

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R174-03

Effective February 18, 2004

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

AUTHORITY: §§1-13, NRS 360.090.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Average annual wage” means the average annual wage for a calendar year as computed pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.*

Sec. 4. *“Business” has the meaning ascribed to it in section 103 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 156 (NRS 360.765).*

Sec. 5. *“Federal tax year” means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.*

Sec. 6. *“State business license” means the business license required by section 108 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 157 (NRS 360.780).*

Sec. 7. For the purposes of sections 102 to 108, inclusive, of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature, chapter 5, Statutes of Nevada 2003, 20th Special Session, at pages 155 to 157, inclusive (NRS 360.760 to 360.795, inclusive), and sections 2 to 12, inclusive, of this regulation, the Commission interprets the term:

1. “Business trust” to exclude any trust or portion thereof for which any income, tax deductions or tax credits are attributable to a grantor or another person as a substantial owner of the trust or portion pursuant to the provisions of 26 U.S.C. §§ 671 to 679, inclusive.

2. “Convention” to mean an event of limited duration primarily attended by members of a particular trade or industry to discuss matters of interest to members of that trade or industry.

3. “Limited-liability company” to exclude any limited-liability company which consists of a single member if the limited-liability company is disregarded, for the purposes of federal income taxation, as an entity separate from its owner.

4. “Natural person” to include, without limitation:

(a) A natural person who is the single member of a limited-liability company which is disregarded, for the purposes of federal income taxation, as an entity separate from its owner;

(b) A natural person who is regarded as a substantial owner of any trust or portion thereof pursuant to the provisions of 26 U.S.C. §§ 671 to 679, inclusive;

*(c) A married couple who jointly report, on one or more of the forms described in section 107 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 157 (NRS 360.785), any income, tax deductions or tax credits attributable to a business which is jointly operated by that couple;
and*

(d) A married person who reports, either individually or jointly with his spouse, on one or more of the forms described in section 107 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 157 (NRS 360.785), any income, tax deductions or tax credits attributable to a business which is individually operated by that person.

5. “Person who operates a business from his home” to mean a natural person who operates a business from his personal residence and who:

(a) Does not hold any part of his personal residence open to the general public for use in furtherance of that business; and

(b) Does not own, lease, rent or license any real property for use in furtherance of that business, other than his personal residence and any real property he owns, leases, rents or licenses for the sole purpose of:

(I) Maintaining a post office box;

(II) Posting a business license in accordance with the requirements of a municipal or county ordinance; or

(III) Periodically exhibiting or selling goods or services at a temporary fair, market, show or exhibition.

6. “Trade show” to mean an event of limited duration primarily attended by members of a particular trade or industry to exhibit their merchandise or services to other members of that trade or industry.

Sec. 8. 1. *Except as otherwise provided in this section and subsection 2 of section 103 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 156 (NRS 360.765), a corporation, partnership,*

proprietorship, limited-liability company, business association, joint venture, limited-liability partnership or business trust, or its equivalent organized under the laws of this state or another jurisdiction, shall be deemed to constitute a business for the purposes of sections 102 to 108, inclusive, of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature, chapter 5, Statutes of Nevada 2003, 20th Special Session, at pages 155 to 157, inclusive (NRS 360.760 to 360.795, inclusive), and sections 2 to 12, inclusive, of this regulation, regardless of:

- (a) Any purpose for which that entity is organized or operated; and*
- (b) Whether that entity conducts an activity for profit.*

2. The provisions of subsection 1 do not apply to a natural person.

Sec. 9. *A natural person is not required to obtain more than one state business license for any combination of activities conducted by that person which are reported to the Internal Revenue Service for any federal tax year on two or more of the forms described in section 107 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 157 (NRS 360.785).*

Sec. 10. 1. *The exemption for a home-based business does not apply to a person who operates a business from his home during a federal tax year in which:*

(a) He at any time failed to qualify as a person who operates a business from his home, as that term is interpreted pursuant to section 7 of this regulation; or

(b) His net earnings from that business were greater than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the last day of that federal tax year.

2. Except as otherwise provided in section 9 of this regulation, a person described in subsection 1 shall obtain a state business license for that business not later than 180 days after

the last day of a federal tax year in which the exemption for a home-based business does not apply to him.

3. As used in this section:

(a) "Exemption for a home-based business" means the provisions of paragraph (c) of subsection 2 of section 103 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 156 (NRS 360.765).

(b) "Federal tax year" means a federal tax year ending on or after December 31, 2003.

Sec. 11. 1. If a person who operates a business from his home is required to obtain a state business license as a result of his net earnings from that business, his liability for each annual fee required by subsection 5 of section 108 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 157 (NRS 360.780), depends upon the net earnings of the person from that business for the most recent federal tax year ending before the date on which that fee would otherwise become due. The person is not liable for that fee if he establishes to the reasonable satisfaction of the Department that those net earnings were less than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the date on which that fee would otherwise become due.

2. For the purposes of this section, the Department will accept a copy of a federal income tax return filed with the Internal Revenue Service for a business which a person operates from his home as satisfactory evidence of the net earnings of the person from the business for the period covered by the return.

Sec. 12. *The fees required by section 108 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 157 (NRS 360.780), are nonrefundable.*

Sec. 13. The provisions of this regulation do not affect the liability of any person for any failure to obtain a business license pursuant to chapter 364A of NRS before October 1, 2003.