



Economic Development Tax Incentives--Employment Increase. A TAXPAYER ENGAGED IN A QUALIFYING BUSINESS DOES NOT MEET THE INCREASED EMPLOYMENT REQUIREMENT FOR TAX INCENTIVES UNDER THE EMPLOYMENT EXPANSION AND INVESTMENT INCENTIVE ACT UNLESS THE TAXPAYER ACTUALLY INCREASES THE AVERAGE EMPLOYMENT OF SUCH BUSINESS BY TWO FULL-TIME EMPLOYEES.

Advice has been requested regarding whether a taxpayer who, in completing the Nebraska Employment and Investment Credit Computation, Form 3800N, calculates an increase of two employees as a result of the rounding instructions on Form 3800N, will meet the increased qualified employment requirement for tax incentives under the Employment Expansion and Investment Incentive Act if the taxpayer has not actually increased employment of such business by two full-time employees.

Section 77-27,188, R.S.Supp., 1987, requires, as one condition of receiving tax incentive credits, that a taxpayer must increase the average employment of such business in this state by two full-time employees. Section 77-27,190, R.S.Supp., 1987, states that a taxpayer shall be deemed to have a new employee when the average number of Nebraska employees during the taxpayer's taxable year exceeds the average number of Nebraska employees during each of the three preceding taxable years.

The Nebraska Employment and Investment Credit Computation, Form 3800N, directs that the increase in average qualified employment be calculated in whole numbers that are rounded down. For example, both 12.1 and 12.7 would be rounded to 12.0. A taxpayer could calculate an increase of two full-time employees following the Form 3800N instructions and not have an actual increase of two full-time employees.

For example, assume Company A had an average of 16.0 full-time employees in 1987 and 14.3 in 1986. According to section 77-27,190, the actual increase in average employment would be 1.7 employees (e.g., 16.0 less 14.3). However, in completing the Form 3800N, Company A would show an average employment increase of 2.0 (e.g., 16.0 less 14.0). Such a taxpayer does not meet the increased qualified employment requirement and, therefore, is not eligible for tax incentive credits under the Nebraska Employment Expansion and Investment Incentive Act.

APPROVED:

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