

**ADOPTED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R011-06**

Effective May 4, 2006

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

AUTHORITY: §§1-9, 18 and 19, NRS 360.090; §§10 and 15, NRS 360.090 and 361.4722; §§11, 13, 16 and 17, NRS 360.090, 361.4722, 361.4723 and 361.4724; §12, NRS 360.090, 361.4722 and 361.4723; §14, NRS 360.090 and 361.4724.

A REGULATION relating to the taxation of property; providing for the administration of certain partial abatements of taxes; and providing other matters properly relating thereto.

**Section 1.** Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 18, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Abatement percentage” has the meaning ascribed to it in NRS 361.4711.*

**Sec. 4.** *“County tax receiver” means the county official who collects property taxes.*

**Sec. 5.** *“General abatement” means a partial abatement of property taxes pursuant to NRS 361.4722.*

**Sec. 6.** *“Primary residence of the owner” has the meaning ascribed to it in NRS 361.4723.*

**Sec. 7.** *“Primary residential abatement” means a partial abatement of property taxes pursuant to NRS 361.4723.*

**Sec. 8.** *“Residential rental abatement” means a partial abatement of property taxes pursuant to NRS 361.4724.*

**Sec. 9.** *“Single-family residence” has the meaning ascribed to it in NRS 361.4723.*

**Sec. 10. 1.** *The Department shall:*

*(a) Determine the appropriate abatement percentage for the application of a general abatement in each county each year and provide that information to the appropriate county tax receiver.*

*(b) Determine whether any property of an interstate or intercounty nature is:*

*(1) Eligible for a general abatement; or*

*(2) Ineligible for a general abatement,*

*↪ and calculate and apply the appropriate amount of any general abatement to which the property is determined to be eligible.*

*(c) Determine whether any property valued pursuant to paragraph (b) of subsection 1 of NRS 362.100 is:*

*(1) Eligible for a general abatement; or*

*(2) Ineligible for a general abatement,*

*↪ and provide that information to the county assessor of the county in which the property is located.*

**2.** *If the Department determines that:*

*(a) Any property of an interstate or intercounty nature has been erroneously designated as eligible for a general abatement, the Department may appropriately revise that designation and transmit an appropriately revised tax bill to the taxpayer.*

*(b) Any property valued pursuant to paragraph (b) of subsection 1 of NRS 362.100 has been erroneously designated as eligible for a general abatement, the Department may appropriately revise that designation and the county tax receiver may transmit an appropriately revised tax bill to the taxpayer.*

*↪ If a change in the designation of any property pursuant to this subsection results in an increase in the liability of the taxpayer for property taxes, the Department shall inform the taxpayer of the change in the designation of the property and the reasons for that change.*

**Sec. 11. 1. A county assessor shall:**

*(a) Receive claims for primary residential abatements and residential rental abatements and identify each parcel or other taxable unit of property for which such a claim is received; and*

*(b) Before delivering the tax roll to the county tax receiver each year, determine whether each parcel or other taxable unit of property designated on the tax roll is:*

*(1) Eligible for a primary residential abatement;*

*(2) Eligible for a residential rental abatement;*

*(3) Eligible for a general abatement; or*

*(4) Ineligible for any of those partial abatements of property taxes.*

**2. A county assessor:**

*(a) Except as otherwise provided in NRS 361.773, may correct the tax roll not later than June 30 of each year to indicate that a parcel or other taxable unit of property is eligible for a primary residential abatement, a residential rental abatement or a general abatement for that year.*

*(b) Shall notify the county tax receiver of each claim for a primary residential abatement or residential rental abatement for the current year which the county assessor receives after the tax roll has been delivered to the county tax receiver. The county tax receiver shall process such a claim for a primary residential abatement in accordance with NRS 361.773.*

*3. A county tax receiver shall calculate and apply the appropriate amount of any:*

*(a) Primary residential abatement or residential rental abatement to which a parcel or other taxable unit of property is determined to be eligible; and*

