

NEBRASKA INCOME TAX: INDIVIDUALS AND PARTNERSHIPS

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I. INDIVIDUALS

A. RESIDENT INDIVIDUALS

The term "resident individuals" includes every individual who is domiciled in the state, even though absent for temporary or transitory purposes, and every individual who maintains a permanent place of abode within the state and who spends an aggregate of more than six months of the taxable year in the state.¹ An individual establishes residence in Nebraska on the date he arrives in the state for other than temporary or transitory purposes. His Nebraska residency is terminated on the date he leaves the state and abandons any intention of returning thereto.

However, a Nebraska resident does not terminate his residency upon entering a branch of the United States armed services. A member of the armed services domiciled in Nebraska at the time of his induction generally retains his status as a resident of Nebraska throughout his stay in the service, regardless of where he may be assigned to duty or the length of such assignment. A nonresident does not become a resident, nor lose his status as a resident of the state in which he formerly resided, solely because of a military transfer into Nebraska. He may, however, become a Nebraska resident by the performance of some overt act which would constitute a termination of his former residence and the establishment of a residence in Nebraska. Moreover, while not specifically stated either in the Act or in the Regulations, it seems clear that a resident who enters military service may lose his resident status if, under the law of the domicile as interpreted by the Nebraska courts, he establishes a domicile in another state.

B. COMPUTATION

The Nebraska income tax is a flat percentage of the taxpayer's "adjusted federal income tax liability," which is the amount of

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1. NEB. REV. STAT. § 77-2715(2)(a) (Supp. 1967); NEB. INCOME TAX REG. TC 23-1 (1968).

federal income tax for which the taxpayer would have been liable if he had paid his federal tax based on federal taxable income as adjusted by the modifications provided in section 77-2716.²

The modifications prescribed in section 77-2716(1) are designed to exempt from the Nebraska tax income from obligations of the United States and its instrumentalities includable in gross income for federal income tax purposes, but exempt from state income taxation under federal law. Such income, reduced by any interest or indebtedness incurred to carry such obligations and expenses deductible for federal income tax purposes, is subtracted from federal taxable income in determining the taxpayer's "adjusted federal income tax liability," to which the percentage prescribed by the State Board of Equalization and Assessment is applied in determining the Nebraska income tax.³

Federal taxable income is also adjusted by addition or subtraction, as the case may be, of the taxpayer's share of the fiduciary adjustment, which is determined under the provisions of section 77-2720. This adjustment is designed to credit beneficiaries of trusts making accumulation distributions, as defined by federal law, with proportionate parts of any tax paid by the trust for any preceding taxable year, which would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified by federal law. The credit may not reduce the beneficiary's Nebraska income tax to an amount less than the tax which would have been due if the accumulation distribution were excluded from the computation of his Nebraska income tax liability. Thus, any income received by a trust prior to January 1, 1968, which later is made part of an accumulation distribution, will not give rise to any tax credit and may not be included in the computation of the beneficiary's Nebraska adjusted federal income tax liability, because there were no Nebraska income tax consequences resulting from its receipt and accumulation by the trust.⁴

C. FOOD SALES TAX CREDIT

Persons who have met the requirements for Nebraska residency in the taxable year are allowed a food sales tax credit against the

2. NEB. REV. STAT. § 77-2715(1) (Supp. 1967); NEB. INCOME TAX REG. TC 23-2 (1968).

3. NEB. REV. STAT. § 77-2716(1) (Supp. 1967); NEB. INCOME TAX REG. TC 23-2 (1968).

4. NEB. REV. STAT. §§ 77-2716(2), -2720, -2722 (Supp. 1967); NEB. INCOME TAX REG. TC 23-10 (1968).

tax imposed by the Act equal to seven dollars multiplied by the number of allowable personal exemptions claimed, exclusive of the extra exemptions allowable for age or blindness. A refund is allowed to the extent that this credit exceeds the income tax payable by the resident for the taxable year, but no refund may be made in any amount less than two dollars.⁵ Claims for a refund by reason of the food sales tax credit must be made on income tax returns, even though the individual does not have any tax liability in Nebraska.⁶

