

**ADOPTED REGULATION OF
THE NEVADA TAX COMMISSION**

LCB File No. R010-07

Effective October 31, 2007

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

AUTHORITY: §§1-8 and 10-14, NRS 360.090 and 361A.225; §§9 and 15, NRS 360.090, 360.215, 360.250, 361A.225 and 361A.280.

A REGULATION relating to the taxation of property; establishing a methodology for determining the value for open-space use of real property which is used as a golf course and for calculating the deferred tax due on such property after its conversion to a higher use; and providing other matters properly relating thereto.

Section 1. Chapter 361A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Converted to a higher use” has the meaning ascribed to it in NRS 361A.031.*

Sec. 4. *“Golf course” has the meaning ascribed to it in NRS 361A.0315.*

Sec. 5. *“Golf course land” means the land underlying:*

- 1. A golf course;*
- 2. Any related improvements used in connection with that golf course; and*
- 3. Any appurtenant areas that are necessary for the use of any property described in subsection 1 or 2.*

Sec. 6. *“Golfing improvements” means any improvements to land which are typical and necessary for the use of the property as a golf course, including, without limitation, tees, fairways, bunkers, greens, trees, turf, irrigation, lakes, lake liners, bridges, practice ranges, cart paths, trails and service roads.*

Sec. 7. *“Marshall and Swift” means the applicable manual published or furnished by the Marshall and Swift Publication Company, as that manual existed on October 1 of the year immediately preceding the current assessment year.*

Sec. 8. *“Related improvements” means any improvements to land, other than golfing improvements, which are used in connection with a golf course, including, without limitation, clubhouses, pro shops, restaurants, parking lots, swimming pools, tennis courts, maintenance buildings and areas, and nurseries.*

Sec. 9. *The provisions of sections 2 to 15, inclusive, of this regulation apply to the determination by a county assessor of the taxable value of real property used as a golf course for the purposes of chapter 361A of NRS.*

Sec. 10. *A county assessor shall:*

- 1. Determine the value of the golf course land in the same manner as the county assessor would determine the taxable value of the land for purposes other than open-space use;*
- 2. Multiply the amount of acreage of the golf course land by the product obtained by multiplying \$2,860 by 1 plus the percentage change in the Consumer Price Index (All Items) for July 1 immediately preceding the date of valuation as compared to July 1, 2004; and*
- 3. If the value calculated pursuant to subsection 1 is:*

(a) Greater than or equal to the value calculated pursuant to subsection 2, use the value calculated pursuant to subsection 2 as the taxable value for open-space use of the golf course land; or

(b) Less than the value calculated pursuant to subsection 2, use the product obtained by multiplying the value calculated pursuant to subsection 1 by an open-space discount factor of 0.74 as the taxable value for open-space use of the golf course land.

Sec. 11. *A county assessor shall:*

1. Determine the replacement cost of the golfing improvements as provided in section 12 of this regulation;

2. Subtract from the amount determined pursuant to subsection 1 an amount for the depreciation of the golfing improvements, calculated at 1.5 percent of the amount determined pursuant to subsection 1 for each year of the adjusted actual age of the golfing improvements, up to a maximum of 50 years; and

3. Multiply the remainder determined pursuant to subsection 2 by a factor for the obsolescence of the golfing improvements, calculated as provided in section 13 of this regulation.

Sec. 12. *1. For the purposes of subsection 1 of section 11 of this regulation, a county assessor shall determine the replacement cost of the golfing improvements for a golf course in accordance with the provisions of this section.*

2. Except as otherwise provided in subsection 3, the class of a golf course must be determined by the sum of the number of points assigned to the golf course in accordance with the following criteria:

(a) A golf course must be assigned the number of points which is most nearly equal to the amount calculated by:

(1) Dividing the number 18 by the number of holes on the golf course; and

(2) Multiplying the figure obtained pursuant to subparagraph (1) by the total acreage of the golf course land.

(b) If the slope rating of a golf course, as designated by the United States Golf Association, exceeds 94, the golf course must be assigned the number of points which is equal to the amount calculated by subtracting 94 from that slope rating and multiplying the remainder by 5.

(c) If the total yardage of a golf course exceeds 5,000 yards, as determined from the tee which is farthest from each hole, the golf course must be assigned the number of points which is most nearly equal to the amount calculated by subtracting 5,000 from that total yardage and multiplying the remainder by 0.05.

(d) If par for a golf course:

(1) Is 72 or more, the golf course must be assigned 80 points;

(2) Is 71, the golf course must be assigned 60 points;

(3) Is 70, the golf course must be assigned 40 points;

(4) Is 60 or more but less than 70, the golf course must be assigned 30 points; or

(5) Is less than 60, the golf course must be assigned 20 points.

(e) If a golf course has:

(1) Above-average water features, except as otherwise provided in subparagraph (2), the golf course must be assigned 10 points; or

(2) Extensive and elaborate water features which come into play on a majority of the holes, the golf course must be assigned 30 points.

(f) If a golf course has:

(1) Above-average landscaping, except as otherwise provided in subparagraph (2), the golf course must be assigned 10 points; or

(2) Extensive and elaborate landscaping, including many large, transplanted trees, the golf course must be assigned 30 points.

(g) If the total number of points assigned to a golf course pursuant to paragraphs (a) to (f), inclusive:

(1) Does not exceed 300, the golf course must be designated as a class I course;

(2) Is greater than 300 and does not exceed 450, the golf course must be designated as a class II course;

(3) Is greater than 450 and does not exceed 540, the golf course must be designated as a class III course;

(4) Is greater than 540 and does not exceed 610, the golf course must be designated as a class IV standard course;

(5) Is greater than 610 and does not exceed 650, the golf course must be designated as a class IV good championship course; or

(6) Is greater than 650, the golf course must be designated as a class IV excellent championship course.