*(b) General abatement, in accordance with the applicable abatement percentage provided by the Department pursuant to section 10 of this regulation, to which a parcel or other taxable unit of property is determined to be eligible.*

*4. If a county assessor or county tax receiver determines that a parcel or other taxable unit of property has been erroneously designated as eligible for a primary residential abatement, a residential rental abatement or a general abatement, the county assessor may appropriately revise that designation and the county tax receiver may transmit an appropriately revised tax bill to the taxpayer. If a change in the designation of any property pursuant this subsection results in an increase in the liability of the taxpayer for property taxes, the county assessor shall inform the taxpayer of the change in the designation of the property and the reasons for that change.*

**Sec. 12. 1. A claim for a primary residential abatement must be:**

*(a) Submitted on a form provided by the county assessor of the county in which the property is located; and*

*(b) Signed by:*

*(1) Any owner of record of the property;*

*(2) Any person of lawful age who is authorized by an executed power of attorney to sign the claim on behalf of an owner of record of the property;*

*(3) The legal guardian or conservator of an owner of record of the property; or*

*(4) The executor or administrator of the estate of an owner of record of the property.*

*2. The form for claiming a primary residential abatement may require the claimant to state that:*

*(a) The claimant is the owner of the property;*

*(b) The property is a single-family residence;*

*(c) The property is the primary residence of the owner of the property, exclusive of any other residence in Nevada;*

*(d) The property is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the property and members of the family of the owner of the property;*

*(e) The claimant agrees to notify the county assessor if the property is no longer used as:*

*(1) A single-family residence; or*

*(2) The primary residence of the owner of the property, exclusive of any other residence in Nevada; and*

*(f) The claim is affirmed and certified by the owner of the property under any penalties provided by law.*

*3. The county assessor shall:*

*(a) If the county assessor determines it to be necessary, verify whether the property is eligible for a primary residential abatement.*

*(b) If the county assessor determines that the property is not eligible for a primary residential abatement, determine whether the property is eligible for a general abatement.*

*4. A claim for a primary residential abatement may be amended to reflect changes in the ownership or occupation of the property. If such a change occurs after July 1, the change must not be indicated on either the secured or unsecured tax roll, as applicable, until the next fiscal year.*

**Sec. 13. 1.** *For the purpose of determining the eligibility of property for a primary residential abatement:*

*(a) A single-family residence which is the primary residence of the owner shall be deemed to include any buildings or other structures that are appurtenant to that residence, including, without limitation, a detached garage, if the building or other structure:*

- (1) Is of a type which is typically associated with a single-family residence;*
- (2) Exists for the use, enjoyment and benefit of the occupants of the residence;*
- (3) Is not used in furtherance of any business, except for the operation of a home business as provided in paragraph (a) of subsection 5 of NRS 361.4723; and*
- (4) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.*

*(b) If a single-family residence which is the primary residence of the owner, including all appurtenant buildings and other structures described in paragraph (a), is located on:*

- (1) More than one parcel of property; or*
  - (2) One or more parcels of property otherwise used for agricultural purposes,*
- ↳ that residence may be treated as a separate taxable unit.*

*2. If a taxable unit of real property contains both:*

*(a) A single-family residence which is the primary residence of the owner; and*

*(b) Other property used for agricultural, commercial or other purposes,*

*↳ the county assessor may determine the separate portions of that taxable unit which are respectively described in paragraphs (a) and (b), and apply to each such portion any appropriate partial abatement from property taxes.*

**Sec. 14. 1.** *A county assessor shall annually mail to the owner of each residential rental dwelling in the county a written notice of the right to claim a residential rental abatement.*

*2. A claim for a residential rental abatement must be:*

*(a) Filed annually with the county assessor of the county in which the property is located not later than June 15 of each year; and*

*(b) Accompanied by an affidavit which states:*

*(1) That the amount of rent collected from each of the tenants of the property is equal to or less than the applicable fair market rent published by the United States Department of Housing and Urban Development. For the purpose of determining the applicable fair market rent, a studio apartment must be considered to be a single room.*

