



Economic Development Tax Incentives--Withdrawal to the Employment Expansion and Investment Incentive Act. A TAXPAYER MAY CANCEL AN AGREEMENT SIGNED UNDER THE EMPLOYMENT AND INVESTMENT GROWTH ACT AND, SUBSEQUENTLY, CLAIM CREDITS UNDER THE EMPLOYMENT EXPANSION AND INVESTMENT INCENTIVE ACT. THIS RULING IS EFFECTIVE FOR APPLICATIONS FILED BOTH BEFORE AND AFTER JANUARY 1, 1988.

Advice has been requested as to whether a taxpayer may cancel an agreement executed under the Employment and Investment Growth Act and claim credits under the Employment Expansion and Investment Incentive Act.

The taxpayer and the State Tax Commissioner have signed an agreement under the Employment and Investment Growth Act. The taxpayer has later determined that it will probably not reach or maintain the required investment and employment levels.

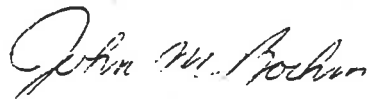
The Employment and Investment Growth Act does not specifically address the cancellation of an agreement executed thereunder; however, it is not expressly prohibited. The taxpayer and the State Tax Commissioner can, therefore, agree to cancel an agreement. The taxpayer must fulfill the following conditions in order for the State Tax Commissioner to agree to cancel an agreement:

1. The taxpayer submits a written request to cancel the agreement.
2. If the taxpayer has received incentives under the agreement, the incentives must be repaid, together with interest, at the current rate established in section 45-104.01, of the Nebraska Revenue Act of 1967, as amended, from the date of receipt of the incentives through the date of repayment.
3. The request to cancel must be made within three calendar years of the due date, including extensions, of the income tax return or report of income for the year the application was filed.

Upon satisfying these conditions, the State Tax Commissioner will acknowledge, in writing, the cancellation of the agreement. A copy of this acknowledgment must accompany the amended income tax returns which are required to be filed. A cancelled agreement cannot be reinstated. A taxpayer who previously cancelled an agreement is not precluded from filing a new application under the Employment and Investment Growth Act for future investment and employment.

The Employment and Investment Growth Act does not allow a taxpayer to claim tax credits for employment or investment under the Employment Expansion and Investment Incentive Act during the period an Employment and Investment Growth Act agreement which includes such employment and investment remains in effect. Once the agreement is cancelled, the taxpayer may file amended tax returns within the available statute of limitations period for the purpose of claiming credits under the Employment Expansion and Investment Incentive Act.

APPROVED:



John M. Boehm
State Tax Commissioner

May 9-6, 1988