

Revenue Ruling 29-87-5 Economic Development Tax Incentives

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Economic Development Tax Incentives – Sales or use tax paid is not part of investment. THE AMOUNT OF SALES OR USE TAX PAID ON THE QUALIFIED INVESTMENT SHALL NOT BE CONSIDERED A PART OF THE AMOUNT OF THE INVESTMENT EVEN WHEN THE REFUND HAS NOT YET BEEN RECEIVED.

Advice has been requested as whether or not the amount paid for sales or use tax is included in the value of qualified property when investment has to be computed before the refund of the sales and use tax has been received under the Employment and Investment Growth Act.

Section 77-4105(3), R.S.Supp. 1987, provides in part that:

When the taxpayer has met the required levels of employment investment contained in the agreement, . . .

(a) A refund of all sales and use taxes paid under the Nebraska Revenue Act of 1967 . . . for all purchases, including rentals, of:

(i) Qualified property used as a part of the project; . . .

Section 77-4103(6), R.S.Supp. 1987, provides in part that:

Investment shall mean the value of qualified property incorporated into or used at the project.

Since all of the property that qualifies as investment also qualifies for the sales or use tax refund, the taxpayer will be able to receive the return of the sales or use tax paid on the investment. If the sales or use tax paid was included in the value of the qualified property, the amount of investment would have to be reduced when the refund was received.

In order to eliminate the paperwork involved in amending the amount of the investment, and to avoid the other possible effects of a reduction in the level of investment, Nebraska sales and use taxes paid will not be included in the amount of the investment even when the sales or use tax refund has not yet been received.

Sales or use taxes that have been properly paid to another state and that cannot be refunded to the taxpayer, will be included in the amount of the investment.

APPROVED:

Donald S. Leuenberger
State Tax Commissioner

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