

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R205-03

Effective December 4, 2003

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

AUTHORITY: §§1-41, NRS 360.090 and 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 the provisions set forth as sections 2 to 41, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Commission” means the Nevada Tax Commission.*

Sec. 4. *“Department” means the Department of Taxation.*

Sec. 5. *“Division” means the Employment Security Division of the Department of Employment, Training and Rehabilitation.*

Sec. 6. *“Employer” has the meaning ascribed to it in section 4 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 133 (NRS 363A.030).*

Sec. 7. *“Health care deduction” means the deduction allowed by subsection 4 of section 11 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 137 (NRS 363A.130).*

Sec. 8. *“Indian tribe” has the meaning ascribed to it in section 4 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 133 (NRS 363A.030).*

Sec. 9. *“NAICS” means the North American Industry Classification System, as adopted by reference in section 17 of this regulation.*

Sec. 10. *“Nonprofit organization” has the meaning ascribed to it in section 4 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 133 (NRS 363A.030).*

Sec. 11. *“Political subdivision” has the meaning ascribed to it in section 4 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 133 (NRS 363A.030).*

Sec. 12. *“Self-insured employer” means an employer that provides a program of self-insurance for its employees.*

Sec. 13. *“SIC” means the Standard Industrial Classification Manual, as adopted by reference in section 17 of this regulation.*

Sec. 14. 1. *For the purposes of section 5.5 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 134 (NRS 363A.050):*

(a) The Commission interprets the term “financial institution” to exclude a federal land credit association, farm credit bank, agricultural credit association or similar institution organized under the provisions of the Farm Credit Act.

(b) A seller of goods or a provider of services who provides or extends credit, or retains a security interest in the goods he sells, only in connection with the financing of the goods he

sells or the services he provides shall not be deemed to be a business entity engaged in the business of lending money, providing credit or securitizing receivables.

2. As used in this section, “security interest” has the meaning ascribed to it in NRS 104.1201.

Sec. 15. For the purposes 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), the Commission interprets the term “bank” to exclude a federal land credit association, farm credit bank, agricultural credit association or similar institution organized under the provisions of the Farm Credit Act.

Sec. 16. For the purposes of section 11 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 137 (NRS 363A.130), the Commission interprets the term:

1. “Claims” to mean claims for those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

2. “Direct administrative services costs” to mean, if borne directly by a self-insured employer and reasonably allocated to the direct administration of claims:

(a) Payments for medical or office supplies that will be consumed in the course of the provision of medical care or the direct administration of claims;

(b) Payments to third-party administrators or independent contractors for the provision of medical care or the direct administration of claims;

(c) Rent and utility payments for the maintenance of medical or office space used for the provision of medical care or the direct administration of claims;

(d) Payments for the maintenance, repair and upkeep of medical or office space used for the provision of medical care or the direct administration of claims;

(e) Salaries and wages paid to medical, clerical and administrative staff and other personnel employed to provide medical care or directly to administer claims; and

(f) The depreciation of property other than medical or office supplies, as computed pursuant to section 35 of this regulation, used for the provision of medical care or the direct administration of claims.

3. “Employees” to mean employees whose wages are included within the measure of the excise tax imposed upon an employer by section 11 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 137 (NRS 363A.130), and their spouses, children and other dependents who qualify for coverage under the terms of the health insurance or health benefit plan provided by that employer.

4. “Health benefit plan” to mean a health benefit plan that covers only those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

5. “Any amounts paid by an employer to a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) for participation in an employee welfare benefit plan” to mean any amounts which are:

(a) Paid by an employer to a Taft-Hartley trust which:

(1) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

(2) Qualifies as an employee welfare benefit plan, as that term is defined in 29 U.S.C. § 1002; and

(b) Considered by the Internal Revenue Service to be fully tax deductible pursuant to the provisions of the Internal Revenue Code.

