

March 9, 2010

DATA CENTERS

Issues:

What is considered “investment in qualified property” under the Nebraska Advantage Act for the operator of a data center; and what is considered “investment in qualified property” for customers who locate computers and other equipment in the data center?

Conclusions:

Investment in qualified property for the **operator** of a data center includes the cost for those portions of the data center where the qualified activities are conducted by the operator, and the costs for computers and equipment used in those activities. This does not include the cost of those portions of the data center, or any equipment included in cages, which is rented to customers, or the cost of cabinets or other property which is rented to customers.

Investment in qualified property for the **customers** of the data center may include the rental fees paid for cages, and the cost of computers and other qualified property within the cages. This does not include any equipment at a data center that is outside of a cage rented by the customers.

Definitions:

Cabinet. A standardized frame or enclosure for the holding of customer computer equipment within the data center that is located in floor space shared with the call center and other customers.

Cage. A dedicated portion of a data center that includes floor space and walls, which is separated for the use of a customer and that allows secured access to the equipment by the customer.

Common Areas. The portions of the data center that are used by the employees of the data center and by a customer’s employees. This includes entryways, hallways, aisles between cages and cabinets, rest rooms, and break areas.

Data Center. An environmentally-controlled facility designed for housing and facilitating computer processing activities. A data center provides the infrastructure necessary for the co-location of computer equipment that typically includes features such as raised flooring, electricity supply, communication and data lines, Internet access, cooling, security, and fire suppression.

Nonqualified Activity. A nonqualified activity for the Nebraska Advantage Act is any activity that is not included in [Neb. Rev. Stat. § 77-5715](#) as a qualified activity. Nonqualified activities for a data center would include emergency disaster recovery areas for customers, and equipment rentals or sales.

Analysis:

An operator of a data center has applied for an agreement under the Nebraska Advantage Act. The operator of the data center conducts several activities at the data center. The data center also provides cabinets and cages for customers to locate and operate computers. Some of the customers have Nebraska Advantage projects and want to include their activities at the data center in their own projects.

Data Center Operations. The operation of a data center is a qualified activity under the Nebraska Advantage Act for all investment tiers other than Tier 1. A data center is considered to be a qualifying

business because it provides telecommunications services. See [Neb. Rev. Stat. § 77-5715\(1\)\(b\)](#). A data center is a facility where the customers can locate their computers. It does not provide hardware or software that is used by its customers, and it does not provide data processing services for the customers. The operator of the data center monitors the operations of the facility and is responsible for diagnosing and correcting problems with the data and communications services, Internet access, electricity, and environmental factors. The data center's customers can use the facility for a variety of purposes, including off-site computing, data storage or backup, and emergency disaster recovery operations.

Data Center Investment in Qualified Property. Investment under the Nebraska Advantage Act ([Neb. Rev. Stat. § 77-5710](#)) is the value of qualified property that is located at the project, and does not include any property that is rented to another or that is not located at the project ([Neb. Rev. Stat. § 77-5717](#)).

The investment in qualified property also includes computers and equipment located in the data center which are used by the operator of the data center in qualified activities, but it does not include nonqualifying investment such as the cost of the cabinets and other property that are rented to customers.

The data center has investment in qualified property for the cost of construction or purchase of the facility and infrastructure supporting the facility, but it does not include the cost for portions of the facility that are rented to customers as cages. The cost is prorated based on the square footage associated with the different activities. The total area of the facility has to be allocated to floor space:

- For cages rented to others;
- Associated with nonqualified activities;
- Under the cabinets;
- Associated with other qualified activities; and
- For common areas.

The total square footage under the cabinets and the square footage for other qualified activities performed by the data center is divided by the total square footage in the facility, excluding the floor space for any common areas. This result is multiplied by the total cost of the facility to determine the investment in qualified property for the operator of the data center.

Example:

The data center has 110,000 square feet that cost \$13,000,000. The floor space is divided as follows:

- Cages rented to others (nonqualified), 28,000 sq. ft.;
- Customer emergency disaster recovery area (nonqualified), 12,000 sq. ft.;
- Cabinets (qualified), 38,000 sq. ft.;
- Telemarketing activities (qualified), 22,000 sq. ft.; and
- Common areas (excluded), 10,000 sq. ft..

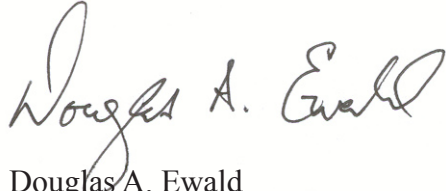
The investment in the facility under the Nebraska Advantage Act for the operator is calculated as follows: $(38,000+22,000) \div (110,000-10,000) = 60\%$. This percentage is multiplied by the cost of the facility ($60\% \times \$13,000,000$), resulting in an investment of qualified property of \$7,800,000 for the facility.

The determination of the amount of investment will be based upon the calculation made when the facility is fully occupied. The determination will not be based on the use of space when the facility is first operational. The determination of the amount of the investment may be reduced if the portion of the facility that is rented as cages changes significantly.

Customer Investment in Qualified Property. A customer with cage space in a data center has an enclosed area for its exclusive use and control. This is considered to be a lease of real estate. The customer has a location that may be included in a Nebraska Advantage Act project if it is interdependent with the rest of the customer's project. The lease payments to the operator of the data center for the cage, and the cost of the customer's computers and other equipment that are located in the cage, are considered qualified property for the customer. This does not include charges from the operator of the data center for items other than payments for lease of space. For example, fees for monitoring services and utilities are not included because they are not charges for a lease of real estate.

A customer renting all or part of a cabinet does not have an area for its exclusive use and control. The customer is not renting real estate when it rents a cabinet, and therefore, this location cannot be included in a Nebraska Advantage Act project. As a result, the rent paid to the operator of the data center for the cabinet, and the cost of the customer's computers and other equipment that are placed in the cabinet, will not be "located at the customer's project," and are not qualified property for the customer.

APPROVED:



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Tax Commissioner

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