

## What to Expect During a Nebraska Advantage Act Qualification Audit

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A taxpayer who believes they have qualified for benefits under the Nebraska Advantage Act is subject to a qualification audit (audit). During an audit performed by the Nebraska Department of Revenue (DOR), the goal is to conduct the audit thoroughly, efficiently, and with the least amount of inconvenience to the taxpayer. Providing records and answers to DOR questions by the deadlines established will help achieve these goals.

State statute provides that DOR has the right to examine a taxpayer's records, including electronic records, to determine:

- ❖ Whether the incentive project met the required levels;
- ❖ The amount of credits earned; and
- ❖ The amount of sales and use taxes that were paid and eligible for direct refund.

The taxpayer must provide all records necessary for the audit at a location in Nebraska. Documents may be provided electronically through DOR's approved file sharing system.

### Coordinating an Incentive Audit with a Use Tax Audit

If a taxpayer has an upcoming use tax audit that has overlapping periods with its incentive project, the taxpayer can request a coordination of the audits. Coordinating the two audits may affect the timeframes for the process described below. However, there will be a reduction in duplicate efforts to provide asset and investment documentation for both audits, likely reducing the aggregate time spent on each audit.

The taxpayer will need to make sure the data provided for the individual assets in the investment for the incentive project can be tied to the data provided for the individual assets for the use tax audit.

Coordinating the audits will also make it easier to produce documentation supporting direct refunds and credit refunds on any tax assessed in the use tax audit once the incentive audit has been finalized. The use tax audit liability will have to be paid before the taxpayer can request and receive a refund for the benefits associated with the incentives project.

## Audit Process

After the taxpayer believes the incentive project has met the minimum required levels for the tier or subtier, selected, and the year of qualification has ended, the taxpayer can request a qualification audit even if the tax return for the year of qualification has not been filed. In order for the audit process to begin, the taxpayer must complete the [Checklist for Nebraska Advantage Act Qualification Audits \(Checklist\)](#) and related incentive qualification audit forms (forms) available on [DOR's website](#). Any formulas included in the forms are for the convenience of the taxpayer and the results generated by the formulas are not binding on DOR.

DOR will review the forms and related files to determine completeness. If incomplete, DOR will contact the taxpayer with additional instructions. After DOR has received the required forms and determined completeness, DOR will initiate the qualification audit process. The qualification audit consists of the preliminary analysis phase, the audit phase, and finalizing the audit.

### Preliminary Analysis Phase

When DOR receives the [Nebraska Advantage Act Incentive Computation, Form 312N](#), and completed forms, DOR will review the files to:

1. Confirm that the required forms are provided for the proper periods;
2. Confirm that the forms adhere to the project definition and support a determination that the project met the required levels prior to the end of the attainment period;
3. Confirm the required forms reconcile to the supporting tax returns or accounting records; and
4. Review the ownership of the entities conducting qualified activities at the project to confirm that they are an eligible taxpayer in the year of qualification.

DOR will send a letter detailing any missing information or documentation and provide a timeline for the taxpayer to respond. Failure to provide the requested materials will result in a determination that the taxpayer has failed to establish the related benefits.

During the preliminary analysis phase, DOR will contact the taxpayer to establish a mutually agreeable start date for the audit, which will be followed by an audit confirmation letter or email. Any questions prior to the start of the audit can be directed to either the assigned auditor or the person who sent the confirmation letter.

Two weeks prior to the agreed upon audit start date, the assigned auditor or the audit manager will contact the taxpayer to discuss: the audit start time; the record systems; sampling techniques; and to confirm the records listed in the field audit phase of the Checklist will be available.

If the year of qualification proposed by the taxpayer is more than two years before the start date of the audit, the taxpayer and DOR should discuss the need for a [Nebraska Extension of Statute of Limitations Agreement, Form 872N](#). The Form 872N may be needed to allow for the audit to be completed and the claims for benefits to be filed without losing benefits under the statute of limitations. An extension affords the taxpayer additional time to gather additional or missing audit documentation and to file claims for benefits. Without an extension, the taxpayer must make sure that all claims for benefits are filed within the statute of limitations. The audit does not keep the statute of limitations open.

If at any time prior to the audit start date, the taxpayer becomes aware that some of the records requested on the Checklist are not ready and available, or there has been a staffing change that will impact the efficiency of the audit, contact DOR to discuss a different audit start date.