*(2) The greatest amount of rent charged a tenant of the property for the period from April 1 of the year immediately preceding the lien date for the current year until March 31 of the current year.*

*3. The Department shall annually notify each county assessor of:*

*(a) The amounts of the applicable fair market rents for the current year, as published for March 31 of that year by the Department of Housing and Urban Development, excluding the amounts of utility allowances.*

*(b) The amounts of applicable utility allowances, based upon the information reported by the appropriate Nevada regional housing authority to the Department of Housing and Urban Development.*

*4. For the purpose of determining the eligibility of property for a residential rental abatement, the county assessor shall compare:*

*(a) The greatest amount of rent charged a tenant of the property for the period from April 1 of the year immediately preceding the lien date for the current year until March 31 of the current year, excluding any amount paid for utilities; and*

*(b) The amount of the applicable fair market rent for the current year, as provided by the Department pursuant to subsection 3, excluding the amount of the applicable utility allowance. For the purposes of this section, the county assessor shall use as the applicable utility allowance:*

*(1) The typical utility allowance for the pertinent category of property, as provided by the Department pursuant to subsection 3; or*

*(2) A utility allowance calculated by the county assessor for the specific property from the information reported by the appropriate Nevada regional housing authority to the Department of Housing and Urban Development.*

*5. A residential rental dwelling is not eligible for a residential rental abatement if the rent received for any rental unit of the property for the period from April 1 of the year immediately preceding the lien date for the current year until March 31 of the current year, excluding any amount included in the rent for the payment of utilities, exceeds the amount of the applicable fair market rent for the current year, excluding the amount of the applicable utility allowance.*

*6. The owner of any property for which a claim for a residential rental abatement is filed:*



*(a) Has the burden of proving that the property is not transient lodging; and*

*(b) Must:*

*(1) Provide to the county assessor such information as the county assessor requires to determine the eligibility of the property for a residential rental abatement and to ascertain the continuing eligibility of the property for a residential rental abatement; and*

*(2) Maintain accurate records in support of that information and allow the county assessor to audit those records at any time.*

*7. For the purposes of this section and NRS 361.4724, the Commission interprets the term:*

*(a) “Residential rental dwelling” to mean a residential dwelling:*

*(1) For which consideration is paid for its temporary use and occupancy; or*

*(2) Which is occupied by a member of the family of the owner of the dwelling for no consideration.*

*(b) “Transient lodging” to:*

*(1) Mean, except as otherwise provided in subparagraph (2), any facility or structure, or any portion thereof, which is occupied or intended or designed for occupancy and which is held out for use by transient guests who pay rent for the temporary privilege of dwelling, lodging or sleeping therein. For the purposes of this subparagraph, “facility or structure” includes any hotel, resort hotel, motel, bed and breakfast, lodging house, time-share project, vacation home, apartment house, recreational vehicle park or campground, and any similar facility or structure.*

*(2) Exclude any:*

*(I) Hospital, sanitarium, medical clinic, convalescent home, nursing home, home for aged persons, foster home or similar facility operated for the care or treatment of human beings;*

*(II) Asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint; or*

*(III) Housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees of the institution.*

**Sec. 15. 1.** *For the purposes of NRS 361.4722, the value of any centrally assessed property which is allocated and apportioned to a taxing district shall be deemed to constitute a taxable unit of real or personal property in that taxing district.*

*2. Property of an interstate or intercounty company valued pursuant to NRS 361.320 which is not eligible for a general abatement for the current year includes, without limitation:*

*(a) That portion of the unit valuation of such property for which there was no allocation or apportionment within Nevada for the immediately preceding year;*

*(b) New property placed on the unsecured tax roll and classified as construction work in progress; and*

