



Revenue Ruling 29-87-11. Economic Development Tax Incentives -- Computer Software. COMPUTER SOFTWARE IS NOT TANGIBLE PROPERTY AND, THEREFORE, IS NOT QUALIFIED PROPERTY FOR THE CALCULATION OF INVESTMENT, BUT IT IS BUSINESS EQUIPMENT FOR THE PURPOSES OF EXEMPTION FROM THE PERSONAL PROPERTY TAX UNDER THE EMPLOYMENT AND INVESTMENT GROWTH ACT.

Advice has been requested as to whether computer software is qualified property for determining investment and whether it is eligible for exemption from the personal property tax under the Employment and Investment Growth Act (Act).

Section 77-4103(11), R.S. Supp., 1987, provides, in part, that: "Qualified property shall mean any tangible property . . ." (Emphasis added.)

The Lancaster County District Court held in Lincoln Telephone Company v. Fred Harrington (sic.), and the Department of Revenue acquiesced in Revenue Ruling 1-81-4, Sales and Use Tax - Computer Software Programs, that computer software is not tangible personal property. While the sales and use tax law was changed to impose the tax on computer software, the statutory change did not redefine computer software as tangible property.

Since qualified property under the Act is limited to tangible property, computer software cannot constitute qualified property. Computer software will not qualify for the purpose of meeting the required levels under the Act and allowable credits cannot be earned on the purchase of computer software.

Computer software is considered business equipment and taxed as such under the personal property tax statutes; therefore, it may be eligible for exemption under the Act from the tax on personal property along with the other business equipment. The computer software will be included in determining if the aggregate value of business equipment used directly in the manufacture or processing of agricultural products is in excess of \$10 million as required by section 77-4105(2)(c), R.S. Supp., 1987.

APPROVED:


Donald S. Leuenberger
State Tax Commissioner

January 19, 1988