Sec. 17. 1. *The Standard Industrial Classification Manual, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the price of \$40.*

2. The North American Industry Classification System, 2002 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the price of \$33.

Sec. 18. *In determining whether a person who is doing business in this state qualifies as a financial institution pursuant to paragraph (b) of subsection 1 of section 5.5 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 134 (NRS 363A.050), the Department shall use the four-digit industry codes set forth in the SIC, or the corresponding provisions of the NAICS, as described in sections 19 to 33, inclusive, of this regulation.*

Sec. 19. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (1) or (2) of paragraph*

(b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6211 (Security Brokers, Dealers, and Flotation Companies), or the corresponding provisions of NAICS Code 52311, 52312, 52391 or 523999.

2. SIC Code 6211:

(a) Refers to establishments primarily engaged in the purchase, sale and brokerage of securities, and those, generally known as investment bankers, primarily engaged in originating, underwriting and distributing issues of securities. Establishments primarily engaged in issuing shares of mutual and money market funds, unit investment trusts and face amount certificates are classified in SIC Industry Group 672 (Investment Offices). Establishments primarily engaged in providing investment advice on a contract or fee basis to establishments which deal in financial contracts are classified in SIC Code 6282 (Investment Advice).

(b) Includes, without limitation:

- (1) Agents for mutual funds.*
- (2) Bond dealers and brokers.*
- (3) Distributors, security.*
- (4) Floor traders, security.*
- (5) Investment bankers.*
- (6) Investment certificates, sale of.*
- (7) Investment firm-general brokerage.*
- (8) Mineral leases, dealers in.*
- (9) Mineral royalties, dealers in.*
- (10) Mortgages, buying and selling (rediscounting).*

- (11) Mutual fund agents.*
- (12) Mutual funds, selling by independent salesperson.*
- (13) Note brokers.*
- (14) Oil and gas lease brokers.*
- (15) Oil royalties, dealers in.*
- (16) Option dealers, stock.*
- (17) Sale of partnership shares in real estate syndicates.*
- (18) Security brokers.*
- (19) Security dealers.*
- (20) Security flotation companies.*
- (21) Security traders.*
- (22) Security underwriters.*
- (23) Stock brokers and dealers.*
- (24) Tax certificate dealers.*

Sec. 20. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (3) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6221 (Commodity Contracts Brokers and Dealers), or the corresponding provisions of NAICS Code 52313 or 52314.*

2. SIC Code 6221:

(a) Refers to establishments primarily engaged in buying and selling commodity contracts on either a spot or future basis for their own account or for the account of others. These establishments are members, or are associated with members, of recognized commodity exchanges. Establishments primarily engaged in buying and selling commodities are classified in SIC Code 50 or 51 (Wholesale Trade).

(b) Includes, without limitation:

(1) Commodity brokers (contracts).

(2) Commodity dealers (contracts).

(3) Futures brokers, commodity.

(4) Futures dealers, commodity.

(5) Traders, commodity contract.

Sec. 21. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (4) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6231 (Security and Commodity Exchanges), or the corresponding provisions of NAICS Code 52321.*

2. *SIC Code 6231:*

(a) Refers to establishments primarily engaged in furnishing space and other facilities to members for the purpose of buying, selling or otherwise trading in stocks, stock options, bonds or commodity contracts.

(b) Includes, without limitation:

(1) Commodity contract exchanges.

(2) Futures exchanges, contract.

(3) Option exchanges, stock.

(4) Security exchanges.

(5) Stock exchanges.

Sec. 22. *1. Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (5) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6282 (Investment Advice), or the corresponding provisions of NAICS Code 52392 or 52393.*

2. SIC Code 6282:

(a) Refers to establishments primarily engaged in furnishing investment information and advice to companies and individuals concerning securities and commodities on a contract or fee basis. Establishments that provide advice and also act as brokers or dealers are classified in SIC Code 6211 (Security Brokers, Dealers, and Flotation Companies).

