

Revenue Ruling 29-87-2 Economic Development Tax Incentives

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 the purposes of the Employment and Investment Growth Act.

Section 77-4103(6), R.S.Supp. 1987, provides in part that:

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

Section 77-4105(3), R.S.Supp. 1987, provides in part that:

When the taxpayer has met the required levels of employment and investment contained in the agreement, the taxpayer shall also be entitled to the following incentives:

(a) A refund of all sales and use taxes paid . . . for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property . . . used in . . . this state . . . ;

(iii) Tangible personal property . . . that is incorporated into real estate as a part of the project; . . .

The determination of the date on which an investment is made in the following paragraphs will be used for all purposes under the Act. The same date of investment will be used for determining the meeting of the required levels, the allowance of credits, and the refund of sales or use tax on purchases.

Tangible personal property must be "used at the project" before it will be considered an investment. This term will have the same meaning as "placed in service" in section 168 of the Internal Revenue Code for depreciation or investment tax credit purposes. Place in service will always occur on or after the date of delivery.

For improvements to real estate, the property must be incorporated into the real estate for the investment to have occurred. Investment in an improvement will have been made 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 amount of the investment that has occurred.

APPROVED:

Donald S. Leuenberger
State Tax Commissioner

September 4, 1987