

NEBRASKA DEPARTMENT OF



PROPERTY ASSESSMENT AND TAXATION

INFORMATION GUIDE

PERSONAL PROPERTY ASSESSMENT AND TAXATION

What type of personal property is taxable?

All depreciable tangible personal property is subject to personal property tax in Nebraska.

What type of personal property is exempt?

- ◆ Registered motor vehicles
- ◆ Livestock
- ◆ Household goods or personal effects not owned for financial gain or profit
- ◆ Business inventory
- ◆ Personal property owned for purposes of leasing or renting is considered business inventory, if leased or rented for 30 days or less, can be returned at any time by the lessee or renter and if owned by an individual the property would be deemed household goods and personal effects.
- ◆ Personal property that has qualified and been approved by the Property Tax Administrator for an exemption pursuant to the Employment and Investment Growth Act or the Nebraska Advantage Act.
- ◆ Personal property owned by the state and local governmental subdivisions that is being used or developed for a public purpose.

- ◆ Personal property of any educational, religious, charitable, and cemetery organization or any personal property of an organization created for the exclusive benefit of an educational, religious, charitable, or cemetery organization, which has been granted a permissive exemption by the county board of equalization
- ◆ Personal property owned by a native American Indian and having situs on a Nebraska Indian reservation.

When is personal property valued?

All taxable tangible personal property located in this state shall be valued as of January 1, 12:01 a.m., of each year.

How is situs of personal property determined?

Personal property should be listed at the location of the business, unless the property has acquired local situs elsewhere. An item of personal property is deemed to have acquired local situs elsewhere if it is kept in a location, other than the location of the business, for the greater portion of the calendar year.

Who must file?

Anyone who owns taxable tangible personal property on January 1, 12:01 a.m. in Nebraska must file a personal property tax return.

When and where are the returns filed?

On or before May 1 of each year, anyone who has taxable personal property shall file a Nebraska Personal Property Return with the assessor in the county in which the personal property has situs. If the property has situs in more than one county, a return must be filed in each county. If May 1 falls on a Saturday or Sunday, the personal property return will be considered timely if it is filed on the next business day.

Can extensions be granted for the filing dates?

No. Penalties will be applied to all returns filed after May 1.

What is the penalty for failure to file or late filings?

Any valuation added after May 1 and on or before July 31, shall be subject to a penalty of 10% of the tax due on the value

added. Any valuation added on or after August 1 will be subject to a penalty of 25% of the tax due on the value added.

Can penalties be waived or reduced?

No. The county board of equalization can only correct penalties which were wrongly imposed or incorrectly calculated.

Definition of personal property:

Personal property is all property other than real property and franchises.

Definition of tangible personal property:

Tangible personal property is all personal property possessing a physical existence, excluding money.

Definition of intangible property:

Intangible property is property that has no intrinsic value by itself, but is representative or evidence of value, such as stocks, bonds, promissory notes, contract rights, bank accounts, money, and other such property.

Definition of depreciable tangible personal property:

Depreciable tangible personal property is property which is used in a trade or business or for the production of income, and which has a determinable life of longer than one year.

Definition of Nebraska adjusted basis:

The Nebraska adjusted basis is the property owner's original federal basis for depreciation. Generally, the adjusted basis is the cost of the item, including sales tax, freight, installation, testing charges, and other fees or taxes associated with the acquisition of the property.

Definition of year acquired:

Year acquired is the year the owner of the property acquired the property. If an item is acquired (title and possession) in one year but the item does not become "depreciable" (taxable) until a later year, the year acquired will be used to determine taxable value.

Definition of net book value:

Net book value for property tax purposes is the Nebraska adjusted basis of the tangible personal property multiplied by

the appropriate factor for the recovery period and year acquired.

Definition of recovery period:

Recovery period is the federal Modified Accelerated Cost Recovery System (MACRS) recovery period over which the Nebraska adjusted basis of property will be depreciated for property tax purposes.

Does a person need to file a personal property return if personal property is brought into Nebraska after January 1 at 12:01 a.m. and before July 1?

Yes. Every person that brings taxable personal property into this state shall, on or before July 1 of each year, furnish the net book value information on the prescribed forms to the assessor of the county in which the personal property has situs. No filing will be necessary if documentation proves that the property was purchased after January 1, or was assessed in another county or state.

Does a person have to complete a personal property return if all of their tangible personal property has a taxable value of zero?

