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Nebraska Department of REVENUE

SCHEDULE B — Nebraska Advantage Act Investment

FORM 312N
Schedule B
Tiers 1, 2, 4, and 6

Name on Return	Project Number	Tier	Date of Application	Nebraska ID Number	Tax Year End

SECTION A — Current Year Investment at the Project		Value of Qualified Property
1 Owned property	1	
2 Property leased from an unrelated person	2	
3 Property leased from a related person	3	
4 **Current year total** (add lines 1, 2, and 3)	4	
5 Unpaid portion of cancelled leases from unrelated person previously claimed as investment	5	
6 Current year investment amount (line 4 minus line 5). Enter here and on Form 312N, page 2, line 9	6	
SECTION B — Cumulative Investment at the Project		
7 Prior year cumulative investment (prior year Schedule B, line 12)	7	
Current year retirements, completed leases, and cancelled leases of property included in lines 6 or 7:		
8 Owned property or property leased from a related person. Enter the original cost of retired, qualified property placed in service on or after date of application and retired in the current year	8	
9 Property leased from an unrelated person. Enter the total value of **completed** leases previously claimed as investment	9	
10 Property leased from an unrelated person. Enter the paid portion of **cancelled** leases previously claimed as investment	10	
11 Total (add lines 8, 9, and 10)	11	
12 Cumulative net investment (line 6 plus line 7 minus line 11). Enter here and on Form 312N, page 2, line 10	12	
SECTION C — Investment Credit		
13 Investment credit percentage. Tier 1 enter 3%, Tier 2 or 4 enter 10%, Tier 6 enter 15%	13	
14 Current year investment credit (multiply line 6 by line 13)	14	
15 Prior year cumulative investment credit **Attainment period, including the year of qualification** (enter prior year Schedule B, line 16); or **After the attainment period** (Enter 0)	15	
16 Investment credit (add lines 14 and 15) **Attainment period, prior to the year of qualification.** If the project does not meet the minimum levels of investment AND employment, enter here and on next year's Schedule B, line 15; or **Year of qualification**. If the project meets or exceeds the minimum levels of investment AND employment, enter here and on Form 312N, page 2, line 17; or **After the attainment period.** If the project is in the entitlement period and has maintained the minimum levels of investment and employment, enter here and on Form 312N, page 2, line 17	16	

Instructions for Boxes in the Heading

PROJECT NUMBER. Enter the project number stated in the heading of the project agreement.

DATE OF APPLICATION. Enter the date of application shown in paragraph 1(a) of the project agreement.

NEBRASKA ID NUMBER. Enter the Nebraska ID number assigned by the Department or the individual's Social Security number.

TAX YEAR END. Enter the last day of the year reported on this Form 312N.

INSTRUCTIONS FOR SCHEDULE B (Tiers 1, 2, 4, and 6)

WHEN TO FILE. Schedule B must be completed and filed as part of the Form 312N for each year of the attainment and entitlement periods. If there is an early cancellation of a lease previously claimed as investment, Schedule B must be completed to report a reduction to investment credit in the year of the cancellation, even if this occurs after the entitlement period.

Schedule B is used to calculate the investment, cumulative investment, and investment credit for the project for each year. An applicant will not be eligible to use the investment credit, or file for the associated direct refund of sales and use taxes, until the project has attained the minimum levels of investment AND employment, the Department has completed an audit, and the applicant has received a notice of qualification.

CUMULATIVE INVESTMENT. Cumulative investment at the project determines whether the project has attained or maintained the minimum investment level for the selected tier. Investment made on or after the date of application and prior to the end of the current year, less retirements of owned property previously claimed and the value of leases no longer in effect, will determine whether a project has attained or maintained the required investment level.

TIMING OF INVESTMENT. For tangible personal property owned by the applicant, the property will be considered an investment when it is placed in service as defined in the IRC. For improvements to real estate owned by the applicant or leased from a related person, the date of the investment is the date the personal property was incorporated into the real estate. For property leased by the applicant, the property will be considered an investment when control of the property was transferred to the applicant. Refer to Revenue Ruling 29-05-5 for additional information on the timing of investment.

INVESTMENT CREDIT and DIRECT REFUNDS.
An applicant with a Tier 1, 2, 4, or 6 project earns the investment credit and may file for a direct refund of sales and use taxes paid on investment for each year of the entitlement period that the project meets or exceeds the minimum levels of investment AND employment.

