

GIL 29-17-1 Tax Incentives: Realtor Eligibility for Microenterprise Tax Credits

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January 30, 2017

Dear XXXX:

We have received your questions regarding whether realtors are eligible to receive tax credits under the Nebraska Advantage Microenterprise Tax Credit Act. Because of the nature of the questions asked, we are issuing this reply as a General Information Letter (GIL).

GILs address general questions; provide analysis of issues; and direct taxpayers to the Nebraska statutes, Nebraska Department of Revenue (Department) regulations, revenue rulings, or other sources of information to help answer a question. A GIL is a statement of current Department policy, and taxpayers may rely on the Department to follow the principles or procedures described in a GIL until it is rescinded or superseded. You may also find current regulations, revenue rulings, information guides, taxpayer rulings, and other GILs that may be helpful to you at revenue.nebraska.gov.

The Nebraska Advantage Microenterprise Tax Credit Act (Act), [Neb. Rev. Stat. §§ 77-5901 through 77-5908](#), provides that applications for tax credits shall be accepted from “taxpayers who are actively engaged in the operation of a microbusiness.” Taxpayers are considered to be actively engaged in the operation of a microbusiness if they have “personal involvement on a continuous basis in the daily management and operation of the business.” See [Neb. Rev. Stat. § 77-5903](#).

The Nebraska Real Estate License Act provides that realtors may be licensed as either a broker or a salesperson. A broker may be either a “designated broker” or an “associate broker.” The “designated broker” has “full authority to conduct the real estate activities of a real estate business” and is “responsible for supervising the real estate activities of any associate brokers or salespersons.” See [Neb. Rev. Stat. § 81-885.01\(4\)](#). Associate brokers and salespersons cannot participate in real estate transactions without the consent and supervision of a designated broker. See [299 NAC 2-008](#). To do their work, associate brokers and salespersons are required to be employed by and licensed under a designated broker.

Associate brokers and salespersons are not eligible to receive credits under the Act because they are considered to be employees of the designated broker under [§ 81-885.01](#), and, as a result, are not actually managing or operating the business. The designated broker, however, is engaged in the operation and management of the business and may be eligible to receive credits if he or she meets all other requirements of the Act.

The position established by this GIL applies to all applications for credits under the Act submitted after the date of this GIL.

For the Tax Commissioner

Sincerely,

Liz Gau
Attorney
Policy Section