3. If any information necessary to determine the class of a golf course pursuant to subsection 2 is unavailable, a county assessor shall use his best judgment to determine the class of the golf course.

4. A county assessor shall assign a cost per hole to a golf course which, except as otherwise provided in this subsection, must be within the cost range per hole for the class of the golf course, as specified in the recreational facilities section for golf courses in Marshall and Swift. The county assessor may assign a cost per hole which exceeds the maximum amount of that cost range only by:

(a) A maximum amount of 3 percent, as appropriate, to account for any excessive grading required for the golf course land; and

(b) The appropriate recreational facilities multiplier and local cost multiplier, as specified in Marshall and Swift.

5. The replacement cost of the golfing improvements must be calculated by:

(a) Multiplying the appropriate cost per hole, as determined pursuant to subsection 4 for the class of the golf course, by the number of holes on the golf course; and

(b) Adding the amount of any additional unit costs for bridges, man-made water features and special drainage requirements, as specified in Marshall and Swift, to the amount determined pursuant to paragraph (a).

Sec. 13. *For the purposes of subsection 3 of section 11 of this regulation, a county assessor shall:*

1. Determine the number of rounds of golf played on a golf course during the 12-month period ending on June 30 immediately preceding the date of valuation;

2. Determine the number of rounds of golf played on that golf course during the busiest month of that period;

3. Multiply the number determined pursuant to subsection 2 by 12;

4. Divide the number determined pursuant to subsection 1 by the number determined pursuant to subsection 3; and

5. Apply the figure determined pursuant to subsection 4 as the factor for the obsolescence of the golfing improvements.

Sec. 14. *A county assessor shall:*

1. Except as otherwise provided in subsection 3:

(a) Determine the taxable value for open-space use of real property used as a golf course by adding the amounts determined pursuant to subsection 3 of section 10 of this regulation and subsection 3 of section 11 of this regulation;

(b) Determine the taxable value of any related improvements used in connection with that golf course in the same manner as the county assessor would determine the value of similar improvements that are not used in connection with a golf course; and

(c) Determine the taxable value of any personal property used in connection with that golf course in the same manner as the county assessor would determine the value of similar property that is not used in connection with a golf course;

2. Add the amounts determined pursuant to subsection 1; and

3. If the sum determined pursuant to subsection 2 exceeds the full cash value of the golf course and any related improvements and personal property used in connection with that golf course, when valued as a single unit, reduce the total taxable value of the golf course and any related improvements and personal property used in connection with that golf course to that full cash value.

Sec. 15. *If a golf course or any portion thereof is converted to a higher use, the county assessor shall calculate the deferred tax due on the real property converted to a higher use on the basis of the difference between:*

1. The taxable value of that property for each pertinent fiscal year as determined in accordance with sections 10 to 14, inclusive, of this regulation; and

2. The taxable value of that property for each pertinent fiscal year as determined by adding:

(a) The applicable amount determined pursuant to subsection 1 of section 10 of this regulation; and

(b) The applicable product determined pursuant to subsection 3 of section 11 of this regulation,

↳ except that for the purposes of this subsection, the taxable value of that property must not exceed its full cash value.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R010-07**

The Nevada Tax Commission adopted regulations assigned LCB File No. R010-07 which pertain to chapter 361A of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) Chapter 361 adopted by the Nevada Tax Commission, in order to implement NRS 361A.225 (2), determining the value of open-space use of real property used as a golf course.

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

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
9/4/07	Workshop	9/18/07	354	196
8/30/07	Hearing	10/1/07	354	196

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

Many oral and two written comments were received at the workshops and hearing. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@tax.state.nv.us .

The Legislative Counsel Bureau completed its review and revisions on September 17, 2007. The Tax Commission further amended the regulation at the hearing on October 1, 2007. The permanent regulation was previously adopted as a temporary regulation by the Nevada Tax Commission on October 2, 2006 following 3 workshops held in 2006.

2. The number persons who:

(a) Attended and testified at each workshop:

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
9/18/07	33	11

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Commission/ Public Attended</u>	<u>Public Testified</u>
10/1/07	8 /33	4

(c) Submitted to the agency written comments:

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
September 18, 2007	0

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 notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct mail to assessors and the interested parties list maintained by the Department. Approximately 55% of the approximately 354 direct mail notices were sent to individuals or associations representing business.

Members of the Nevada Tax Commission, officials of the Nevada Department of Taxation, the Nevada Taxpayers Association, local government officials, and members of the general public commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@tax.state.nv.us.

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.

The permanent regulation was adopted with one change reflecting the verbal and written comments submitted to, or received by, the Department of Taxation primarily from attorneys representing private industry, county assessors, treasurers, finance officers, and Tax Commission members during the workshop listed above. The Nevada Tax Commission adopted the permanent regulation as revised in workshops and at the adoption hearing; and believed no changes other than those made were necessary.

5. **The estimated economic effect of the adopted regulation on the businesses 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.**

The Commission has found that the regulation does not impose a direct and significant burden upon businesses and the public in Nevada. The permanent regulation provides the administrative process for:

1.) Implementation of the property tax valuation process for golf courses imposed by the legislature in 2005 under SB 394 and codified into NRS 361A.225(2).

The regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses. The regulation provides a process of valuation which may reduce property taxes on golf courses. The immediate and long-term effects of the regulation are to provide a standardized method by which the valuation of golf courses as open space property may be administered.

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

The Department anticipates little additional cost for local governments to administer the regulation.

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

There are not other state or government agency regulations that the proposed amendments duplicate.

8. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The Commission is not aware of any provision in this regulation which is also governed by federal 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 Nevada Tax Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.