

December 20, 2005

Economic Development Tax Incentives -- Time of Investment. INVESTMENT HAS OCCURRED WHEN TANGIBLE PERSONAL PROPERTY HAS BEEN INCORPORATED INTO IMPROVEMENTS TO REAL ESTATE OR PLACED INTO SERVICE.

Advice has been requested as to the date tangible personal property will be considered as an investment for purposes of the Advantage Nebraska Act.

Section 77-5710, R.S.Supp. 2005, provides in part that:

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

...

Tangible personal property must be "used at the project" before it will be considered an investment. For tangible personal property owned by the taxpayer, this term has the same meaning as "placed in service" in section 167 of the Internal Revenue Code for depreciation purposes. Placed in service will always occur on or after the date of delivery.

For improvements to real estate that are owned by the taxpayer, the date of the investment will be the date the property is incorporated into the real estate. The investment in an improvement will have occurred even though the entire improvement is not finished, and may not be ready for use. An engineer's or architect's certification of the percentage of completion of the improvement will determine the portion of the investment that has occurred. The amount of the investment will be determined by the amounts capitalized as original cost when the improvement to real property is actually placed in service.

For property leased by the taxpayer, the property will be "placed in service" when control of the property is transferred to the taxpayer, whether or not lease payments are due for the period during which control is transferred.

APPROVED:



Mary Jane Egr  
State Tax Commissioner

December 20, 2005