*(c) That portion of the unit valuation of such property for which there is an increase in the cost indicator of value from the immediately preceding year, unless it has already been reported to the Department as construction work in progress and the taxpayer certifies that the pertinent capital expenditures will be reported as part of construction work in progress before being transferred to the accounting records of the company for plant in service.*

*3. For the purposes of this section, “construction work in progress” has the meaning ascribed to it in NAC 361.258.*

**Sec. 16.** *For the purpose of calculating the amount of any general abatement, primary residential abatement or residential rental abatement for the current year, the amount of the tax levy that would have resulted for the immediately preceding year without the application of any other tax abatements or exemptions must be compared to the tax levy that would result for the current year without the application of any other tax abatements or exemptions.*

**Sec. 17.** *For the purposes of NRS 361.4722, 361.4723 and 361.4724:*

*1. If any property is found pursuant to NRS 361.325, 361.767 or 361.769 to have partially or entirely escaped taxation for a fiscal year:*

*(a) The property shall be deemed to be property for which no assessed valuation was separately established for the fiscal year immediately preceding that fiscal year; and*

*(b) Any general abatement, primary residential abatement or residential rental abatement for which the property is eligible for each fiscal year following the fiscal year for which the property escaped taxation must be calculated as if the property had been on the tax roll for the fiscal year for which the property escaped taxation.*

*2. If the valuation of any property is adjusted pursuant to NRS 361.765 or 361.768 to correct a clerical, typographical, mathematical or factual error, any general abatement, primary residential abatement or residential rental abatement for which the property is eligible for each fiscal year following the fiscal year for which that correction of the valuation of the property is made must be calculated and, if necessary, adjusted in conformity with the correct valuation of the property.*

**Sec. 18.** *A county tax receiver shall, not later than:*

*1. September 1 of each year, submit to the Department and each taxing entity a summary report of the total amount of property taxes billed on behalf of each taxing entity for the*

*current tax year for property on the secured tax roll. The report must separately state for each taxing entity:*

*(a) The total number of parcels or other taxable units of property for which the property taxes were billed;*

*(b) The total assessed value of the property for which the property taxes were billed;*

*(c) The total amount of the property taxes that would have been billed if not for the application of any general abatement, primary residential abatement or residential rental abatement;*

*(d) The total amount of any reduction in billable property taxes as a result of the application of any general abatement, primary residential abatement or residential rental abatement;*

*(e) The total amount of any reduction in billable property taxes as a result of the application of any exemptions from taxation other than a general abatement, a primary residential abatement or a residential rental abatement;*

*(f) The total amount of any taxes billed pursuant to NRS 361.4725;*

*(g) The total amount of any taxes exempted from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724; and*

*(h) The total amount of property taxes actually billed.*

*2. June 1 of each year, submit to the Department and each taxing entity a summary report of the total amount of property taxes billed on behalf of each taxing entity for the current tax year for property on the unsecured tax roll. The report must separately state for each taxing entity:*

*(a) The total assessed value of the property for which the property taxes were billed;*

*(b) The total amount of the property taxes that would have been billed if not for the application of any general abatement, primary residential abatement or residential rental abatement;*

*(c) The total amount of any reduction in billable property taxes as a result of the application of any general abatement, primary residential abatement or residential rental abatement;*

*(d) The total amount of any reduction in billable property taxes as a result of the application of any exemptions from taxation other than a general abatement, a primary residential abatement or a residential rental abatement;*

*(e) The total amount of any taxes billed pursuant to NRS 361.4725;*

*(f) The total amount of any taxes exempted from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724; and*

*(g) The total amount of property taxes actually billed.*

**Sec. 19.** NAC 361.010 is hereby amended to read as follows:

361.010 As used in NAC 361.010 to 361.610, inclusive, *and sections 2 to 18, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 361.012 to 361.018, inclusive, have the meanings ascribed to them in those sections.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R011-06**

The Nevada Tax Commission adopted permanent regulations on April 10, 2006, pertaining to Chapter 361 of the Nevada Revised Statutes with regard to the implementation of the property tax abatement program.