(b) Includes, without limitation:

(1) Futures advisory service.

(2) Investment advisory service.

(3) Investment counselors.

(4) Investment research.

(5) Manager of mutual funds, contract or fee basis.

Sec. 23. *1. Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (6) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6289 (Services Allied With the Exchange of Securities or Commodities, Not Elsewhere Classified), or the corresponding provisions of NAICS Code 523991.

2. SIC Code 6289:

(a) Refers to establishments primarily engaged in furnishing services to security or commodity holders, brokers or dealers, not elsewhere classified.

(b) Includes, without limitation:

- (1) Bondholders protective committees.*
- (2) Custodians of securities.*
- (3) Exchange clearinghouses, commodity.*
- (4) Exchange clearinghouses, security.*
- (5) Financial reporting.*
- (6) Quotation service, stock.*
- (7) Royalty owners protective associations.*
- (8) Security custodians.*
- (9) Security holders protective committees.*
- (10) Stock transfer agents.*
- (11) Transfer agents, securities.*

Sec. 24. 1. Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in

this state qualifies as a financial institution pursuant to subparagraph (7) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6712 (Offices of Bank Holding Companies), or the corresponding provisions of NAICS Code 551111.

2. SIC Code 6712:

(a) Refers to establishments primarily engaged in holding or owning the securities of banks for the sole purpose of exercising some degree of control over the activities of bank companies whose securities they hold. Companies holding securities of banks, but which are predominantly operating the banks, are classified according to the kind of bank operated.

(b) Includes, without limitation, bank holding companies.

Sec. 25. 1. Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (8) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6719 (Offices of Holding Companies, Not Elsewhere Classified), or the corresponding provisions of NAICS Code 551112.

2. SIC Code 6719:

(a) Refers to establishments primarily engaged in holding or owning securities of companies other than banks, for the sole purpose of exercising some degree of control over the activities of the companies whose securities they hold. Companies holding securities, but which are predominantly operating companies, are classified according to the kind of business operated.

(b) Includes, without limitation:

- (1) Holding companies, except bank.*
- (2) Investment holding companies, except bank.*
- (3) Personal holding companies, except bank.*
- (4) Public utility holding companies.*

Sec. 26. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (9) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6722 (Management Investment Offices, Open-End), or the corresponding provisions of NAICS Code 52591.*

2. *SIC Code 6722:*

(a) Refers to establishments primarily engaged in issuing shares, other than unit investment trusts and face-amount certificate companies, whose shares contain a provision requiring redemption by the company upon request of the security holder.

(b) Includes, without limitation:

- (1) Management investment funds, open-end.*
- (2) Money market mutual funds.*
- (3) Mutual fund sales on own account.*

Sec. 27. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in*

this state qualifies as a financial institution pursuant to subparagraph (10) or (11) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6726 (Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices), or the corresponding provisions of NAICS Code 52599.

2. SIC Code 6726:

(a) Refers to establishments primarily engaged in issuing unit investment trusts or face-amount certificates, and establishments primarily engaged in issuing shares, other than unit investment trusts and face-amount certificate companies, whose shares contain no provision requiring redemption by the company upon request of the security holder. Unit investment trust companies are organized under a trust indenture, contract of custodianship or agency, or similar instrument, do not have a board of directors, and issue only securities redeemable at the request of the security holder, each of which represents an undivided interest in a unit of specified securities, but does not include voting trusts. Face-amount certificates, sometimes referred to as guaranteed face-amount certificates, are essentially obligations of the issuing company to pay a fixed sum at a specified maturity date and usually require periodic payments by the purchaser.

(b) Includes, without limitation:

- (1) Face-amount certificate issuing.*
- (2) Government National Mortgage Association (GNMA) pools.*
- (3) Investment funds, closed-end: management of.*
- (4) Investors' syndicates.*
- (5) Issuing of face-amount installment certificates.*
- (6) Management investment funds, closed-end.*

(7) Unit investment trusts.