- **Year of qualification (first year of entitlement period)**. In the year of qualification, the applicant earns the investment credit on qualified property placed in service from the date of application through the end of the year the applicant first meets or exceeds the minimum levels of investment and employment, net of any lease cancellations. After receipt of the notice of qualification, the applicant may file for a direct refund of any sales and use taxes paid on investment, as long as the refund claim is filed within the time period allowed by the statute of limitations (generally, within three calendar years from the end of the year the project first meets or exceeds the minimum levels of investment AND employment).
- **Year 2 of the entitlement period and the remaining years of the entitlement period**. The investment credit is earned on qualified property placed in service during the year, net of any lease cancellations. The applicant may file a direct refund claim for sales and use taxes paid on investment in the entitlement period as long as the refund claim is filed within the time period allowed by the statute of limitations (generally, within three years after the required filing date for the period that includes the date placed in service).

Section A – Current Year at the Project

The investment at the project may be owned, leased from a related person, or leased from an unrelated person. The valuation of investment and the calculation of the associated sales and use taxes vary by ownership method and type of property. Use the following worksheet to calculate the value of qualified property.

Value of Qualified Property Worksheet		Gross Value	Sales and Use Taxes	Value of Qualified Property (Gross Value - Tax)
1 Owned property				
A Building and improvements incorporated into real estate	**A**			
B Annexed property, not incorporated into real estate	**B**			
C Contracts including both annexed and incorporated property . . .	**C**			
D Manufacturing equipment	**D**			
E Other personal property	**E**			
Total owned property (add lines A, B, C, D, and E). Enter on Schedule B, line 1			**1**	
2 Property leased from an unrelated person				
F Building and improvements incorporated into real estate	**F**			
G Personal and annexed property	**G**			
Total property leased from an unrelated person (add lines F and G). Enter on Schedule B, line 2			**2**	
3 Property leased from a related person				
H Building and improvements incorporated into real estate	**H**			
I Annexed property, not incorporated into real estate..	**I**			
J Contracts including both annexed and incorporated property . . .	**J**			
K Manufacturing equipment	**K**			
L Other personal property	**L**			
Total property leased from a related person (add lines H, I, J, K, and L) . Enter on Schedule B, line 3			**3**	

The **Gross Value column** equals the cost of qualified property at the project either owned by the applicant or leased from a related person, including any sales or use taxes paid when the property was acquired. For qualified property leased from an unrelated person, in the year the lease begins, the Gross Value column equals the average net annual rent times the number of years originally bound by the lease, not to exceed 10 years.

- The average net annual rent for real estate includes the amount paid to the lessor for the cost of the real estate, real estate property taxes, and real property insurance. Common area maintenance costs are not allowed as investment.

The **Sales and Use Tax column** equals the amount of Nebraska and local sales and use taxes which are **included** in the Gross Value column. This reduction to investment is required even if the applicant has not filed for the refund of any taxes paid. The amount to enter in the Sales and Use tax column is computed in one of five ways:

1. **Tax paid.** Enter the amount of sales tax paid to the vendor or use tax reported by the applicant or a related person.
2. **Tax included in lease payments.** The amount of sales tax to be charged on the lease payments for the entire term of the lease included in the Gross Value column.
3. **Contractor's calculation using 50%.** Enter the sales and use taxes paid on building materials incorporated into real estate.
   - Use the statutory presumption that 50% of the labor and materials contract is the cost of materials, including sales or use taxes.
   - The contractor must provide a Tax Incentive Purchasing Agent Appointment and Certification that states the taxed percentage, which is the percentage of building materials upon which Nebraska and local sales and use taxes were paid.
   - $\frac{\text{(Contract price x 50\%)}}{1 + \text{Tax Rate}} \text{ X } \begin{matrix}\text{Tax}\\ \text{Rate}\end{matrix} \text{ X } \begin{matrix}\text{Taxed}\\ \text{Percentage}\end{matrix}$
4. **Contractor's calculation using materials percentage.** Enter the sales and use taxes paid on materials using the general contractor's certification of the percentage of materials annexed, but not incorporated into real estate (annexed).
   - Use the general contractor's certification of the percentage of the contract price that is for building materials or annexed property to determine the cost of materials, including sales or use tax.
   - The contractor must provide a Tax Incentive Purchasing Agent Appointment and Certification that states the taxed percentage, which is the percentage of building materials upon which sales and use taxes were paid.