There are two limitations placed upon the persons who may claim this credit. First, an individual who is claimed as a personal exemption on another individual's return is entitled to neither a food sales tax credit nor refund for himself. Furthermore, if a food sales tax credit or refund is claimed on more than one return for the same individual, the tax commissioner is authorized to determine the individual entitled to claim the credit or refund.⁷ Second, a person who for six months or more of the taxable year is a patient or inmate of a public institution or a charitable institution exempt from the sales tax, does not qualify for the food sales tax credit in that taxable year.⁸

D. CREDIT FOR INCOME TAXES PAID BY A RESIDENT TO ANOTHER STATE, POLITICAL SUBDIVISION OF ANOTHER STATE, OR THE DISTRICT OF COLUMBIA⁹

Residents are allowed a credit against their Nebraska taxes for income taxes paid to another state. However, such credit may not be greater in proportion to the Nebraska tax than the ratio of the taxpayer's taxable income derived from sources in the other taxing jurisdictions to the taxpayer's entire taxable income, as modified under the Act. Moreover, the credit is limited solely to income taxes and may not be taken against interest or penalties paid to another state, nor may it be applied against interest or penalties due under the Act. Furthermore, the credit will be not allowed for income taxes imposed by another state until those taxes are actually paid. Receipts showing the payment of such

5. NEB. REV. STAT. § 77-2715(3) (a) (Supp. 1967); NEB. INCOME TAX REG. TC 23-9 (1968).

6. NEB. REV. STAT. § 77-2715(3) (d) (Supp. 1967); NEB. INCOME TAX REG. TC 23-11 (1968).

7. NEB. REV. STAT. § 77-2715(3) (b) (Supp. 1967); NEB. INCOME TAX REG. TC 23-9 (1968).

8. NEB. REV. STAT. § 77-2715(3) (c) (Supp. 1967); NEB. INCOME TAX REG. TC 23-9 (1968).

9. NEB. REV. STAT. § 77-2730 (Supp. 1967); NEB. INCOME TAX REG. TC 23-11 (1968).

taxes and a copy of the return or returns upon which such taxes were assessed must be filed with the Nebraska tax commissioner at or prior to the time credit is claimed. If credit is claimed on account of a deficiency assessment, a certified copy of the notice assessing or proposing to assess a deficiency, plus a receipt showing the payment of the deficiency, must be filed. It should also be noted that credit for income taxes paid to another state on income for any year may be applied only against taxes due on income for the same year. If the income taxes have been paid before the credit is claimed, a refund claim (accompanied by a receipt showing payment of the taxes claimed as a credit and a certified copy of the return or returns upon which the taxes were assessed) in the amount of the credit must be filed. If the refund claim is approved, the amount of the claim will either be allowed as a credit against taxes due or refunded to the taxpayer.

If the taxpayer obtains credit for or a refund of income taxes paid to another state, the entire amount of such credit or refund must immediately be reported to the tax commissioner. Also, a tax equal to the credit or refund must be paid, together with interest at six per cent (6%) per year from the date the credit was allowed until the date the tax was paid.

If a husband and wife file separate returns under the Act and also file separate returns in another state, neither may claim a credit on account of taxes paid by the other to the foreign state. Subject to the limitations mentioned above, if they file a joint return under the Act, the entire amount of taxes, paid by either or both to another state may be claimed as a credit, regardless of whether they file a joint return or a separate return in the other state. If they file separate returns under the Act, but a joint return in another state, each is entitled to a credit for that portion of the total tax paid to the other state as their individually taxed income in the foreign state bears to the total income taxed by each foreign state.¹⁰

