

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R161-04

November 3, 2004

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

AUTHORITY: §1, NRS 360.90, 360.765, 360.770, 360.780 and 360.785; §2, NRS 360.090 and 360.780.

A REGULATION relating to taxation; providing interpretations of certain statutory terms needed to administer the business license fee; clarifying that such fees will not be prorated; and providing other matters properly relating thereto.

Section 1. NAC 360.760 is hereby amended to read as follows:

360.760 For the purposes of NRS 360.760 to 360.795, inclusive, and NAC 360.750 to 360.770, inclusive, the Commission interprets the term:

1. *“Activities of a natural person:”*

(a) To include, without limitation, any activity of a natural person if that activity is conducted in furtherance of the business of:

(1) A limited-liability company which is disregarded, for the purposes of federal income taxation, as an entity separate from its owner; and

(2) A trust or any portion thereof if the natural person is a substantial owner of the trust or any portion thereof in accordance with the provisions of 26 U.S.C. §§ 671 to 679, inclusive.

(b) To exclude any activity of a natural person if any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from a partnership, S corporation, estate, trust or real estate mortgage investment conduit on

Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form.

2. “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.]~~ *mean a business trust organized pursuant to the provisions of chapter 88A of NRS.*

3. “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.]~~ 4. “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 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 NRS 360.785, any income, tax deductions or tax credits attributable to a business which is individually operated by that person.]~~

5. *“Partnership” to include any association of two or more persons described in NRS 87.060, regardless of whether the partnership reports to the Internal Revenue Service partnership income, tax deductions or tax credits on Form 1065, U.S. Return of Partnership Income, or its equivalent or successor form.*

6. *“Person that conducts an activity for profit” to exclude:*

(a) *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 thereof pursuant to the provisions of 26 U.S.C. §§ 671 to 679, inclusive;*

(b) *Any trust or portion thereof not otherwise described in this section if the only activity conducted by the trust or portion thereof is of a type that would not qualify as a business pursuant to NRS 360.785 if it were conducted by a natural person; and*

(c) *Any estate if the only activity conducted by the estate is of a type that would not qualify as a business pursuant to NRS 360.785 if it were conducted by a natural person.*

7. *“Person who operates a business from his home” to mean a natural person who individually operates or a married couple who jointly operate a business from ~~his~~ a personal residence ~~and who:~~*

~~—(a) Does not hold any] if:~~

(a) *No part of ~~his~~ the personal residence is held open to the general public for use in furtherance of that business; and*

(b) ~~[Does not own, lease, rent or license any]~~ *No real property is owned, leased, rented or licensed by the natural person or the married couple for use in furtherance of that business, other than ~~his~~ the personal residence and any real property ~~he owns, leases, rents or licenses]~~ owned, leased, rented or licensed 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.}~~ 8. “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. 2. NAC 360.770 is hereby amended to read as follows:

360.770 The *Department will not prorate the* fees required by NRS 360.780 ~~{are nonrefundable.}~~ *for any portion of a year during which a business is not conducted in this state.*