

**ADOPTED REGULATION OF
THE NEVADA TAX COMMISSION**

LCB File No. R011-07

Effective October 31, 2007

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

AUTHORITY: §§1-14, NRS 360.090 and 361.4734.

A REGULATION relating to taxation; providing a procedure for the appeal of a determination of a county assessor or the Department of Taxation concerning the applicability of a partial abatement from the taxation of certain real property; and providing other matters properly relating thereto.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 14, 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. *“Contact person” means a person designated by a party to receive communications concerning a proceeding before a hearing officer.*

Sec. 4. *“Hearing officer” has the meaning ascribed to it in NAC 360.035.*

Sec. 5. *“Intervener” has the meaning ascribed to it in NAC 360.065.*

Sec. 6. *“Party” means a person, government, governmental agency or political subdivision of a government entitled to appear in a proceeding of the Commission. The term includes an intervener.*

Sec. 7. *“Petitioner” has the meaning ascribed to it in NAC 360.065.*

Sec. 8. *“Staff” has the meaning ascribed to it in NAC 360.040.*

Sec. 9. 1. *A petitioner who wishes to appeal a determination of a county assessor described in paragraph (a) of subsection 1 of NRS 361.4734 or a determination of the Department described in paragraph (b) of subsection 1 of NRS 361.4734 must file a written notice of appeal with the Commission on a form provided by the Department within the period prescribed in subsection 2 of NRS 361.4734.*

2. In addition to the information required by subsection 4 of NAC 360.045, the notice of appeal must include:

(a) The name and mailing address of the petitioner and his contact person, if any;

(b) The telephone number for daytime business hours and facsimile number of the petitioner and his contact person, if any;

(c) The electronic mail address, if available, of the petitioner and his contact person, if any;

(d) The tax year being appealed;

(e) A description of the property and the assessor’s parcel number or the identifying number of the property that is the subject of the appeal;

(f) A copy of the decision of the county assessor or the Department for the tax year in question on the property that is the subject of the appeal; and

(g) A statement of the relief requested.

3. Not later than 10 business days after receiving the notice of appeal of a determination issued pursuant to paragraph (a) of subsection 1 of NRS 361.4734, the Department shall provide a copy of the notice of appeal to the county assessor.

Sec. 10. 1. *After receipt of a notice of appeal filed in compliance with subsection 2 of NRS 361.4734 and section 9 of this regulation, the Commission will assign a hearing officer to hear the appeal.*

2. The hearing officer shall conduct the hearing in the manner prescribed in NAC 360.100 to 360.155, inclusive.

3. Notice of the hearing must be provided in the manner prescribed in NAC 360.095.

4. A person who wishes to intervene in a hearing must comply with the provisions set forth in NAC 360.070.

5. At any evidentiary hearing, the petitioner and the county assessor or the Department may exercise the rights set forth in NAC 360.080.

6. Appearances and representation of the parties must be made in the manner prescribed in NAC 360.085.

7. After the close of the evidentiary hearing, the hearing officer shall file with the Commission within 60 calendar days a proposed order that sets forth the findings and conclusions of the hearing officer and the reasons and bases for those findings and conclusions. The proposed order must be served on each party.

8. The findings of fact and conclusions of law made by a hearing officer are not required to be included in a stipulated agreement.

Sec. 11. 1. *Except as otherwise provided in this subsection, a party may file a written objection to the proposed order with the Commission within 20 calendar days after receipt of the proposed order. The written objection must state with particularity the issues presented, the points of law or fact which are relied on and the relief requested. The Commission may allow*

a party, upon good cause shown, to file a written objection with the Commission more than 20 days after receipt of a proposed order.

2. A party who files a written objection shall serve a copy of its objection on all parties.

3. Except as otherwise provided in this subsection, a party may reply to the written objection within 15 days after receipt of the written objection. A reply must be served on all parties. The Executive Director may grant an extension of time for the responding party to reply upon good cause shown.

4. If no party files a written objection with the Commission pursuant to subsection 1, the Commission will place the proposed order on the appropriate agenda for its next scheduled meeting for action by the Commission.

5. If a party files a written objection to the proposed order with the Commission within 20 days after receipt of the proposed order or, if the Commission chooses to take any action concerning the review of the proposed order, other than to remand the proposed order to the hearing officer for clarification of the order, the Commission will hold a hearing on the proposed order. The Commission will provide to the parties at least 15 days' notice of the hearing, unless the parties waive the notice in writing or on the record before the Commission.

Sec. 12. *In a hearing held before the Commission pursuant to section 11 of this regulation, the order in which argument will ordinarily be received from the parties is:*

- 1. Orientation by staff;*
- 2. Argument by the petitioner;*
- 3. Argument by interveners;*
- 4. Argument by any other party; and*
- 5. Rebuttal by the petitioner.*

Sec. 13. *The hearing held before the Commission pursuant to section 11 of this regulation must be based on the record made before the hearing officer. If the Commission determines the record is inadequate, the Commission may remand the matter to the hearing officer for further proceedings or open the record and hear new evidence.*

Sec. 14. 1. *After the close of oral argument, the Commission shall:*

(a) Make a final order that adopts, reverses or modifies, in whole or in part, the proposed order of the hearing officer; or

(b) Remand the matter to the hearing officer for further proceedings.

2. *The Executive Director shall issue the written order on behalf of the Commission within 60 calendar days after a final order is made or a matter is remanded pursuant to subsection 1.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R011-07**

The Nevada Tax Commission adopted regulations assigned LCB File No. R0110-07 which pertain to chapter 361 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 a procedural process to effectuate NRS 361.4734(2), appeal of determination of applicability of partial abatement of property taxes.

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 10, 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 November 13, 2006 following 1 workshop 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	3

(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 changes 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.) Review of the applicability of property tax abatements by the Nevada Tax Commission, including the appeal of a decision by a hearing officer.

The regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses. The regulation is designed to afford taxpayers an accessible administrative appeal process for the new property tax abatement system. The immediate and long-term effects of the regulation are to provide a standardized method by which property tax abatement appeals may be administered.

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

The Department anticipates no additional cost for local governments to administer the regulation. The estimated cost to the Department will include costs associated with devoting hearing officer and other administrative assistance to the process. Those costs are not yet known.

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 no 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.