Sec. 28. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (12) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6732 (Educational, Religious, and Charitable Trusts), or the corresponding provisions of NAICS Code 813211.*

2. SIC Code 6732:

(a) Refers to establishments primarily engaged in the management of the funds of trusts and foundations organized for religious, educational, charitable or nonprofit research purposes.

(b) Includes, without limitation:

- (1) Charitable trusts, management of.*
- (2) Educational trusts, management of.*
- (3) Religious trusts, management of.*

Sec. 29. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (13) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6733 (Trusts, Except Educational, Religious, and Charitable), or the corresponding provisions of NAICS Code 52392, 523991 or 525.*

2. SIC Code 6733:

(a) Refers to establishments primarily engaged in the management of the funds of trusts and foundations organized for purposes other than religious, educational, charitable or nonprofit research.

(b) Includes, without limitation:

(1) Administrators of private estates (nonoperating).

(2) Personal investment trusts, management of.

(3) Trustees: except for educational, religious, or charitable trusts.

(4) Trusts except educational, religious, and charitable: management of.

(5) Vacation funds for employees.

Sec. 30. 1. Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (14) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6792 (Oil Royalty Traders), or the corresponding provisions of NAICS Code 52391 or 53311.

2. SIC Code 6792:

(a) Refers to establishments primarily engaged in investing in oil and gas royalties or leases, or fractional interests therein.

(b) Includes, without limitation:

(1) Oil leases, buying and selling on own account.

(2) Oil royalty companies.

Sec. 31. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (15) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6794 (Patent Owners and Lessors), or the corresponding provisions of NAICS Code 53311.*

2. SIC Code 6794:

(a) Refers to establishments primarily engaged in owning or leasing franchises, patents and copyrights which they in turn license others to use.

(b) Includes, without limitation:

(1) Copyright buying and licensing.

(2) Franchises, selling or licensing.

(3) Music licensing to radio stations.

(4) Music royalties, sheet and record.

(5) Patent buying and licensing.

(6) Patent leasing.

(7) Performance rights, publishing and licensing of.

Sec. 32. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (16) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6798 (Real Estate Investment Trusts), or the corresponding provisions of NAICS Code 52593.*

2. SIC Code 6798:

(a) Refers to establishments primarily engaged in closed-end investments in real estate or related mortgage assets operating so that they could meet the requirements of the Real Estate Investment Trust Act of 1960, as amended. The Real Estate Investment Trust Act of 1960 exempts trusts from corporate income and capital gains taxation, provided they invest primarily in specified assets, pay out most of their income to shareholders, and meet certain requirements regarding the dispersion of trust ownership.

(b) Includes, without limitation:

- (1) Mortgage investment trusts.*
- (2) Mortgage trusts.*
- (3) Real estate investment trusts (REITs).*
- (4) Realty investment trusts.*
- (5) Realty trusts.*

Sec. 33. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), a person who is doing business in this state qualifies as a financial institution pursuant to subparagraph (17) of paragraph (b) of subsection 1 of that section if the person is appropriately classified under SIC Code 6799 (Investors, Not Elsewhere Classified), or the corresponding provisions of NAICS Code 52391, 52392 or 52313.*

2. SIC Code 6799:

(a) Refers to establishments primarily engaged in investing, not elsewhere classified.

