

LCB File No. R017-00

PROPOSED REGULATION OF THE COMMISSION ON ECONOMIC DEVELOPMENT

Deletions are in ~~□~~
New Language in ***Bold Italics***

ABATEMENTS FOR CERTAIN MACHINERY AND EQUIPMENT

374.100 Definitions. As used in NAC 374.100 to 374.125, 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.
- (Added to NAC by Comm'n on Econ. Development, eff. 11-29-95)

374.105 Application for abatement; period of abatement.

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.

(Added to NAC by Comm'n on Econ. Development, eff. 11-29-95)

374.110 Application for abatement: Certain requirements based on location and status of retailer; refund of taxes paid.

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.

(Added to NAC by Comm'n on Econ. Development, eff. 11-29-95)

374.115 Review of certain records by commission. As a condition of approval by the commission of an application for an abatement, the applicant must grant in writing to the

commission the right to review employment records, permits and other documents which the commission determines are necessary to verify the eligibility of the applicant for the abatement. (Added to NAC by Comm'n on Econ. Development, eff. 11-29-95)

374.120 Consideration and approval of application.

1. The commission will approve or deny at its next regularly scheduled meeting each application for an abatement which is received by the commission at least 15 working days before the meeting.
 2. The commission will consider each application on a case-by-case basis.
- (Added to NAC by Comm'n on Econ. Development, eff. 11-29-95)

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.]~~

- A. Objectives. The purchases are consistent with the Commission's State Plan for Industrial Development and Diversification. The overall objectives of the State Plan for Economic Diversification and Development include:*
- 1. Diversification from the gaming and hospitality industry;*
 - 2. Attraction of basic industries such as manufacturing, warehousing and distribution, and back-office operations;*
 - 3. Attraction of business facilities and services such as corporate headquarters, research and development operations, and producer services; and*
 - 4. Expansion of existing basic businesses and industries as described above.*
- B. The Commission determines the abatement is a significant factor in the decision of the company to locate or expand a business in this state; and*
- C. The business will provide a medical insurance plan for all employees including an option for dependent health insurance coverage.*

- D. The business is registered pursuant to the laws of this state or the applicant commits to obtain all licenses and permits required by this state and the county, city or town in which the business operates.*
- E. The business commits to maintaining the business in this state for five years. This five-year period begins when the applicant begins paying taxes to the Department of Taxation.*

The applicant must meet two of the three following criteria:

- 1. Wage Requirement. The company's average hourly wage at the Nevada facility equals or exceeds 100% of the average hourly wage established by the Nevada Department of Employment, Training, and Rehabilitation.*
- 2. Number of Jobs Required. For counties/cities with a population of more than 50,000 requires a minimum of 75 full-time permanent jobs in Nevada by the fourth quarter of operation and continue to employ at least the minimum. For counties/cities with a population of less than 50,000 requires a minimum of 25 full-time permanent jobs in Nevada by the fourth quarter of operation and continue to employ at least the minimum. For an expansion, the company must increase the number of employees on the payroll by 10% or six employees, whichever is greater. Abatement is void if business fails to comply. Short-term vacancies in employment do not void the abatement if the business is attempting in good faith to fill vacancies and does so within a period of time considered reasonable by the Commission.*
- 3. Capital Investment Requirement. For counties/cities with a population of more than 50,000, a capital investment of \$1million is required. For counties/cities with a population of less than 50,000, a capital investment of \$250,000 is required.*

Of the above three criteria, wage requirement is the factor the Commission will consistently enforce, only under special circumstances will there be exceptions.

As a condition of approval, applicant agrees in writing to supply upon request copies of all necessary records for the Commission's director to verify the applicant meets all requirements.

The Commission on Economic Development reserves the right to grant or deny certification on a case-by-case basis.

The amount of taxes abated can be everything above 2%. This rate will vary dependent upon the county in which the business is located.

If an applicant is approved, the taxpayer is eligible for tax abatements for two years. The start date begins when the first piece of equipment is delivered to the designated facility or taxes are paid on the equipment.

If a business is not maintained in this state for five years after tax abatement approval, the company will repay to the Department of Taxation the amount of the abatement allowed before the failure to comply. Interest will be repaid on the amount due at the rate most recently established pursuant to NRS 99.040, or portion thereof, from the last day of the month following the period payment would have been made had the abatement not been granted, until the date of the actual tax payment. The Nevada Department of Taxation can determine the business has substantially complied with the requirements.

Applicant should allow a minimum of 15 working days prior to the next regularly scheduled Commission meeting for application processing. Those requiring special review and consideration may require a longer period of time to complete the certification process.

A letter in support of the tax abatement from the local development authority is required.

The applicant will register with the Department of Taxation on a separate form if an account has not been established.

Upon certification, the Commission will immediately forward the application for abatement to the Nevada Department of Taxation – the administrator for tax abatements. The Tax Department’s Revenue Division will determine what purchases qualify for abatement, verify the sale, the price paid, and the date of sale.

(Added to NAC by Comm'n on Econ. Development, eff. 11-29-95)