**Notice date:** 3/10/2006; amended 3/14/2006  
**Hearing date:** 4/10/2006

**Date of adoption by agency:** 4/10/2006  
**Filing date:** 5/4/2006

**INFORMATIONAL STATEMENT**

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) Chapter 361 adopted by the Nevada Tax Commission, in order to implement NRS 361.4722, 361.4723, and 361.4724, abatements to property tax.

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

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
June 28, 2005	Workshop	July 27, 2005	360	79
June 28, 2005	Workshop	August 11, 2005	360	79
January 24, 2006	Workshop	March 1, 2006	409	80
March 10, 2006	Hearing	April 10, 2006	409	80
(Amended March 14, 2006)				

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

Many oral and two written comments were received at the workshops and hearing. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at **lheyman@tax.state.nv.us** .

The proposed permanent regulation was submitted to the Legislative Counsel Bureau on January 23, 2006. The Legislative Counsel Bureau completed its review and revisions on

February 23, 2006. The Tax Commission further amended the regulation at the hearing on April 10, 2006.

**2. The number persons who:**

**(a) Attended and testified at each workshop:**

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
July 27, 2005	31	16
August 11, 2005	15	10
March 1, 2006	35	13

**(b) Attended and testified at each hearing:**

<u>Date of Hearing</u>	<u>Commission/ Public Attended</u>	<u>Public Testified</u>
April 10, 2006	8 / 35	5

**(c) Submitted to the agency written comments:**

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
March 1, 2006	2

2 documents of proposed language changes were submitted to the Department of Taxation.

**3. A description of how comment was solicited from affected businesses, 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 notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct mail to assessors and the interested parties list maintained by the Department. Approximately 20% of the approximately 409 direct mail notices were sent to individuals or associations representing business.

Members of the Nevada Tax Commission, officials of the Nevada Department of Taxation, the Nevada Taxpayers Association, local government officials, and members of the general public commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at [lheyman@tax.state.nv.us](mailto:lheyman@tax.state.nv.us).

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

The permanent regulation was adopted with changes reflecting the verbal and written comments submitted to, or received by, the Department of Taxation primarily from attorneys representing private industry, county assessors, treasurers, finance officers, and Tax Commission members during the workshops listed above. The Nevada Tax Commission adopted the permanent regulation as revised in workshops and at the adoption hearing; and believed no changes other than those made were necessary.

**5. The estimated economic effect of the adopted 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.**

The Commission has found that the regulation does not impose a direct and significant burden upon businesses and the public in Nevada. The permanent regulation provides the administrative process for:

- 1.) Implementation of the property tax abatement program by defining organizational relationships and duties among agencies, such as, but not limited to, the agency responsible for the determination of eligible primary residences and rental properties subject to the single-family residence partial abatement;
- 2.) Providing procedures for qualifying eligible primary single-family residences, and the process for qualifying eligible rental properties, including but not limited to, the process for filing a claim;
- 3.) Defining the eligibility of properties with multiple buildings;
- 4.) Defining the methodology for applying the primary single-family residence partial abatement for taxable units with a mixed use; and property used in the operation of a home business;
- 5.) Providing the criteria for a determination of the unit of real or personal property and centrally-assessed property not eligible for the general abatement;.
- 6.) Providing the method of calculation of the abatement; calculation of the abatement as applied to property escaping taxation and correction of errors; and
- 7.) Requiring summary reports of tax billings.

The regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses or to the general public, although testimony from local governments was taken that there may be a negative effect on the revenue to local governments. The immediate and long-term effects of the regulation is to provide a standardized method by which the abatement program may be administered.



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

The Department anticipates additional costs for local governments to administer the regulations, such as discovery mailers for claims for qualifying rental property.

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

There are not other state or government agency regulations that the proposed amendments duplicate.

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

The Commission is not aware of any provision in this regulation which is also governed by federal regulation.

**9. If the 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 Nevada Tax Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.