

LCB File No. T036-01

**ADOPTED TEMPORARY REGULATION OF THE COMMISSION ON
ECONOMIC DEVELOPMENT**

(Effective March 13, 2001)

EXPLANATION -- Mater in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 360.750.

Section 1. NAC 360 is hereby amended by adding sections 2 through 7 as follows:

Sec. 2. 1. *Definitions*

(a) "Abatement" means the relief of a portion of the taxes imposed pursuant to chapter 361, 364A or 374 of NRS.

(b) "Commission," for the purposes of NRS 360.750, means the commission on economic development.

(c) "Eligible machinery or equipment" has the meaning ascribed to it in NRS 374.357.

9d) "Primary jobs" means the revenue used to compensate the employee is generated from outside the economic region.

Sec. 3. 1. *An application for an abatement must be made on a form prescribed by the commission on economic development.*

2. *An application must be made not more than 18 months before a business commences operations.*

3. *Except as otherwise provided in subsection 5, the commission must consider each application for an abatement of taxes. If an application is received at least fifteen days in advance, the application will be considered at the first regularly scheduled meeting. If an*

application is received less than fifteen working days before a regularly scheduled meeting, the application will be considered at the next available scheduled meeting of the commission.

4. If an application for an abatement requires special or additional review and consideration, the commission may postpone consideration of the application to the next available regularly scheduled meeting of the commission.

5. If an application for an abatement is approved by the commission, the applicant is eligible for a refund of any taxes he paid which are subject to the abatement.

6. An application approved pursuant to NRS 374.357 or 364A.170 must be certified by the commission to the department of taxation for administration of the abatement. An application approved pursuant to NRS 361.0687 must be certified by the commission to the county assessor for administration of the abatement. The commission will immediately forward to the appropriate taxing authority a certificate of eligibility for the abatement and any materials submitted to the commission by the business which applied for the abatement.

Sec. 4. *(1) The commission will consider approval of an application for an abatement pursuant to NRS 374.357, NRS 364A.170, or NRS 361.0687 if the goals of the business are consistent with the goals of the commission concerning industrial development and diversification. The goals of the commission include, without limitation:*

(a) Diversification from the industries of gaming and hospitality;

(b) The attraction of basic industries, including, manufacturing, warehousing and distribution, and back-office operations;

(c) The attraction of business facilities and services, including, corporate headquarters, research and development, and producer services; and

(d) The expansion of existing businesses and industries that are consistent with the goals described in paragraphs (a), (b) and (c);

2. Prior to approval of an application pursuant to NRS 374.357, NRS 364A.170, or NRS 361.0687, the commission must also consider whether:

(a) The business complies with the requirements of NRS 360.750;

(b) The business commits to maintain the business in this state for at least 5 years after the date the business first pays taxes to the department of taxation or to the county treasurer, as appropriate;

(c) The business agrees in writing to supply to the executive director of the commission, upon request, any record necessary for the commission to verify the business satisfies all requirements of the partial abatement;

(d) For applications for abatement made pursuant to NRS 374.357 or 364A.170, the business registers with the department of taxation on a form provided by the department of taxation.

Sec. 5. An abatement granted pursuant to NRS 360.750 to an existing business for an expansion applies only to the additional employees resulting from the expansion. The tax due pursuant to chapter 364A of NRS on the basis of the existing employees must be calculated in the same manner and paid at the same time as before the expansion existed until the abatement expires or is otherwise terminated.

Sec. 6. 1. If the commission grants a partial abatement pursuant to NRS 361.0687, the commission will immediately forward a certificate of eligibility for the partial abatement stating the percentage of the property exempted to:

(a) The department of taxation; and

(b) The county assessor of each county in which personal property used in connection with the business will be located.

Sec. 7. 1. *If the commission on economic development grants an abatement pursuant to NRS 374.357, the business shall employ the number of employees as set forth in the approval by the fourth quarter that it is in operation and maintain that number of employees for at least 5 years.*

NOTICE OF ADOPTION OF TEMPORARY REGULATION

The Commission on Economic Development adopted T036-01 on February 12, 2001. This temporary regulation was filed with the Secretary of State on March 13, 2001.

INFORMATIONAL STATEMENT

Temporary Regulation of the Commission on Economic Development

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 360.

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested person may obtain a copy of the summary.

Notices of hearing for the adoption and amendment of the proposed temporary regulation was posted at the following locations: Commission on Economic Development, 108 East Proctor Street, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library.

A copy of the notice of hearing and the proposed temporary regulation was placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed temporary regulation was also made available and placed on file at the Commission on Economic Development, 108 east Proctor Street, Carson City, Nevada; and in all counties in which an office of the Commission on Economic Development is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

The hearing was held on November 8, 2000 at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada and audio/video conference at the Nevada State Legislative Building, Room 3138, 401 South Carson Street, Carson City, Nevada. It appears that due to the primarily procedural nature of the proposed temporary regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed temporary regulation and testified at the hearing. A copy of the transcript of the hearing, for which a reasonable fee may be charged, may be obtained by calling the Commission on Economic Development at (775) 687-4325, or by writing to the Commission on Economic Development at 108 East Proctor Street, Carson City, Nevada, 89701.

Thus, the proposed temporary regulation, for practical purposes, was discussed at two workshops and has been heard and considered at one public hearing of the Commission on economic development.

2. The number of persons who:

(a) Attended the hearing: 26

(b) Testified at the hearing: 3

(c) Submitted to the Commission written comments: Written comments were submitted by the Nevada Taxpayers Association requesting the amendments to the administrative code prior to the hearing. No other written comments by the general public were submitted to, or received by, the staff of the Commission or the Commission on Economic Development.

3. A description of how comment was solicited from affected and interested persons, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, by direct mail to interested businesses and persons on the Commission's mailing list.

Comments from the above-referenced in #2 were received relative to the original regulation and proposed draft of the temporary regulation with respect to the abatement of certain taxes as outlined in Senate Bill 537 of the Nevada Legislature.

4. If the temporary regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the temporary regulation without change.

The proposed temporary regulation was modified at public workshops prior to adoption, due to issues raised by the Department of Taxation and by those referred to in #2.

The proposed temporary regulation was changed at the public hearing based on additional minor corrections raised by the Department of Taxation and Commission staff members. The Commission on Economic Development adopted those minor revisions and believed no changes other than those made were necessary.

5. The estimated economic effect of the adopted temporary regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

(a) Adverse and beneficial effects.

The proposed temporary regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. However, the temporary regulation does impact businesses, which could have a beneficial economic effect on businesses and the general public. That effect cannot be quantified at this time.

(b) Immediate and long-term effects.

Same as #5(a) above.

6. The estimated cost to the agency for enforcement of the adopted temporary regulation.

The proposed temporary regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement. However, it appears that there may be some minor additional administrative costs for the Commission on Economic Development and the Department of Taxation, which cannot be quantified at this time.

7. A description of any regulations of other state or governmental agencies which the temporary regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the temporary regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed temporary regulation is particular to the Commission on Economic Development and the Department of Taxation practices and procedures and does not appear to overlap or duplicate regulations of other state or local governmental agencies.

8. If the temporary regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no known federal regulations pertaining to tax abatement program procedures, which are the subject of the proposed temporary regulation.

9. If the temporary regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed temporary regulation does not provide a new fee or increase an existing fee.