

**ADOPTED REGULATION OF THE
DEPARTMENT OF TAXATION**

LCB File No. R152-03

Effective October 22, 2003

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

AUTHORITY: §1, section 7 of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature, chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 135 (NRS 363A.070).

Section 1. Chapter 363A of NAC is hereby amended by adding thereto a new section to read as follows:

1. The entire amount of the excise tax imposed by section 10.5 of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature, chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 136 (NRS 363A.120), becomes due for all the branch offices in excess of one operated or otherwise maintained by a bank in this state on the first day of a calendar quarter, regardless of whether the bank ceases to operate or otherwise maintain any of those branch offices during that calendar quarter.

2. If the operation or other maintenance of a branch office commences after the first day of a calendar quarter, no excise tax is due pursuant to the provisions of section 10.5 of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature, chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 136 (NRS 363A.120), for the branch office for that calendar quarter.

3. For the purposes of this section:

(a) The operation or other maintenance of a branch office shall be deemed to commence on the date the branch office first opens for business to the public.

(b) If the first day of a calendar quarter does not occur on a regular banking day for a bank, the bank shall be deemed to operate or otherwise maintain a branch office on that date if the bank:

(1) Held the branch office open for business to the public at any time during the immediately preceding 5 regular banking days for the bank; and

(2) Holds the branch office open for business to the public at any time during the immediately succeeding 5 regular banking days for the bank.

4. As used in this section, the words and terms defined in section 10.5 of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature, chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 136 (NRS 363A.120), have the meanings ascribed to them in that section.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R152-03

The Nevada Tax Commission adopted regulations assigned LCB File No. R152-03 which pertain to chapter 363 the Nevada Administrative Code on October 6, 2003

Notice date: 9/4/2003
Hearing date: 10/6/2003

Date of adoption by agency: 10/6/2003
Filing date: 10/30/2003

INFORMATIONAL STATEMENT

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

Notices of hearing for the adoption and amendment of the proposed regulation were posted at the following locations: Department of Taxation, 1550 East College Parkway, 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; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada.

A copy of the notice of hearing and the proposed regulation were 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 regulation were also made available and placed on file at the Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada; Department of Taxation, 850 Elm Street, No. 2, Elko, Nevada; and in all counties in which an office of the Department of Taxation 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 October 6, 2003, video conferenced between the Nevada Legislative Building, 401 S. Carson Street, Room 3138, Carson City, Nevada and the Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 4401, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed 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 Nevada Department of Taxation at (775) 687-4896, or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada, 89706.

The proposed regulation was submitted to the Legislative Counsel Bureau, which completed its review and minor revisions on October 1, 2003. Thus, the proposed regulation, for practical purposes, was discussed at two workshops and has been heard and considered at one public hearing of the Nevada Tax Commission.

2. **The number of persons who:**
(a) **Attended the hearing:** 55
(b) **Testified at the hearing:** 1
(c) **Submitted to the Tax Commission written comments:** Written comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission from various banking institutions, the Fiscal & Legal Division's of the Legislative Counsel Bureau and the Nevada Taxpayers Association.

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 the notices set forth in #1 above, by direct mail to all county assessors, and by direct mail to the approximately 250 interested businesses and persons on the Department of Taxation's mailing list.

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.**

Paragraph (b) of subsection 3 of section 1 of the proposed regulation was modified to adopt the proposed alternative language provided by LCB - Legal, due to issues raised by the Department of Taxation, the Attorney General and the members of the Nevada Tax Commission. The remaining sections of the proposed regulation were not changed since no concerns were raised by the public, affected or interested businesses or persons, the Department of Taxation, the Attorney General or Tax Commission members, and the Tax Commission believed no changes other than those made were necessary.

5. **The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be states 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 regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public.

(b) **Immediate and long-term effects.**

Same as #5(a) above.

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

The proposed regulation presents no significant foreseeable or anticipated cost for enforcement. There may be some minor initial administrative costs for the Department, which are not quantifiable at this time.

- 7. A description of any regulation of other state or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. Of the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulation is particular to 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 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 the excise tax on bank branch offices procedure, which are the subject of the proposed 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 proposed regulation does not provide a new fee or increase an existing fee.