E. CAPITAL GAINS AND LOSSES

Capital gains or losses realized from any sale or exchange of property on or after January 1, 1968 are to be included in the computation of the taxpayer's adjusted federal income tax liability for purposes of applying the Nebraska income tax, regardless of

$$10. \text{ Credit} = \frac{\text{Individual Foreign Income Taxed}}{\text{Total Foreign Income Taxed}} \times \text{Total Tax Paid to Foreign State}$$

the date of acquisition of the property. The federal rules and regulations regarding cost basis and holding period are controlling for Nebraska income tax purposes.¹¹

If property was sold prior to January 1, 1968, under an installment contract which conforms to the provisions of section 453 of the Internal Revenue Code, the capital gain or income portion of any contract payment received on or after January 1, 1968 is to be included in the computation of the taxpayer's adjusted federal income tax liability.¹² Losses realized prior to January 1, 1968 are not deductible for Nebraska income tax purposes even if they are deductible under the federal income tax regulations as a loss carry-over. The appropriate federal loss carryover rules will, however, be recognized when applied to losses realized on or after January 1, 1968, except that no loss may be carried back prior to January 1, 1968.¹³

F. INCOME OF A DECEDENT

A decedent's after-death income not includable on his last return must be reported for the taxable year when received by his estate (or heir, legatee, or other beneficiary). Only that portion of the federal estate tax attributable to a decedent's after-death income which was received by his estate or other beneficiary on or after January 1, 1968 will be allowed as a deduction for purposes of computing the Nebraska adjusted federal income tax liability.¹⁴ In all other respects, the federal rules and regulations apply.¹⁵

G. NONRESIDENT INDIVIDUALS

Stated simply, a nonresident is an individual who is not a resident of Nebraska under the definition thereof contained in the Act.¹⁶ In general, any item of income, gain, or loss which is derived from or connected with Nebraska sources is taxable to the individual regardless of his residence. The nonresident's Nebraska tax is computed by applying the appropriate tax rate to his Nebraska adjusted income tax liability. This computation can

11. NEB. INCOME TAX REG. TC 23-5 (1968).

12. NEB. INCOME TAX REG. TC 23-7 (1968).

13. NEB. INCOME TAX REG. TC 23-6 (1968).

14. NEB. INCOME TAX REG. TC 23-8 (1968).

15. These rules and regulations include Exec. Order No. 11,216, 3 C.F.R. 301 (1964-1965 Comp.) and INT. REV. CODE of 1954, § 692. These provide income tax exemptions to members of the armed services upon their death.

16. NEB. REV. STAT. § 77-2715(2)(b) (Supp. 1967); NEB. INCOME TAX REG. TC 23-1 (1968).

be reduced to the following formula:

Define:

AFIT = nonresident's adjusted federal income tax
 FITUS = total federal taxable income minus interest
 from United States obligations
 NAIT = Nebraska adjusted income tax liability
 TINS = taxable income from Nebraska sources
 NNT = nonresident's Nebraska tax

Write:

- (1) $AFIT = \text{federal tax rate} \times FITUS$
- (2) $NAIT = AFIT \times \frac{TINS}{FITUS}$
- (3) $NNT = NAIT \times \text{appropriate tax rate}$

The Nebraska taxable income (TINS) is determined by adding all of the income, gain, or loss derived from Nebraska sources and subtracting therefrom a part of the nonresident's federal deductions and exemptions. The computation of the nonresident's Nebraska taxable income can be reduced to the following formula:¹⁷

Define:

TINS = taxable income from Nebraska sources
 IGL = all income, gain, or loss from Nebraska sources
 NIN = Nebraska adjusted gross income
 FITUS = total federal taxable income minus interest
 from United States obligations
 FDE = federal deductions and exemptions

Write:

$$TINS = IGL - \frac{NIN}{FITUS} \times FDE$$

As has been mentioned, any item of income, gain, or loss derived from or connected with Nebraska sources is taxable to the nonresident. The following material is concerned with the general rules concerning the definition of income, gain, or loss derived from or connected with sources in Nebraska.

