

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

LCB File No. R017-00

Effective May 2, 2001

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

AUTHORITY: §§1-4, NRS 360.750.

Section 1. NAC 374.100 is hereby amended to read as follows:

374.100 As used in NAC 374.100 to ~~[374.125,]~~ **374.120**, inclusive, unless the context otherwise requires:

1. “Abatement” means the abatement of the taxes imposed by chapter 374 of NRS which is authorized by NRS 374.357.
2. “Commission” means the commission on economic development.
3. “Eligible machinery or equipment” has the meaning ascribed to it in NRS 374.357.

Sec. 2. NAC 374.105 is hereby amended to read as follows:

374.105 ~~[1.—An application for an abatement must be made on a form prescribed by the commission.~~

~~—2.—An application may be made not more than 18 months before a business commences operations.~~

~~—3.]~~ If an application is approved by the commission, the period of abatement begins on the date the applicant takes possession of the first delivery of eligible machinery or equipment at the location designated in the certificate of eligibility issued by the commission. Upon so taking

possession of such eligible machinery or equipment, the applicant shall immediately notify the commission and the Nevada tax commission.

Sec. 3. NAC 374.110 is hereby amended to read as follows:

374.110 1. An application for an abatement of taxes on the acquisition of eligible machinery or equipment outside this state from a retailer who is not registered with the Nevada tax commission must be made in advance of the acquisition or, if the eligible machinery or equipment has already been acquired, within 60 days after the date on which the tax was due.

2. An application for an abatement of taxes on the acquisition of eligible machinery or equipment from a retailer registered with the Nevada tax commission must be made within 60 days after the payment of the tax.

3. 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.

4. The department of taxation may determine if the machinery or equipment purchased by the business qualifies as eligible machinery or equipment pursuant to NRS 374.357.

Sec. 4. NAC 374.125 is hereby repealed.

TEXT OF REPEALED SECTION

374.125 Requirements for maintaining abatement; failure to comply.

1. In addition to any other requirements imposed by law or by the commission, an abatement granted by the commission is subject to the following conditions:

(a) The business shall employ at least 10 full-time employees in Nevada by the fourth quarter that it is in operation and continue to employ at least 10 full-time employees in Nevada for at least 5 years.

(b) If the abatement is granted to an existing business in Nevada for the expansion of its business in this state, the business shall employ at least 10 additional full-time employees in Nevada by the end of the fourth quarter after the granting of the abatement and continue to employ at least 10 additional full-time employees in Nevada for at least 5 years.

2. An abatement is void if a business fails to comply with the relevant requirements set forth in subsection 1 concerning the minimum number of full-time employees, except that short-term vacancies in employment do not void the abatement if the business is attempting in good faith to fill such vacancies and does so within a period of time considered reasonable by the commission under the circumstances.

NOTICE OF ADOPTION OF LCB FILE NO. R017-00

The Commission on Economic Development adopted amendments to chapter 374 of NAC to establish the administrative procedural language and timing for sales and use tax abatements per Senate Bill No. 537 of the 1999 Legislative Session.

Notice date: 10/9/00
Hearing date: 11/8/00

Date of Adoption by Agency: 11/8/00
Filing date: 3/13/01

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 374.

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

Notices of hearing for the adoption and amendment of the proposed permanent 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 permanent 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 permanent 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 permanent regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed permanent 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.

The proposed permanent regulation was submitted to the Legislative Counsel Bureau, which completed its review on February 14, 2000. Thus, the proposed 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: 2

(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 permanent regulation with respect to the abatement of sales/use tax as outlined in Senate Bill 537 of the Nevada Legislature.

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

The proposed permanent 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 permanent regulation was not changed at the public hearing since no additional concerns were raised by the affected public, the Department of Taxation or Commission members, and the Commission on Economic Development believed no changes other than those made were necessary.

5. The estimated economic effect of the adopted permanent regulation on the businesses which it is to regulate 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 permanent regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. However, the permanent 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 permanent regulation.

The proposed permanent 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 permanent regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the permanent regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed permanent 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 permanent 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 sales/use tax abatement program procedures, which are the subject of the proposed permanent regulation.

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

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