

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R029-03

August 15, 2003

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

AUTHORITY: §§1 and 2, NRS 360.090, 360.250 and 361.082; §3, NRS 360.090 and 360.250.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *An owner of property who wishes to qualify the property for exempt status pursuant to NRS 361.082 must apply to the county assessor for the exemption not later than June 15 of each year. The application must be on a form approved by the Commission.*

2. Except as otherwise provided in this section, an application for the exemption of property pursuant to NRS 361.082 must contain information showing:

(a) That 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;

(b) That the property, including related facilities, has been occupied or used by qualified residents or will be used exclusively as low-income units as of June 15 of that year; and

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

3. The following additional documentation must also be attached to the application:

(a) Documentation showing the property is part of a qualified low-income housing project, including, without limitation:

(1) A declaration of restrictive covenants;

(2) A letter of verification from the appropriate housing agency in charge of dispensing federal funds which states that the project qualifies as a qualified low-income housing project and includes the type of federal funding granted, the date on which the funding was granted and the date of expiration of the funding; or

(3) Any other verification of the disbursement of federal funding and the date of the disbursement.

(b) 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, without limitation, a copy of that portion of a federal income tax return claiming the federal tax credit.

(c) For an initial application, a copy of:

(1) The first quarter or annual status report for the project issued by the appropriate housing agency showing the number of units, the sizes of the units, the names of the tenants occupying those units, the sizes of the households living in those units, the actual amount of rent paid by the tenants of those units, the utility allowance, the annual household incomes of the tenants of those units and the rental activity for those units; and

(2) Area median income limits published each year by the Department of Housing and Urban Development used in the determination of eligibility for Section 8 subsidized rental housing which are incorporated in the income limits for the Home Investment Partnerships Program as of March 31st of the most current year.

4. Each owner of property who receives an exemption for low-cost housing shall annually file with the county assessor:

(a) A report that includes the information and documentation identified in subsections 2 and 3; or

(b) An affidavit providing that information on a form approved by the Commission.

5. An owner of property need not include on his renewal form the documentation and information described in paragraph (a) of subsection 2.

6. The owner of the property shall maintain accurate records in support of the information requested.

7. The county assessor shall disallow claims for exemption on any unit that:

(a) Is not rent-restricted; or

(b) Is not a 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 is sought.

8. 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 in accordance with NRS 361.345.

9. As used in this section:

(a) The “20-50 test” means a test that requires 20 percent or more of the residential units in the low-income housing project to be both rent-restricted and occupied by natural persons whose income is 50 percent or less of the area median gross income.

(b) The “40-60 test” means a test that requires 40 percent or more of the residential units in the low-income housing project to be both rent-restricted and occupied by natural persons whose income is 60 percent or less of the area median gross income.

(c) “Low-income unit” means any unit in a building that:

(1) Is rent-restricted pursuant to 26 U.S.C. § 42(g)(2);

(2) Is occupied by persons who meet the income limitations applicable under the 20-50 test or the 40-60 test, as appropriate; and

(3) Meets all other applicable exceptions and limits pursuant to 26 U.S.C. § 42(i)(3).

(d) “Qualified low-income housing project” means any project for residential rental property meeting the 20-50 test or the 40-60 test, whichever is elected by the taxpayer pursuant to 26 U.S.C. § 42.

(e) “Related facilities” means that part of qualified low-income housing occupied or used exclusively by persons with low incomes, including, without limitation, playgrounds, community rooms, the manager’s office and the low-income unit.

Sec. 3. 1. *Standard prewritten programs are tangible personal property and are not eligible for exemption from property taxes. Custom software programs are intangible personal property pursuant to NRS 361.228 and are exempt property.*

2. As used in this section:

(a) “Custom software program” means software that is:

(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.

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

(c) “Standard prewritten program” means software which is not originally developed and produced for an individual user. The term includes canned software and off-the-shelf software.