

**LCB File No. R029-03**

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

(This proposed regulation was previously adopted as LCB File No. T030-02)

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

**Chapter 361 of NAC is hereby amended by adding thereto new sections to read as follows:**

*Part A. Real and Tangible Personal Property Used for Low-Income Housing and Related Facilities (NRS 360.090, 361.082)*

*Section 1. Definitions. As used in this chapter, unless the context otherwise requires:*

*(a) “Qualified low-income housing project” means any project for residential rental property meeting one of two requirements, whichever is elected by the taxpayer pursuant to 26 U.S.C. §42:*

*(1) “20-50 test” means 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of the area median gross income;*

*(2) “40-60 test” means 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of the area median gross income.*

*(b) “Low-income unit” means any unit in a building if such unit is rent-restricted pursuant to 26 U.S.C. §42 (g) (2) and if the individuals occupying such unit meet the income limitations applicable under the “20-50 test” or the “40-60 test” as those tests are described in 26 U.S.C. §42 (g) (1). Other exceptions and limitations apply pursuant to 26 U.S.C. §42.(i)(3).*

*(c) “Related facilities” means that part of qualified low-income housing occupied or used exclusively by persons with low incomes such as, but not limited to, playgrounds, community rooms, and the manager’s office and unit.*

*Section 2. (NRS 360.090, 361.082, 361.155) Application form; records required to claim exemption.*

*(a) An owner of property desiring to qualify property for exempt status pursuant to NRS 361.082 shall apply for exemption to the county assessor no later than June 15. The application must be on a form approved by the commission.*

*(b) Applications for exemption of property pursuant to NRS 361.082 must contain information showing:*

*(1) The property is part of a qualified low-income housing project funded in part by federal money appropriated pursuant to 42 U.S.C. §§ 12701, et seq for the year in which the exemption applies;*

*(2) The property, including related facilities, has been occupied or used by qualified residents or will be used exclusively as a low income unit as of June 15; and*

*(3) The total number of qualifying low-income units and the number of units rent restricted and currently occupied by individuals meeting the income limitation applicable under 26 U.S.C. 42 (g)(1).*

*(c) Additional documentation must be attached to the application, including, but not limited to:*

*(1) Documentation showing the property is part of a qualified low-income housing project, such as one or more of the following:*

*I. Declaration of Restrictive Covenants; or*

*II. Letter of Verification from the appropriate housing agency in charge of dispensing federal funds that the project qualifies as a qualified low-income housing project. The verification must include the type of federal funding granted, the date the funding was granted, and the date of expiration; or*

*III. Other verification of federal fund disbursement and the date of the disbursement.*

*(2) Documentation showing the election of the taxpayer to qualify as a low-income housing project under the “20-50 test” or the “40-60 test” pursuant to 26 U.S.C. 42 (g). Such documentation may include a copy of that portion of a federal income tax return claiming the federal tax credit.*

*(3) For all initial applications, a copy of:*

*I. the first quarter or annual status report for the project issued by the appropriate housing agency showing unit number, unit size, tenant name, household size, actual tenant paid rent, utility allowance, annual household income, and unit activity;*

*II. HUD Section 8 Area Median Income Limits currently incorporated in the Home Program Income Limits as of March 31st of the most current year.*

*(d) The assessor will require an annual report to include all of the provisions identified in Chapter 361, Part A, Section 2(b) and (c) or an affidavit on a form approved by the commission. Documentation for Section 2 (b)(1) is not required on any application for renewal of the exemption after it has once been submitted.*

*(e) The owner of the property shall maintain accurate records in support of the information requested.*

*(f) The assessor shall disallow claims for exemption on units meeting any one of the following criteria:*

*(1) Units not rent-restricted;*

*(2) Units not part of a qualified low-income housing project funded in part by federal money appropriated pursuant to 42 U.S.C. § 12701 et seq. for the year in which the exemption applies.*

*(g) Any claim for exemption denied by the county assessor affecting the taxable value of the property may be appealed to the county board of equalization pursuant to NRS 361.345.*

*Part B. (NRS 360.090, 361.228) Standard prewritten computer programs ineligible for exemption as intangible personal property.*

*Section 1. For purposes of this section, the following definitions apply:*

*(a) “Software” means programs, procedures, rules, and any associated documentation pertaining to the operation of a computer system.*

*(b) “Custom software program” means software having all of the following characteristics:*

*(1) Developed pursuant to the special order of a customer and produced by a provider exclusively for a specific user; and*

*(2) Of an original, one-of-a-kind nature;*

*(c) “Standard prewritten program” sometimes referred to as “canned” or “off-the-shelf” software, means software which is not originally developed, and produced for an individual user.*

*Sec. 2. Standard prewritten programs, are tangible personal property and are not eligible for exemption from property taxes. Custom computer programs are intangible personal property pursuant to NRS 361.228 and are exempt property.*