

**Nebraska Advantage Act
 Election of Contractor's Computation Method
 (Applications dated on or before July 14, 2010)**

Name of Applicant	Project Location
Nebraska ID Number	Project Number

Check the box for the Contractor's Computation Method selected for the project.

Computation Method A

The sales and use tax refund process uses certifications from the contractor as the basis for refunds on property incorporated into real estate (for example, buildings) and property annexed, but not incorporated into real estate (for example, equipment).

Property Type	Computation Method
a Contracts for property incorporated into real estate	Contractor's calculation using 50%
b Contracts for property annexed, but not incorporated into real estate	Contractor's calculation using materials percentage
c Contracts including both property that is incorporated into real estate and property that is annexed, but not incorporated into real estate	Contractor's calculation using 50%

Computation Method B

The sales and use tax refund process uses certifications from the contractor as the basis for refunds on property incorporated into real estate (for example, buildings). The refund of sales and use taxes paid on property annexed, but not incorporated into real estate (for example, equipment) requires the contractor to provide copies of purchase invoices for materials and Nebraska use tax returns.

Property Type	Computation Method
a Contracts for property incorporated into real estate	Contractor's calculation using 50%
b Contracts for property annexed, but not incorporated into real estate	Contractor's verified tax paid
c Contracts including both property that is incorporated into real estate and property that is annexed, but not incorporated into real estate	Contractor's verified tax paid

As an authorized representative of the Applicant, I elect the computation method above for the remaining life of this project. This election applies to all refund claims relating to contractor payments made by the applicant, related persons, and lessors.

**sign
here** ▶

Authorized Signature of Applicant	Title	Date	Phone Number
Print Name	Email Address		

Email Address. If you allow the Department to contact you by email, you accept any risk of loss of confidentiality associated with this method of communication.

Instructions

Who May File. An applicant under the Nebraska Advantage Act, with an application dated on or before July 14, 2010, must elect the method to compute the sales tax refund relating to billings from Option 2 or 3 contractors. This is a one-time election that will be used for all remaining refund claims for this project. The applicant is required to inform all owners of real property leased to the applicant for use at the project of the election selected, the required record-keeping, and required filings.

When to File. The election form must be completed prior to beginning the project's qualification audit. If the qualification audit was completed and the election was not made, the election form must be completed and filed with the first [Tax Incentive Claim for Refund of Sales and Use Taxes, Form 7-I](#), which includes any contractor billings. Refund claims paid prior to the completion of the election will not be changed.

Where to File. An election form must be filed with the Nebraska Department of Revenue, PO Box 98944, Lincoln, NE 68509-8944.

Terms

Building Materials. Building materials are any property, including fixtures, that will be annexed to the land or an improvement on the land. Building materials do not include tools, supplies, or any items that will not be annexed.

Contractor. A contractor is any person who annexes property to real estate by attaching building materials to the annexed property or improvement being built or repaired, or who arranges for annexation of property. A contractor also includes any person who repairs annexed property.

Fixture. A fixture is a piece of equipment that must be annexed to the building or structure in order to properly function, yet remains identifiable as a separate item. Examples are central air conditioners, water heaters, garbage disposals, built-in dishwashers, and furnaces.

Property Annexed, but not Incorporated into Real Estate. Property annexed, but not incorporated into real estate is property that is attached to, but does not become real estate, where the installation or removal of the property requires specialized skills or tools and is performed or supervised by a recognized trade professional. Property annexed, but not incorporated into real estate includes items such as manufacturing equipment, and tanks that meet the requirements stated above for installation or removal.

Property Incorporated into Real Estate. Property incorporated into real estate is property included in the valuation of a parcel for property tax purposes, including buildings, fixtures, structures, parking lots, and driveways.

Recognized Trade Professional. A recognized trade professional is any person required to be licensed to practice his or her trade, such as a plumber, or electrician.

Structure. A structure is any construction composed of building materials arranged and fitted together in some way and annexed to land, such as a television tower, fence, sewer, water line, or billboard.

Contractor's Calculation Guide

Property Type	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

Explanation of Computation Methods.

The table above summarizes the calculation methods for various types of property acquired by the applicant from an Option 2 or 3 contractor.

A [Nebraska Advantage Act](#) applicant with an application date on or before July 14, 2010 must make this one-time election to compute all sales and use tax refunds relating to transactions with contractors at the project under Computation Method A or Computation Method B. The computation method selected is binding and applies to refund calculations for all property acquired by the applicant from a contractor for the life of the project.

The information required from the contractor and the calculation of the refund differs for Computation Method A and Computation Method B.

Contractor’s Calculation Using 50%

- The statutory presumption is that 50% of a construction contract, which includes labor and materials, is the cost of materials, including sales or use taxes.
- The contractor must provide a [Tax Incentive Purchasing Agent Appointment and Certification Form 312C, Section 4](#) that states the taxed percentage, which is the percentage of building materials upon which Nebraska and local sales and use taxes were paid.
- $$\frac{(\text{Contract price} \times 50\%)}{1 + \text{Tax Rate}} \times \text{Tax Rate} \times \text{Taxed Percentage}$$

Contractor’s Calculation Using Materials Percentage

- The general contractor’s certification of the materials percentage (Form 312C, Section 5) for property annexed to, but not incorporated into real estate at the project, is used to determine the cost of materials, including sales or use tax.
- The contractor must provide certification of tax paid (Form 312C, Section 4) that states the taxed percentage, which is the percentage of building materials upon which sales and use taxes were paid.
- $$\frac{(\text{Contract price} \times \text{Materials percentage})}{1 + \text{Tax Rate}} \times \text{Tax Rate} \times \text{Taxed Percentage}$$

Contractor’s Verified Tax Paid. Use the sales and use taxes paid on purchases of building materials or property annexed, but not incorporated into real estate. The contractor and subcontractor must provide detailed evidence of the sales or use taxes paid (for example, the contractor’s invoice copies and listings supporting the [Business Nebraska and Local Use Tax Return, Form 2](#)).

Email Address. If you allow the Department to contact you by email, you accept any risk of loss of confidentiality associated with this method of communication.

Authorized Signature. The election form submitted to the Department must be signed by the owner, partner, member, corporate officer, or other individual authorized to sign by a power of attorney on file with the Department or attached to this form.

For Additional Information. If you have any questions or need further assistance, visit the Department’s Website at revenue.nebraska.gov.