1. *Real or Tangible Personal Property*

The ownership of any interest in real or tangible personal property located in Nebraska is sufficient to qualify any income, gain, or loss therefrom as having been derived from Nebraska sources. Rent or royalty on such property is included therein, as

17. NEB. REV. STAT. § 77-2733 (Supp. 1967); NEB. INCOME TAX REG. TC 23-4 (1968).

is any gain or loss from the sale of such property.¹⁸

2. *Business, Trade, Profession, or Occupation*

Income from Nebraska sources as it relates to a business, trade, profession, or occupation carried on in Nebraska means that portion of the individual's gross income that may reasonably and equitably be allocated to Nebraska, irrespective of the accounting method employed. If the portion of taxable income derived from Nebraska sources is separate and distinct from the portion otherwise derived, it must be separately determined and reported. If the portion of the taxable income derived from sources within Nebraska cannot readily be separated from the portion derived outside of Nebraska, the portion allocable to Nebraska is determined by use of the apportionment factors provided for the taxing of corporations under the Act.

The Nebraska taxable income of a nonresident includes compensation for personal services to the extent that such services have been rendered in Nebraska. Thus, taxable income from commissions earned by a nonresident traveling salesman, agent, or other employee for services performed or sales made, whose compensation depends directly on the volume of business transacted by him, will include that portion of the total compensation received which the Nebraska volume of such business bears to the total volume of business transacted by him. However, where there is a separate accounting kept by a nonresident employee or by his employer of the business transacted and expenses incurred therewith in Nebraska, then the amount of compensation appearing in the separate account must be reported to the state by the nonresident, and no apportionment of the total volume of business transacted will be permitted.

If nonresident individuals are employed in Nebraska at intervals throughout the year, for example, in operating trains, airplanes, motor buses, trucks, and the like between this state and other states and foreign countries and are paid on an hourly, daily, weekly, or monthly basis, the gross income from sources within this state must include that portion of the total compensation for personal services which the total number of working hours, days, weeks, or months within Nebraska bears to the total number of such working intervals both within and without the

18. NEB. INCOME TAX REG. TC 23-3(a) (1968).

state.¹⁹ If the employees are paid on a mileage basis, the gross income from sources within Nebraska must include that portion of the total compensation for services which the number of miles traveled in the state bears to the total number of miles traveled both within and without the state.²⁰ If the employees are paid on some other basis, the total compensation for personal services must be apportioned between this state and other states and foreign countries in such manner as to allocate to Nebraska that portion of the total compensation which is reasonably attributable to the personal services performed in Nebraska.

One exemption, however, exists in this area. Income derived from or connected with Nebraska sources does not include compensation paid to nonresidents in the United States armed forces, even though such service is performed within Nebraska. However, all other nonresident federal employees who perform their services in Nebraska are deemed to have income derived from or connected with Nebraska sources, which must therefore be reported as Nebraska taxable income.²¹

3. *Income From Intangibles: Gains and Losses From the Sale or Exchange of Intangibles*

Nonresidents are not taxed on income from annuities, interest on bank deposits, interest on bonds, notes, or other interest bearing obligations, or dividends from corporations, unless such income is derived from a business carried on in Nebraska.²² Gains or losses from the sale or exchange of intangibles are not includable in nor deductible from the nonresident's Nebraska taxable income, even though the sale or disposition thereof may have been consummated in Nebraska, except and to the extent that it represents a part of the income or loss of a business carried on in Nebraska by the nonresident taxpayer.²³

$$19. \text{ Nebraska Income} = \frac{\text{Neb. Total}}{\text{Grand Total}} \times \text{Total Compensation Received}$$

$$20. \text{ Nebraska Income} = \frac{\text{Neb. miles}}{\text{Total miles}} \times \text{Total Compensation Received}$$