(b) Includes, without limitation:

- (1) Commodity contract pool operators.*
- (2) Commodity contract trading companies.*
- (3) Investment clubs.*
- (4) Security speculators for own account.*
- (5) Tax liens: holding, buying, and selling.*
- (6) Venture capital companies.*

Sec. 34. 1. *Except as otherwise provided in subsection 2 of section 5.5 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 134 (NRS 363A.050), if the Division has appropriately classified a person who is doing business in this state under one or more of the provisions of the SIC or NAICS described in sections 19 to 33, inclusive, of this regulation, that person shall be deemed to be a financial institution pursuant to paragraph (b) of subsection 1 of section 5.5 of Senate Bill No. 8 of the 20th Special Session Nevada Legislature, chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 134 (NRS 363A.050). A person may dispute such a classification by the Division, solely for the purpose of determining whether the person qualifies as a financial institution pursuant to that paragraph, by filing a petition with the Department setting forth the reasons why the person believes that he has been misclassified by the Division. The petition must include:*

- (a) A description of the business of the person;*
- (b) A statement of each ground upon which the person disputes the classification by the Division; and*

(c) Any financial records, documents and other evidence necessary to substantiate the person's claim that he has been misclassified by the Division, including, without limitation, any:

(1) Pertinent filings with the Securities and Exchange Commission;

(2) Pertinent filings with the Office of the Secretary of State;

(3) Pertinent evidence of his classification for the purpose of a local business license;

and

(4) Other pertinent filings with federal, state or local agencies that classify or characterize the person.

2. Within 6 months after it receives a petition filed pursuant to this section, the Department shall issue a written decision granting or denying the petition. The decision must be served and may be appealed as provided in NRS 360.245.

Sec. 35. *If a self-insured employer claims the depreciation of property as a direct administrative services cost for purposes of the health care deduction, the employer must compute that depreciation for each calendar quarter, beginning with the calendar quarter in which the property is first placed into service, according to a straight-line method which is based upon:*

1. For tangible personal property other than a mobile home:

(a) Ninety-five percent of the cost of acquisition of the property; and

(b) A useful life determined in accordance with the Personal Property Manual adopted by the Commission for the period in which the property is first placed into service;

2. For a mobile home which has not been converted to real property:

(a) Eighty percent of the cost of acquisition of the mobile home; and

(b) A useful life of 15 years; and

3. For an improvement to real property:

(a) Seventy-five percent of the cost of acquisition of the improvement; and

(b) A useful life of 50 years.

Sec. 36. *The health care deduction does not:*

1. Except as otherwise provided in subsection 6 of section 11 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 137 (NRS 363A.130), allow an employer to deduct any sum for any calendar quarter other than the calendar quarter in which the employer paid that sum.

2. Allow an employer to deduct any sum paid by the employer before October 1, 2003.

Sec. 37. *1. An employer that fails to register with the Division pursuant to NRS 612.535 shall register with the Department for payment of the excise tax imposed by section 11 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 137 (NRS 363A.130).*

2. Each employer shall:

(a) File with the Department each quarterly return required by paragraph (a) of subsection 3 of section 11 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 137 (NRS 363A.130), regardless of whether any tax is due from the employer for that quarter; and

(b) Provide to the Department, on such forms as the Department prescribes, any reports required by the Department for the administration or enforcement of this chapter or sections 2 to 24, 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 133 to 140, inclusive (chapter 363A of NRS).

Sec. 38. *1. An employer is not required to file a copy of a report with the Department in the manner provided in subparagraph (2) of paragraph (a) of subsection 3 of section 11 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 137 (NRS 363A.130), if the Department is able to obtain the information contained in the report pursuant to an agreement with the Division. The Department shall notify an employer if the Department is unable to obtain that information pursuant to such an agreement.*

2. An employer who is in compliance with section 41 of this regulation shall be deemed to have submitted any proof required by subsection 6 of section 11 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 137 (NRS 363A.130).

3. The provisions of this section do not affect any other provision of law requiring an employer to retain or provide any records requested by the Department.

Sec. 39. *If an employer files a return pursuant to paragraph (a) of subsection 3 of section 11 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 137 (NRS 363A.130), which contains any errors, the employer shall:*

1. File with the Department an amended or adjusted return which corrects those errors. Any corrections to:

(a) The wages reported by the employer must be accompanied by an explanation of those corrections; and

(b) Any health care deduction claimed by the employer must be supported by appropriate documentation and explained to the satisfaction of the Department.

