts, and exchange traded funds;
18 accounts receivable; certificates of deposit; cashier's and certified
19 checks; bills of exchange; drafts and similar instruments; bank accounts
20 and other obligations for the payment of money; publicly traded options;
21 futures contracts; commodities contracts; certificates of interest in
22 gold and other precious metals or gems; and similar financial instruments
23 all other personal property, including money.

24 Sec. 11. This act becomes operative on January 1, 2016.

25 Sec. 12. Original section 77-105, Revised Statutes Cumulative
26 Supplement, 2014, is repealed.