21. NEB. INCOME TAX REG. TC 23-3(b) (1968).

22. NEB. REV. STAT. § 77-2733(3) (Supp. 1967); NEB. INCOME TAX REG. TC 23-3(c) (1968).

23. NEB. REV. STAT. § 77-2733(3), (4) (Supp. 1967); NEB. INCOME TAX REG. TC 23-3(d) (1968).

4. *Income From a Corporation Taxed as a Small Business Corporation*

A nonresident corporate stockholder need not file a Nebraska income tax return regarding the portion of the corporation's Nebraska taxable income allocated to him. If he does not do so, however, the corporation must pay a tax thereon at the corporate rate. Such a stockholder may by written agreement subject himself to the Nebraska tax, in which case the corporation is not subject to the tax on his portion of its income.²⁴

5. *Partnership Income*

A nonresident taxpayer is taxed upon his distributive share of partnership income, gain, loss, and deduction from sources within Nebraska, as determined by the Regulations regarding partnerships.²⁵

6. *Trust and Estate Income*

A nonresident beneficiary of a trust or estate is taxed only on items of income, gain, loss, or deduction which were derived from or connected with sources within Nebraska and which were taxable to him for federal income tax purposes. If a trust is classified as a "grantor revocable trust" for federal income tax purposes, the nonresident grantor is taxed on all items of income, gain, loss, or deduction which were derived from or connected with Nebraska sources, regardless of whether he actually received them.

The taxation of income, gain, or loss from intangible personal property held in a trust or in an estate is treated the same with regard to a nonresident beneficiary (or a nonresident grantor of a grantor revocable trust) as if the beneficiary (or grantor) had received the income, gain, or loss without the trust or estate. It is of no consequence that the intangible was held in a trust or estate which was administered by a Nebraska fiduciary or by a Nebraska resident who received compensation for acting as the trustee, executor, or in a similar capacity. The classification of a trust or estate has no effect upon the taxation of a nonresident beneficiary for his share of the trust income, gain, or loss.²⁶

24. NEB. REV. STAT. § 77-2734(3) (Supp. 1967); NEB. INCOME TAX REG. TC 23-3(e) (1968).

25. NEB. REV. STAT. § 77-2729 (Supp. 1967); NEB. INCOME TAX REG. TC 23-3(f) (1968).

26. NEB. REV. STAT. § 77-2733(1)(a) (Supp. 1967); NEB. INCOME TAX REG. TC 23-3(g) (1968).

H. DUAL RESIDENCE PROVISIONS

If the taxpayer is regarded as a resident of both Nebraska and another jurisdiction for purposes of personal income taxation, and if the other taxing jurisdiction allows a similar reduction, the tax commissioner is directed to reduce the tax on that portion of the taxpayer's income which is subjected to tax in both jurisdictions solely by virtue of the dual residence. The amount of the dual residence reduction is determined in the following manner:²⁷

Define:

R = reduction allowed

NT = Nebraska tax

CT = combined taxes from Nebraska and other taxing jurisdiction on income taxed twice

LT = lower of the two taxes imposed

Write:

$$R = \frac{NT}{CT} \times LT$$

I. CHANGE OF STATUS FROM RESIDENT TO NONRESIDENT OR VICE-VERSA

If an individual changes his status during the taxable year from resident to nonresident or vice-versa, the tax commissioner may require him to file one return for that portion of the year during which he is a resident and one for that portion of the year during which he is a nonresident.²⁸ In such a case, the taxable income of the individual is determined separately upon each return, as if his income for the entire tax period were limited to the amount shown thereon. In determining taxable income from sources within or without the state, as the case may be, income, gain, loss, or deductions accrued prior to the change of status must be included, even though not otherwise includable or allowable in respect to the period prior to such change. However, the taxation of deductible items accrued prior to the change of status will not be affected by the change.²⁹

Under section 77-2767(1) of the Act, personal exemptions and deductions are to be prorated between the two returns to reflect the proportion of the taxable year during which the individual was a resident and a nonresident. The total of these prorated taxes may not be less than the tax upon the two taxable incomes reported, had such a total been reported in only one return.³⁰