- $$\frac{\text{(Contract price x Materials percentage)}}{\text{1 + Tax Rate}} \times \text{Tax Rate} \times \text{Taxed Percentage}$$

5. **Contractor's verified tax paid.** Enter the sales and use taxes paid on purchases of building materials or annexed property. The contractor and subcontractor must provide detailed evidence of the sales or use tax paid (for example, the contractor's invoice copies and listings supporting the Nebraska and Local Sales and Use Tax Return , Form 10).

Refer to the specific line instruction for the computation method to use.

The applicant must choose whether to compute all sales and use tax refunds for transactions with contractors at the project under Computation Method A or Computation Method B, as shown below. The Nebraska Advantage Act Election of Contractor's Computation Method must be completed prior to the Department's audit of the first year the project meets or exceeds the minimum levels of investment and employment. The computation method selected is binding and applies to refund calculations for the remaining life of the project.

The table below summarizes the calculation methods for various types of property acquired by the applicant from a contractor.

Contractor's Calculation Guide

Property Type Option 2 or 3 Contractor	Computation Method A	Computation Method B
Incorporated into real estate	Contractor's calculation using 50%	Contractor's calculation using 50%
Annexed, but not incorporated into real estate	Contractor's calculation using materials percentage	Contractor's verified tax paid
Single contract including both property incorporated into real estate and property annexed, but not incorporated into real estate	Contractor's calculation using 50%	Contractor's verified tax paid

Refer to the Nebraska Advantage Act Election of Contractor's Computation Method form for more detailed information on the calculation.

The applicant's direct refund of sales and use taxes paid on qualified property may be different than the amount listed in the Sales and Use Taxes column for several reasons, including:

- The Gross Value column does not include all refundable sales and use taxes;
- The statute of limitations period for the refund has expired;
- The tax was paid in error and is refundable on a Claim for Overpayment of Sales and Use Tax, Form 7; or
- The sales and use taxes on a lease must be deducted for the lease's entire original term but, the applicant can only file for a refund of taxes previously paid.

LINE A. In the Gross Value column, enter the capitalized cost of qualified buildings and improvements incorporated into real estate. In the Sales and Use Taxes column, enter the amount of tax calculated by applying the contractor's calculation using 50%. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter the resulting amount in the Value of Qualified Property column.

LINE B. In the Gross Value column, enter the capitalized cost of qualified annexed property. In the Sales and Use Taxes column, enter the amount of tax calculated by applying the contractor's calculation using the materials percentage (Computation Method A) or the contractor's verified tax paid (Computation Method B), depending on the election previously filed with the Department. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter the resulting amount in the Value of Qualified Property column.

LINE C. In the Gross Value column, enter the capitalized cost of qualified contracts including both annexed property and property incorporated into real estate. In the Sales and Use Taxes column, enter the amount of tax calculated by applying the contractor's calculation using 50% (Computation Method A) or the contractor's verified tax paid (Computation Method B), depending on the election previously filed with the Department. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter the resulting amount in the Value of Qualified Property column.

LINE D. In the Gross Value column, enter the capitalized cost of qualified manufacturing equipment. In the Sales and Use Taxes column, enter the amount of sales and use taxes paid included in the Gross Value column. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter the resulting amount in the Value of Qualified Property column.

LINE E. In the Gross Value column, enter the capitalized cost of any other qualified property. In the Sales and Use Taxes column, enter the amount of sales and use taxes paid included in the Gross Value column. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter the resulting amount in the Value of Qualified Property column.

LINES F AND G. The Gross Value column for property leased from an unrelated person is equal to the net annual rent for qualified property multiplied by the number of years the applicant was originally bound by the lease, not to exceed 10 years. The total value of leased property is claimed in the year control of the property is transferred to the applicant, whether or not lease payments are due for the period during which control is transferred. (See Lines F and G Example)

Sales and use taxes associated with a building or improvements incorporated into real estate included in the line F Gross Value column are not available for refund to the applicant. The owner of the building or improvements can file for a refund of the sales and use taxes, and no tax is entered in the Sales and Use Taxes column.