2. Remit to the Department any applicable amount due.

Sec. 40. *1. An Indian tribe, a nonprofit organization or a political subdivision is exempt from the provisions of section 11 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 137 (NRS 363A.130), regardless of whether the Indian tribe, nonprofit organization or political subdivision files a written election pursuant to NRS 612.565 or 612.570.*

2. Any person who claims to be a nonprofit organization exempt from the provisions of section 11 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 137 (NRS 363A.130), shall, upon the request of the Department:

(a) If the person does not claim to be an exempt religious organization, provide to the Department a letter from the Internal Revenue Service indicating that the person has qualified as a tax-exempt organization pursuant to 26 U.S.C. § 501(c); or

(b) If the person claims to be an exempt religious organization, provide to the Department such records as the Department deems necessary to demonstrate that the person meets the criteria to qualify as a religious organization pursuant to 26 U.S.C. § 501(c) and any federal regulations relating thereto.

Sec. 41. *Each employer shall maintain and, upon the request of the Department, provide to the Department:*

1. Copies of any reports filed with or submitted to the Division by the employer.

2. *Copies of any records required to be maintained by the employer pursuant to NAC 612.020.*

3. *If the employer claims the health care deduction:*

(a) *Records describing the nature and amount of any contributions for health insurance or an employee benefit plan made by any employees of the employer.*

(b) *Proof of any payments for health insurance or a health benefit plan made by the employer.*

(c) *A copy of any policy, agreement or other document describing:*

(1) *Any health benefit for which the health care deduction is claimed, including, without limitation, the cost of the benefit; and*

(2) *The number of employees covered under the applicable health insurance or health benefit plan.*

(d) *Such records as are required to explain and verify any apportionment of payments between the employer and any of its employees for any pertinent health insurance or health benefit plan.*

4. *Any other records reasonably requested by the Department if:*

(a) *The records are available to the employer; and*

(b) *The disclosure of the records is not prohibited pursuant to NRS 49.225, 449.720, 683A.0873 or 689B.280, or any other state or federal law regarding the confidentiality of the records.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R205-03**

The Nevada Tax Commission adopted regulation assigned LCB File No. R205-03, which pertain to chapter 363A of the Nevada Administrative Code on November 25, 2003.

Notice date: 10/24/2003
Hearing date: 11/25/2003

Date of adoption by agency: 11/25/2003
Filing date: 12/4/2003

INFORMATIONAL STATEMENT

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

Notices of hearing for the adoption and amendment of the proposed permanent 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 permanent 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, Suite 1300, 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 November 25, 2003 video conferenced between the Desert Research Institute, 2215 Raggio Parkway, Conference Room A, Reno, Nevada and the Desert Research Institute, 755 E. Flamingo Road, Room 182, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed permanent regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed permanent 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 permanent regulation was submitted to the Legislative Counsel Bureau, which completed its review and minor revisions on November 20, 2003. Thus, the proposed

permanent regulation, for practical purposes, was discussed at five 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: 50

(b) Testified at the hearing: 3

(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 trade associations, various representatives of financial 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 permanent regulation was adopted without changing any part of the proposed permanent regulation, a summary of the reasons for adopting the regulation without change.

Section 17, paragraph 2 of the proposed permanent regulation was modified prior to adoption, due to an issue raised by the Department of Taxation concerning the latest edition of the North American Industry Classification System. The remaining sections of the proposed permanent regulation was 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 that no changes other than those made at the workshops were necessary.

5. The estimated economic effect of the adopted permanent regulation on the business which it is to regulate and on the public. These must be stated 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 permanent 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 permanent regulation.

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

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

The proposed permanent 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 permanent 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 modified business tax on financial institutions procedure, which are the subject of the proposed permanent regulation.

9. If the permanent 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 permanent regulation does not provide a new fee or increase an existing fee.