27. NEB. REV. STAT. § 77-2731 (Supp. 1967).

28. NEB. REV. STAT. § 77-2765 (Supp. 1967).

29. NEB. REV. STAT. § 77-2766(2) (Supp. 1967).

30. NEB. REV. STAT. § 77-2767(2) (Supp. 1967).

J. ACCOUNTING METHODS

A taxpayer's method of accounting must be the same as his method of accounting for federal income tax purposes, and if his accounting method is changed for federal tax purposes, a similar change must take place for Nebraska tax purposes.³¹

K. TAXABLE YEAR

In Nebraska a taxpayer's taxable year must be the same as his taxable year for federal income tax purposes, and if his taxable year is changed for federal income tax purposes, it must be similarly changed for Nebraska tax purposes in accordance with the Nebraska Regulations.³² However, if the tax commissioner terminates the taxpayer's taxable year under section 77-27,111 of the Act, the income tax due is to be computed for such period according to the Regulations.³³

L. RETURNS AND PAYMENT OF TAX

Unless the filing date has been specifically changed by the Act or the Regulations or extended by the tax commissioner or the Internal Revenue Service, returns must be filed on or before the dates prescribed by federal law for the filing of federal tax returns. Furthermore, unless specifically changed by the Act or the Regulations or extended by the tax commissioner, taxes are to be paid on or before the dates prescribed by federal law for the payment of federal taxes.³⁴ In this regard it should be noted that the commissioner may grant an extension of time of up to three months for the filing of any return, if the taxpayer requests the extension at least ten days prior to the due date and the Internal Revenue Service has granted an extension of the time for filing of the corresponding federal return. In general, upon proper showing by the taxpayer, the commissioner may grant additional extensions when the conditions warrant.³⁵ For example the commissioner may grant an additional extension upon a showing that payment on the date prescribed will result in undue hardship to the taxpayer. In such a case, a bond or other security

31. NEB. REV. STAT. § 77-2760 (Supp. 1967); NEB. INCOME TAX REG. TC 27-5 (1968).

32. NEB. REV. STAT. § 77-2759(2) (Supp. 1967).

33. NEB. REV. STAT. § 77-2759(3) (Supp. 1967).

34. NEB. REV. STAT. § 77-2768 (Supp. 1967); NEB. INCOME TAX REG. TC 27-2 (1968).

35. NEB. REV. STAT. § 77-2770 (Supp. 1967); NEB. INCOME TAX REG. TC 27-2(b) (1968).

for payment of the tax on the date prescribed by the extension may be required.³⁶ Note, however, that the tax will bear interest at the rate of six per cent (6%) per annum from the date upon which the payment should have been made to the date on which it is actually made.³⁷

A husband and wife must file a joint return if they file a federal joint return and separate returns if they file separate federal returns.³⁸ However, if one is a resident and the other a nonresident, they must file separate returns unless they elect to determine their joint taxable income as if both were residents.³⁹

M. ESTIMATED TAX DECLARATIONS

One final point that must be mentioned in considering the Nebraska income tax for individuals is that, under the Act, both resident and nonresident individuals must file a declaration of Nebraska tax if it can be reasonably estimated to be 40 dollars or more.⁴⁰

II. PARTNERSHIPS

A. DEFINITIONS

For the purposes of applying the Nebraska Income Tax Regulations to partnerships, the definitions of partnership, partner, partnership agreement, and liquidation of a partnership interest contained in Internal Revenue Code section 761 apply. Under the federal definition of partnership, the following entities may be included: syndicates, groups, pools, joint ventures, or other unincorporated organizations through which any business or financial operation is carried on. A federal classification of an entity as a partnership is considered conclusive for Nebraska tax purposes.⁴¹

B. PARTNERS, NOT THE PARTNERSHIP, SUBJECT TO TAX:

CHARACTERIZATION OF ITEMS

A partnership as such is not subject to the Nebraska income tax, but persons or their authorized representatives who carry on business as partners must, in their individual capacities, account