No. There is no filing requirement if the taxpayer has personal property with no taxable value.

If sales tax is paid for personal property does it exempt it from personal property tax?

No. Payment of sales tax does not impact the tax status of personal property it is subject to personal property taxation. While a sales tax exemption may be available for certain purchases, there is never a choice for payment of either sales tax or property tax.

What is a federal section 179 deduction?

A section 179 deduction is essentially single year depreciation. For federal income tax purposes, a taxpayer may depreciate or "expense out" up to a limited amount of depreciable property in the year of its acquisition as a section 179 deduction.

If a federal section 179 deduction or some other federal depreciation agreement is taken on property is that property taxable in Nebraska?

Yes. For personal property tax purposes, all depreciable tangible personal property is treated exactly like property for which typical depreciation is taken. Even though this property is depreciated or "expensed out" in one year, it is still taxable for the duration of the appropriate property tax recovery period.

My assessor has asked to see a copy of my depreciation worksheet, what if I don't have a copy?

Depreciation detail does not have to be on any particular form for federal income tax purposes, this information can be recorded on any slip of paper. The information necessary for the assessor is: the cost of the item, year placed in service, and the recovery period.

What is the Nebraska adjusted basis when an item has repairs?

Depreciable repairs to, or overhauls of, depreciable tangible personal property that substantially prolong the life of the property, are subject to personal property tax at the net book value. The property class and recovery period of the repair is the same as the original property.

Example #1: A taxpayer has an item with a recovery period of 7 years. The third year this property is owned it has repair expenses of \$10,000. The item will still be taxable for 4 more years ($3 + 4 = 7$). Repairs assume the item's recovery period. Repairs are still depreciable even if the item is fully depreciated out. ($4 + 3 = 7$)

If the taxpayer sells the item before the repairs are fully depreciated out, both the item and the repairs are not taxable. Property must be owned on January 1 to be taxable.

If a taxpayer chooses not to depreciate their depreciable tangible personal property for income tax purposes, is it still subject to taxation?

As long as the personal property is depreciable, it is subject to taxation. It is irrelevant whether or not the taxpayer chooses to take the federal income tax depreciation.

What if a taxpayer has taken federal depreciation on personal property in the prior year, but sold the equipment during the prior year?

The assessment date is as of 12:01 a.m. on January 1. The personal property must be owned as of that date to be subject to taxation for the current assessment year.

Personal Property Assessment & Taxation Information Guide March, 2007

Nebraska Department of Property Assessment & Taxation

This guide is for general information only, specific information may be obtained from the Nebraska Statutes and Regulations.

How is leased personal property reported?

Property may be reported by either the lessor or the lessee, but the net book value is always calculated using the owner's (lessor's) Nebraska adjusted basis and date of acquisition. Whoever is able to take the federal depreciation is considered the owner and their basis and date of acquisition is used in determining net book value.

Leases with a purchase option at the end of the lease period are treated as any other lease, until the buy-out option is exercised. When the lessee exercises his buy-out option, he is then the owner of the property and the net book value is then determined using his basis (buy-out price) and date of acquisition (buy-out date).

For example: a taxpayer leases an item for five years beginning in March, 2000. The lease contains a buy-out option at the end of the lease. In March, 2005, the taxpayer exercises his buy-out option and purchases the item for \$40,000.

For tax years 2001-2005, the item's net book value is determined using the lessor's (owner) basis and date of acquisition (not the lease date).

Beginning in tax year 2006, the item's net book value is determined using the taxpayer's (owner) basis (\$40,000) and date of acquisition (March, 2005).

Whose date of acquisition and Nebraska adjusted basis do you use on a conditional sale?

Conditional sales are financing agreements not true leases. In a conditional sale, the "lessee" is able to take federal depreciation on the property, and is deemed the owner of the property. In a conditional sale, the lessee's basis and date of acquisition are used in determining net book value.

What is the Nebraska adjusted basis when property is acquired through an involuntary conversion?

The taxpayer's depreciation worksheet will document the calculation of the Nebraska adjusted basis. The following factors must be taken into account when calculating the basis:

1. Old property's remaining federal basis for depreciation.
2. Taxpayer's cost of acquiring replacement property.
3. Any gain or loss recognized on the exchange.