## **Audit Phase**

### **Starting the Audit**

At the start of the audit phase, the DOR audit team (team) will confirm that all information listed in the Checklist is available. The team will meet with the taxpayer's authorized representative working on the audit. It is helpful if this person is responsible for the accounting records and filings for the incentive program. In this meeting, the team will ask some general questions about the taxpayer's business and incentive project. The team will confirm the location of the taxpayer's records and how the Forms 312N, related schedules, and forms are prepared. Depending on the nature of the business, additional information may be requested to confirm that a qualified business activity is performed at the project. The information requested may include, but is not limited to, a sales analysis or description of the taxpayer's various lines of business. A tour of the facilities by the team must be provided, upon request. This helps DOR understand the taxpayer's business and complete the audit effectively and efficiently.

### **Examining the Records**

After the initial meeting, the team will review the accounting and tax reporting systems to decide how to proceed with the audit. In most cases, the team will work independently of the taxpayer's operations. However, there may be some questions. If the taxpayer prefers, the questions can be asked at a pre-planned time during the day, or asked as they arise.

The team will confirm the information reported in the templates by reviewing source documents requested on the [Checklist](#). In most cases, the team will propose looking at a sample of the sales invoices, investment documentation, and payroll documentation. Errors found in the sample are projected over the entire audit period. Sampling provides significant savings of time and expense for the taxpayer and DOR. The sample selected will be discussed, with the taxpayer. DOR will work to ensure the sample fairly represents the activity at the project.

In addition to using paper records, the team can use the taxpayer's electronic records to perform the audit. This can be done for the entire audit or a portion of the audit. Using the taxpayer's electronic records improves the accuracy of the audit and can greatly reduce the amount of time spent at the taxpayer's location. It also reduces the amount of paper documents needed for the audit.

If there is missing information or issues identified by the team, the auditor will provide audit findings which identify missing information and auditor determinations. The taxpayer will be given an opportunity to provide additional information to resolve any issues. This response must be provided in a timely manner, generally 15 days.

After a series of reminders, if any information is not provided, the team will disallow the corresponding items. This may cause a delay in the taxpayer's ability to receive and use incentive benefits or may result in a denial of all benefits.

The team will send correspondence identifying any documentation or information that the taxpayer did not provide, and requesting that these materials be provided, prior to denying the corresponding items.

### **Audit Results Meeting**

After the team is finished examining the taxpayer's records, there will be a meeting with the taxpayer to discuss the results of the audit. At this meeting, the team will provide the most recent copies of DOR workpapers detailing any adjustments to the amounts claimed. The taxpayer should review these workpapers closely, and if there are any questions, or corrections the taxpayer should discuss this with the team. If documentation is missing, the team may give the taxpayer a reasonable amount of time to furnish the information. If the documentation is not provided in a timely manner, the taxpayer risks losing the benefits associated with that documentation.

The auditor will provide information on how to claim benefits under the incentive program, including the scope for providing invoices for refund claims for other periods not included in the audit.

## Finalizing the Audit

The auditor's determinations will go through a quality review within DOR prior to issuing a Notice of Deficiency Determination (Notice). The Notice will include a Statement of Agreement that the taxpayer may sign and return if the taxpayer agrees with the findings in the Notice. When the signed Statement of Agreement is received, DOR will issue a qualification letter for the project if the required levels of employment and investment have been met. Once a qualification letter is issued, the taxpayer may file for benefits.

If the taxpayer disagrees with the findings in the Notice, or the attached workpapers, a Petition for Redetermination (Protest) must be filed within 60 days after the mailing date of the Notice to protest the audit findings. If the Statement of Agreement is not signed, and a protest is not filed within 60 days after the date of the Notice, the Notice becomes final. After the 60-day period expires, DOR will issue a qualification letter for the taxpayer's project if the required levels of employment and investment have been reached.

## Filing for Benefits

The audit findings will not automatically generate a payment of benefits to the taxpayer. The taxpayer must file the appropriate forms to make a claim for the payment of tax benefits. There is a link to the necessary forms at the end of this Information Guide. The qualification letter must be submitted with each claim for benefits. No benefits will be issued unless the taxpayer has filed the Form 312N for all years subsequent to the audit.

## Audit Comments

The taxpayer's opinion is important to DOR. An audit evaluation will be sent to the taxpayer to complete and return to the DOR Director of Compliance.

## Confidentiality

By law, any information obtained from the taxpayer must be treated as confidential. DOR takes this requirement very seriously and has instituted safeguards to protect taxpayer information. If there are any questions about confidentiality, the taxpayer is encouraged to discuss the questions with the Audit Manager.

## Resource List

- ❖ [Qualification Audit Documents](#)
- ❖ [Taxpayer Bill of Rights](#)
- ❖ [Nebraska Advantage Act \(LB 312\)](#)

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800-742-7474 (NE and IA) or 402-471-5729

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