36. NEB. REV. STAT. § 77-2770 (Supp. 1967); NEB. INCOME TAX REG. TC 27-2(a) (1968).

37. NEB. INCOME TAX REG. TC 27-2(a) (1968).

38. NEB. REV. STAT. § 77-2762(1)(c) (Supp. 1967).

39. NEB. REV. STAT. § 77-2762(2) (Supp. 1967).

40. NEB. REV. STAT. § 77-2769 (Supp. 1967); NEB. INCOME TAX REG. TC 22-3 to -7 (1968).

41. NEB. INCOME TAX REG. TC 26-1 (1968).

for partnership income which is taxable by Nebraska. Each item of partnership income, gain, loss, or deduction has the same characteristics for individual partners for Nebraska income tax purposes as it has under federal income tax law. In short, unless characterized otherwise by federal law, all items have the same characteristics for the partner himself as if he had realized it directly from the source from which the partnership realized it.⁴²

C. NONRESIDENT PARTNERS; EFFECT OF PARTNERSHIP AGREEMENTS

The Nebraska adjusted federal taxable income of a nonresident partner must include his distributive share of all partnership items of income, gain, loss, and deduction to the extent that the amount of such items is derived from or connected with Nebraska sources, as determined by the provisions of section 77-2733 of the Act and the Regulations prescribed thereunder.

A nonresident partner who elects to use itemized deductions in determining his Nebraska adjusted federal taxable income may claim in his distributive share of partnership items those deductions which would be allowable to him under section 77-2733. In computing the Nebraska itemized deductions, the nonresident partner should include not only the itemized partnership deductions attributable to his distributive share, but also any nonpartnership itemized deductions attributable to his distributive share, to which he may be entitled. Any provisions of a partnership agreement which characterize payments to the partner as being compensation for services or being a return on capital will not be recognized for purposes of determining the nonresident partner's share of partnership income. Similarly, no effect will be given to a provision in a partnership agreement which allocates to the nonresident partner a greater share of non-Nebraska income or gain than the partnership had in respect to income from all sources. In addition, any partnership agreement provision which allocates to the nonresident a greater proportion of a loss or deduction connected with Nebraska sources than his proportionate share for federal purposes will be disregarded in determining his Nebraska tax liability.

The character of partnership items for a nonresident partner is determined in the same manner as for a resident partner. Any modification for United States bond interest is to be determined in accordance with the nonresident partner's federally taxable distributive share of the partnership income. The partnership income must be adjusted by subtracting the amount of United States

42. NEB. INCOME TAX REG. TC 26-2 (1968).

bond interest in the same manner as is done in determining an individual's adjusted income. Any such modification is limited to the proportion of such interest as is derived from Nebraska sources pursuant to section 77-2733 of the Act.

The tax commissioner may authorize the use of other methods for determining a nonresident partner's proportionate share of partnership items, if such method is requested by the taxpayer and if it more clearly and fairly reflects the amount of income which was derived from Nebraska sources.⁴³

D. PARTNERSHIP RETURNS

Every partnership having a resident partner or having any income derived from sources within Nebraska, regardless of whether any of the partners are residents, must file a return for the taxable year setting forth all items of income, gain, loss, and deduction and the names, addresses, and social security numbers of individuals who are entitled to a distributive share in the net income of the partnership. The amount of each distributive share must be set forth, regardless of whether the partners are residents or nonresidents. Such a return must be filed on or before the date prescribed for filing a similar federal return. For the purposes of such requirement, the taxable year means a year or period which would be the taxable year of the partnership if it were subject to tax under the provisions of the Act.⁴⁴

43. NEB. REV. STAT. § 77-2729(4) (Supp. 1967); NEB. INCOME TAX REG. TC 26-3 (1968).

44. NEB. REV. STAT. § 77-2773 (Supp. 1967); NEB. INCOME TAX REG. TC 26-2 (1968).