Example #1: a farmer has a pivot which he acquired in 1996. The pivot has been fully depreciated for federal income tax purposes, and has a Nebraska net book taxable value of zero. In the summer of 2005, the pivot is destroyed in a storm. In the fall of 2005, a replacement pivot is acquired for \$30,000. The insurance company pays the entire \$30,000 for the replacement pivot. The farmer has already depreciated the entire cost of the old pivot and due to the insurance payment, did not incur any costs in acquiring the new pivot. Since the farmer has no costs to recover, the basis is zero.

Example #2: a farmer has a pivot which he acquired in 1996. The pivot has been fully depreciated for federal income tax purposes, and has a Nebraska net book taxable value of zero. In the summer of 2005, the pivot is destroyed in a storm. In the fall of 2005, a replacement pivot is acquired for \$30,000. The insurance company pays only \$25,000 towards the replacement pivot. The farmer has to pay the additional \$5,000. The farmer is able to recover his cost and depreciate the \$5,000. Therefore, the basis would be \$5,000.

Example #3: a farmer has a pivot which has a remaining federal basis for depreciation of \$4,000. The pivot is destroyed in a storm. A replacement pivot is acquired for \$30,000. The insurance company pays the entire \$30,000 for the replacement pivot. The farmer is still able to recover his cost and continue to depreciate the \$4,000. The basis for the replacement pivot would be \$4,000.

What is the Nebraska adjusted basis in a trade-in situation?

The Nebraska adjusted basis is the cash (boot) paid, plus any **remaining federal adjusted basis** in the property being traded.

Example #1: a taxpayer owns a piece of equipment with a remaining federal adjusted basis of \$5,000. He pays \$30,000 plus trade-in for a new piece of equipment. The Nebraska adjusted basis for the new item will be \$35,000. (\$5,000, the remaining federal adjusted basis on old item, + \$30,000, the cash (boot) paid).

Example #2: a taxpayer owns a piece of equipment with a remaining federal adjusted basis of zero. He pays \$30,000 plus trade-in for a new piece of equipment. The Nebraska adjusted basis for the new item will be \$30,000. (\$0, the remaining federal adjusted basis on old item, + \$30,000, the cash (boot) paid.)

What about property which is part business use, part personal use, is this allowed for property tax purposes?

Partial business use is recognized, and only the portion of the property for which the taxpayer is claiming federal depreciation (the percentage of business use) will be taxed.

Is computer software taxable?

There are two types of computer software; operational and application.

1. Operational is what makes the computer a computer, like DOS or Windows. Operational software is tangible personal property, and it is taxable for personal property tax purposes.
2. Application is software that is designed to tailor computer functions to specific applications; such as spreadsheets and word processing packages. Application software is considered intangible and is not taxable for personal property tax purposes.

How do you distinguish if an item that could be considered household goods and personal effects (boats, planes, snow blowers, lawnmowers, etc..) is taxable?

In Nebraska, household goods and personal effects "personal items" are not taxable. If the taxpayer has depreciated the item on their depreciation worksheet, they are stating that this equipment is being used in their business and it is taxable.

Is business inventory taxable?

No, inventory is specifically exempt per Nebraska statutes. Inventory is not depreciable because it is not held for use in the business. Inventory is any property held primarily for sale to customers in the ordinary course of business.

How do you treat personal property which has been inherited or gifted?

Inherited or gifted property is taxed based on the previous owner's acquisition date and the previous owner's Nebraska adjusted basis.

If there is a dissolution, or reorganization of a corporation, partnership, or trust, that is tax-free for income tax purposes, will the new owner be able to assume the prior owner's basis?

Yes. This reorganization is not considered a purchase per Nebraska statutes and the new entity would assume the prior owner's Nebraska adjusted basis and year acquired.

What is the assessment process?

The Nebraska Personal Property Return must be filed on or before May 1 of each year. The assessor shall carefully examine, check, and verify all personal property tax returns. An assessor may investigate, examine and inspect any of the property listed in the filing.

To ensure that all taxable personal property of a taxpayer is listed at its taxable value, the assessor has the right to demand an inspection of the owner's records. This demand must be made in writing.

If a taxpayer refuses the demand, the assessor has the authority to issue subpoenas to compel the appearance of the owner, together with the information requested. If a taxpayer refuses to comply with the subpoena, the assessor may apply to the district court to compel obedience by proceedings for contempt.

What if the assessor discovers taxable personal property that has been omitted from the taxpayer's filing?

