

**ADOPTED REGULATION OF  
THE NEVADA TAX COMMISSION**

**LCB File No. R140-07**

Effective January 30, 2008

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

AUTHORITY: §§1-4, NRS 360.090 and 360.247.

A REGULATION relating to taxation; providing for the consideration of proprietary or confidential information of a taxpayer by the Nevada Tax Commission in a hearing which is closed to the public; and providing other matters properly relating thereto.

**Section 1.** Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** *For the purposes of NRS 360.247 and section 3 of this regulation, the Commission interprets the term “trade secret” to have the meaning ascribed to it in NRS 600A.030.*

**Sec. 3. 1.** *A taxpayer may request a closed hearing by submitting the request in writing to the Commission:*

*(a) Not later than 14 calendar days before the date of the hearing; or*

*(b) If authorized by the Director for good cause shown, not later than 5 calendar days before the date of the hearing.*

**2.** *A request for a closed hearing must include:*

*(a) A list or summary of the information the taxpayer alleges to be proprietary or confidential information, which may include bank records, financial statements, customer*

*lists, vendor lists, trade secrets and unique business practices of the taxpayer, and any other information the taxpayer considers to be proprietary or confidential information; and*

*(b) A short statement explaining how the information alleged by the taxpayer to be proprietary or confidential information qualifies as such pursuant to NRS 360.247.*

*3. If the Commission receives a request for a closed hearing in accordance with the provisions of this section, the Commission will:*

*(a) Indicate on its written agenda that the taxpayer has requested a closed hearing; and*

*(b) Hold and protect the information included in the request and any information included in any briefs filed in the pertinent appeal, including any supporting materials and exhibits, in accordance with any applicable laws pertaining to the confidentiality of that information.*

*4. If a taxpayer submits a request for a closed hearing pursuant to:*

*(a) Paragraph (a) of subsection 1, the Department may, not later than 5 calendar days before the date of the hearing; or*

*(b) Paragraph (b) of subsection 1, the Department may, not later than 3 calendar days before the date of the hearing,*

*↪ file a written objection to the request with the Commission and serve a copy of the objection upon the taxpayer or his authorized representative.*

*5. In a closed hearing, the Commission:*

*(a) May receive testimony from the taxpayer and other witnesses regarding the information the taxpayer alleges to be proprietary or confidential information; and*

*(b) Must determine by a majority vote of a quorum of its members whether that information qualifies as proprietary or confidential information pursuant to NRS 360.247. If the Commission determines that any of that information qualifies as proprietary or*

*confidential information pursuant to NRS 360.247, the Commission may continue to hold a closed hearing regarding that proprietary or confidential information until the Commission determines that the proprietary or confidential information has been adequately discussed within the context of the appeal.*

*6. A taxpayer who fails to submit a request for a closed hearing in accordance with the provisions of this section shall be deemed to have waived his right to request a closed hearing. The provisions of this section do not affect the right of a taxpayer or his agent to request a continuance of any hearing on an appeal by the taxpayer.*

*7. As used in this section, “closed hearing” means a hearing before the Commission which is closed to the public pursuant to NRS 360.247.*

**Sec. 4.** NAC 360.043 is hereby amended to read as follows:

360.043 1. The provisions of NAC 360.043 to 360.200, inclusive ~~1~~, *and sections 2 and 3 of this regulation:*

(a) Govern the practice and procedure in contested cases before the Commission and Department.

(b) Govern all practice and procedure before the Commission or Department under titles 31 and 32 of NRS.

(c) Will be liberally construed to secure the just, speedy and economical determination of all issues presented to the Commission or Department.

2. In special cases, where good cause appears, not contrary to statute, deviation from these rules, if stipulated to by all parties of record, will be permitted.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R140-07**

The Nevada Tax Commission adopted regulations assigned LCB File No. R140-07 which pertain to chapter 360 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

- 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.**

Copies of the proposed regulations, notice(s) of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of leasing tangible personal property as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Taxation (“Department”), <http://tax.state.nv.us/>, and mailed to all county libraries in Nevada and posted at the following locations:

Department of Taxation  
1550 College Parkway, Suite 115  
Carson City, Nevada 89706

Department of Taxation  
4600 Kietzke Lane, Suite 235  
Reno, Nevada 89502

Department of Taxation  
555 E. Washington Avenue, Suite 1300  
Las Vegas, Nevada 89101

Department of Taxation  
2550 Paseo Verde Parkway, Suite 180  
Henderson, Nevada 89074

Department of Taxation  
1010 Ruby Vista Drive, Suite 102  
Elko, Nevada 89801

Legislative Building  
401 S. Carson Street  
Carson City, Nevada 89701

Nevada State Library  
100 Stewart Street  
Carson City, Nevada 89701

The Department of Taxation, as staff to the Nevada Tax Commission (“Commission”), solicited comment from the public by posting notices of a workshop, dated August 14, 2007, and August 30, 2007, to the locations listed above. Two workshops were held on August 29, 2007, and September 19, 2007. The minutes of that meeting may be obtained by writing to the Department of Taxation at 1550 College Parkway, Suite 115, Carson City, Nevada 89706. On or about October 30, 2007, the Executive Director of the Department of Taxation (“Executive Director”) issued a Notice of Intent to Act Upon a Regulation, with the intent to adopt R140-07 as a permanent regulation. The Commission, on December 3, 2007, adopted said regulation.

A copy of the summary of the public response, if any, to the proposed regulation may be obtained from the Nevada Department of Taxation, 1500 College Parkway, Suite 115, Carson City, Nevada 89706, 775-684-2096, or email to **efierro@tax.state.nv.us**.

**2. The number persons who:**

(a) Attended each hearing/workshop: August 29, 2007 – 11; September 19, 2007 – 10.

(b) Testified at each hearing/workshop: Several members of the public, including the press, testified. Approximately 5 members of the public testified on August 29, 2007, and approximately 3 individuals testified on September 19, 2007.

(c) Submitted to the agency written comments: No written comments were submitted.

**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 locations throughout the state; and at the Main Public Libraries in counties where an office of the Department is not located.

The Department and the general public commented on all of the proposed language changes during the workshop process. In summary, members of the public generally commented that certain terms relating to the definitions of confidential business information and trade secrets should be further defined. Other comments included shortening the time frame for a taxpayer to request a closed hearing and making explicit that the failure to make a timely request will constitute a waiver of a closed hearing.

Moreover, members of the Nevada Tax Commission, the Department, and general public commented during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Department at (775) 684-2063 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at **efierro@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 on December 3, 2007, which did not include any changes other than the ones submitted by LCB after their review.

**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**

The proposed regulations present no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public. It is anticipated that the regulations will clarify the taxability of the leasing of tangible personal property.

**(b) Both immediate and long-term effects.**

The proposed regulations present no reasonably foreseeable or anticipated immediate or long-term economic effects to businesses or to the general public.

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

The Department anticipates little, if any, additional cost to administer the regulations.

**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 known state or government agency regulations that the proposed regulation duplicates.

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

There are no known federal regulations regarding the request for a closed hearing.

**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.