The line G Sales and Use Taxes column must include the amount of sales and use tax included in the line 8 Gross Value column. The amount entered must include tax on all lease payments included in the calculation of investment.

LINE H. In the Gross Value column, enter the capitalized cost of qualified buildings and improvements incorporated into real estate and leased from a related person. In the Sales and Use Taxes column, enter the amount of tax calculated by applying the contractor's calculation using 50%. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter in the Value of Qualified Property column.

LINE I. In the Gross Value column, enter the capitalized cost of qualified annexed property leased from a related person that is not incorporated into real estate. In the Sales and Use Taxes column, enter the amount of tax calculated by applying the contractor's calculation using the materials percentage (Computation Method A) or the contractor's verified tax paid (Computation Method B), depending on the election previously filed with the Department. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter the resulting amount in the Value of Qualified Property column.

LINE J. In the Gross Value column, enter the capitalized cost of qualified buildings, building improvements, and annexed property, which are leased from a related person. In the Sales and Use Taxes column, enter the amount of tax calculated by applying the contractor's calculation using 50% (Computation Method A) or the contractor's verified tax paid (Computation Method B), depending on the election previously filed with the Department. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter the resulting amount in the Value of Qualified Property column.

LINES K AND L. In the Gross Value column, enter the capitalized cost of qualified manufacturing and other equipment leased from a related person. In the Sales and Use Taxes column, enter the amount of sales and use taxes paid. Subtract the amount in the Sales and Use Taxes column from the Gross Value column, and enter in the Value of Qualified Property column.

SCHEDULE B, LINE 5. Enter the value of the remaining, unpaid payments for a cancelled lease from an unrelated person which was previously claimed as investment at the project. The unpaid lease payments should not be reduced for penalties incurred for early cancellation. (See Line 5 Example)

Section B — Cumulative Investment at the Project

Section B must be completed for each year of the attainment period and entitlement period for a Tier 1, 2, 4, 5, or 6 project.

Cumulative investment at the project is the sum of all qualified property placed in service on or after the date of application which is still in use at the project at the end of the year.

LINE 8. Enter the original cost of any qualified property owned by the applicant or leased from a related person that was claimed as investment at the project and has been retired in this year, or is no longer in use.

LINE 9. In the year the applicant completes a lease from an unrelated person originally included in the calculation of investment for the project, enter the original investment value. The lease is considered to be complete the day after the final period covered by the lease. (See Line 9 Example)

LINE 10. If a lease from an unrelated person was included as investment for the project and is terminated prior to the completion date, enter the value of the paid portion of the cancelled lease. (See Line 10 Example)

Section C — Investment Credit

Section C must be completed by a Tier 1, 2, 4, or 6 project for each year of the attainment and entitlement periods.

During the attainment period, Section C calculates the potential investment credits for each year of the attainment period and carries the credits forward until the year of qualification. The applicant does not earn any investment credit until the cumulative investment computed on Schedule B, line 12, AND the employment level computed on Schedule A, line 11, meets or exceeds the minimum levels of investment and employment for the selected tier. If the project does not meet the minimum levels of investment and employment for the selected tier by the end of the attainment period, no investment credits are earned on any property placed in service at the project.

In the year of qualification, Section C calculates the credits earned on investment placed in service at the project since the date of application. The applicant earns the investment credit in the first year the cumulative investment computed on Schedule B, line 12, AND employment level computed on Schedule A, line 11 meets or exceeds the minimum levels of investment and employment for the selected tier.

After the attainment period, Section C calculates the investment credit earned in each year of the entitlement period in which cumulative investment computed on Schedule B, line 12, AND employment level computed on Schedule A, line 11, meet or exceed the minimum levels for the selected tier. If the project is in the entitlement period and has not maintained the minimum levels of investment or employment, no investment credit is earned for property placed in service in the year.

LINE 16. Add lines 14 and 15. If the project meets or exceeds the minimum levels of investment computed on Schedule B, line 12, AND employment computed on Schedule A, line 11, and the current year is in the entitlement period, enter the investment credit for the tax year on Form 312N, page 2, line 17. Round this amount to a whole number.

If the project has not attained the minimum levels of investment and employment, enter the investment credit for the tax year on next year's Form 312N, Schedule B, line 15.