

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 182

Introduced by Linehan, 39.

Read first time January 08, 2021

Committee:

- 1 A BILL FOR AN ACT relating to sales and use taxes; to amend section
- 2 77-2701.16, Revised Statutes Cumulative Supplement, 2020; to exclude
- 3 certain income from the definition of gross receipts; to harmonize
- 4 provisions; to provide an operative date; and to repeal the original
- 5 section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701.16, Revised Statutes Cumulative
2 Supplement, 2020, is amended to read:

3 77-2701.16 (1) Gross receipts means the total amount of the sale or
4 lease or rental price, as the case may be, of the retail sales of
5 retailers.

6 (2) Gross receipts of every person engaged as a public utility
7 specified in this subsection, as a community antenna television service
8 operator, or as a satellite service operator or any person involved in
9 connecting and installing services defined in subdivision (2)(a), (b), or
10 (d) of this section means:

11 (a)(i) In the furnishing of telephone communication service, other
12 than mobile telecommunications service as described in section
13 77-2703.04, the gross income received from furnishing ancillary services,
14 except for conference bridging services, and intrastate
15 telecommunications services, except for value-added, nonvoice data
16 service.

17 (ii) In the furnishing of mobile telecommunications service as
18 described in section 77-2703.04, the gross income received from
19 furnishing mobile telecommunications service that originates and
20 terminates in the same state to a customer with a place of primary use in
21 Nebraska;

22 (b) In the furnishing of telegraph service, the gross income
23 received from the furnishing of intrastate telegraph services;

24 (c)(i) In the furnishing of gas, sewer, water, and electricity
25 service, other than electricity service to a customer-generator as
26 defined in section 70-2002, the gross income received from the furnishing
27 of such services upon billings or statements rendered to consumers for
28 such utility services.

29 (ii) In the furnishing of electricity service to a customer-
30 generator as defined in section 70-2002, the net energy use upon billings
31 or statements rendered to customer-generators for such electricity

1 service;

2 (d) In the furnishing of community antenna television service or
3 satellite service, the gross income received from the furnishing of such
4 community antenna television service as regulated under sections 18-2201
5 to 18-2205 or 23-383 to 23-388 or satellite service; and

6 (e) The gross income received from the provision, installation,
7 construction, servicing, or removal of property used in conjunction with
8 the furnishing, installing, or connecting of any public utility services
9 specified in subdivision (2)(a) or (b) of this section or community
10 antenna television service or satellite service specified in subdivision
11 (2)(d) of this section, except when acting as a subcontractor for a
12 public utility, this subdivision does not apply to the gross income
13 received by a contractor electing to be treated as a consumer of building
14 materials under subdivision (2) or (3) of section 77-2701.10 for any such
15 services performed on the customer's side of the utility demarcation
16 point. This subdivision also does not apply to:

17 (i) The gross income received by a political subdivision of the
18 state, an electric cooperative, or an electric membership association for
19 the lease or use of, or by a contractor for the construction of or
20 services provided on, electric generation, transmission, distribution, or
21 street lighting structures or facilities owned by a political subdivision
22 of the state, an electric cooperative, or an electric membership
23 association; or -

24 (ii) The gross income received from the provision, installation,
25 construction, servicing, or removal of property primarily used in
26 conjunction with the furnishing, installing, or connecting of Internet
27 access service.

28 (3) Gross receipts of every person engaged in selling, leasing, or
29 otherwise providing intellectual or entertainment property means:

30 (a) In the furnishing of computer software, the gross income
31 received, including the charges for coding, punching, or otherwise

1 producing any computer software and the charges for the tapes, disks,
2 punched cards, or other properties furnished by the seller; and

3 (b) In the furnishing of videotapes, movie film, satellite
4 programming, satellite programming service, and satellite television
5 signal descrambling or decoding devices, the gross income received from
6 the license, franchise, or other method establishing the charge.

7 (4) Gross receipts for providing a service means:

8 (a) The gross income received for building cleaning and maintenance,
9 pest control, and security;

10 (b) The gross income received for motor vehicle washing, waxing,
11 towing, and painting;

12 (c) The gross income received for computer software training;

13 (d) The gross income received for installing and applying tangible
14 personal property if the sale of the property is subject to tax. If any
15 or all of the charge for installation is free to the customer and is paid
16 by a third-party service provider to the installer, any tax due on that
17 part of the activation commission, finder's fee, installation charge, or
18 similar payment made by the third-party service provider shall be paid
19 and remitted by the third-party service provider;

20 (e) The gross income received for services of recreational vehicle
21 parks;

22 (f) The gross income received for labor for repair or maintenance
23 services performed with regard to tangible personal property the sale of
24 which would be subject to sales and use taxes, excluding motor vehicles,
25 except as otherwise provided in section 77-2704.26 or 77-2704.50;

26 (g) The gross income received for animal specialty services except
27 (i) veterinary services, (ii) specialty services performed on livestock
28 as defined in section 54-183, and (iii) animal grooming performed by a
29 licensed veterinarian or a licensed veterinary technician in conjunction
30 with medical treatment; and

31 (h) The gross income received for detective services.

1 (5) Gross receipts includes the sale of admissions. When an
2 admission to an activity or a membership constituting an admission is
3 combined with the solicitation of a contribution, the portion or the
4 amount charged representing the fair market price of the admission shall
5 be considered a retail sale subject to the tax imposed by section
6 77-2703. The organization conducting the activity shall determine the
7 amount properly attributable to the purchase of the privilege, benefit,
8 or other consideration in advance, and such amount shall be clearly
9 indicated on any ticket, receipt, or other evidence issued in connection
10 with the payment.

11 (6) Gross receipts includes the sale of live plants incorporated
12 into real estate except when such incorporation is incidental to the
13 transfer of an improvement upon real estate or the real estate.

14 (7) Gross receipts includes the sale of any building materials
15 annexed to real estate by a person electing to be taxed as a retailer
16 pursuant to subdivision (1) of section 77-2701.10.

17 (8) Gross receipts includes the sale of and recharge of prepaid
18 calling service and prepaid wireless calling service.

19 (9) Gross receipts includes the retail sale of digital audio works,
20 digital audiovisual works, digital codes, and digital books delivered
21 electronically if the products are taxable when delivered on tangible
22 storage media. A sale includes the transfer of a permanent right of use,
23 the transfer of a right of use that terminates on some condition, and the
24 transfer of a right of use conditioned upon the receipt of continued
25 payments.

26 (10) Gross receipts includes any receipts from sales of tangible
27 personal property made over a multivendor marketplace platform that acts
28 as the intermediary by facilitating sales between a seller and the
29 purchaser and that, either directly or indirectly through agreements or
30 arrangements with third parties, collects payment from the purchaser and
31 transmits payment to the seller.

1 (11) Gross receipts does not include:

2 (a) The amount of any rebate granted by a motor vehicle or motorboat
3 manufacturer or dealer at the time of sale of the motor vehicle or
4 motorboat, which rebate functions as a discount from the sales price of
5 the motor vehicle or motorboat; or

6 (b) The price of property or services returned or rejected by
7 customers when the full sales price is refunded either in cash or credit.

8 Sec. 2. This act becomes operative on October 1, 2021.

9 Sec. 3. Original section 77-2701.16, Revised Statutes Cumulative
10 Supplement, 2020, is repealed.