If the assessor discovers that taxable personal property has not been reported, the assessor shall list any omitted property and determine its net book value. The assessor may list the property for the current taxing period and the three previous taxing periods. The tangible personal property shall be taxed at the same rate as would have been imposed upon the property in the tax district in which the property should have been returned for taxation. Penalties will be added to the tax.

What if a taxpayer discovers omitted personal property and files a return or amended return after May 1?

If a taxpayer files or amends the Nebraska Personal Property Return for the omitted property, the personal property shall be taxed at the same rate in the tax district in which the property should have been returned for taxation. Penalties shall be added to the tax.

How is a taxpayer notified of any changes in valuation made by the assessor?

If there are any changes in valuation or additions for omitted property the assessor shall mail a notice to the taxpayer advising of the action taken, penalties, the rate of interest, if any, and the appeal process.

What if a taxpayer disagrees with the action of the assessor?

Any taxpayer may protest the valuation or penalties assessed. All such protests must be filed with the county board of equalization within 30 days of the date the notice was mailed by the assessor.

The protest must be signed by the protester and filed in triplicate and contain a written statement of the reason why the requested change should be made. Failure to state the reasons for the protest will result in an automatic dismissal of the protest.

Upon ten-day notice to the taxpayer the county board of equalization shall set a date for hearing the protest. The county board shall make its determination on the protest within 30 days after the hearing date.

Can valuations and penalties be protested?

Yes. Any person may protest the valuation of personal property or penalties imposed. All personal property protests must be signed by protester and filed with the county board of equalization within 30 days after Notice from Assessor.

The protest must be signed by the protester, filed in triplicate and contain a written statement of the reason why the requested change should be made. Statutorily, failure to state the reasons for the protest will result in an automatic dismissal of the protest.

How will the protester receive notification of the county board of equalization decision regarding the protest?

Within seven days after the final decision by the county board of equalization, the county clerk shall notify the protester of the action taken.

What if the personal property owner disagrees with the county board of equalization decision?

A decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission, within 30 days after the decision.

What if the property owner disagrees with the Tax Equalization and Review Commission's decision?

Any person aggrieved by a final decision of the Tax Equalization and Review Commission may appeal directly to the Court of Appeals.

When are personal property taxes due?

Personal property taxes are due December 31. The first half of the tax becomes delinquent on the following May 1 and the second half becomes delinquent on September 1, except in Douglas, Lancaster, and Sarpy counties, where the first half is delinquent April 1 and second half becomes delinquent August 1.

On the due date, the taxes become a first lien on all personal property owned. If the taxes are not paid, any personal property owned, whether taxable or not, is subject to seizure in order to satisfy the lien.

Can a taxpayer file an amended Nebraska Personal Property Return if the taxpayer files an amended federal income tax return or their Return is changed or corrected by the Internal Revenue Service?

Yes. A taxpayer must file the amended Nebraska Personal Property Return within ninety days after the filing of the amended federal return.

If the taxpayer files an amended personal property return and the tax has been paid, may they request a refund?

Yes. If the amendment change or correction results in a reduction of net book value, within 90 days of the filing, the taxpayer may file a written claim for a refund with the county treasurer.

If the amended personal property return results in an increase in net book value, how will the additional tax be computed?

The assessor shall compute the additional tax due, along with interest, based on the amended filing. Interest shall be computed from the dates the tax would have been delinquent if the property had been listed on or before May 1 of the appropriate year. If the taxpayer files an amended listing within the ninety-day period no additional penalties shall be added. Penalties will be added to the tax if a taxpayer files the amended return after the ninety-day period.

Can personal property taxes be accelerated if personal property is sold or removed from the county before the current year taxes have been calculated?

Yes. It is the duty of the assessor, county sheriff, constable, or city council to inform the county treasurer that there has been a sale or that the personal property is being removed from the county jurisdiction.

Taxes for the current year shall be computed on the basis of the current valuation and the last preceding levy. The county treasurer shall issue a distress warrant for the amount of taxes due. The taxes due shall be a first lien upon all personal property of the taxpayer to whom the assessment was made.

<p>For Further Information Contact: State of Nebraska Department of Property Assessment and Taxation 1033 "O" Street, Suite 600 Lincoln, NE 68508 (402) 471-5984 Fax: (402) 471-5993 Website: http://pat.ne.gov</p>
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