

**ADOPTED REGULATION OF THE  
COMMISSION ON ECONOMIC DEVELOPMENT**

**LCB File No. R168-07**

Effective April 17, 2008

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

AUTHORITY: §1, sections 16 and 17 of chapter 407, Statutes of Nevada 2007, at pages 1784 and 1785; §2, section 16 of chapter 407, Statutes of Nevada 2007, at page 1784; §3, section 17 of chapter 407, Statutes of Nevada 2007, at page 1785.

A REGULATION relating to taxes; providing for the partial abatement of certain taxes for a new grocery store or the expansion of an existing grocery store located within the Southern Nevada Enterprise Community; 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. 1.** *A person who qualifies pursuant to section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784, may apply to the Commission for a partial abatement of any personal property tax imposed pursuant to chapter 361 of NRS and any tax on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment imposed pursuant to chapter 374 of NRS for a new grocery store which the person intends to locate within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597.*

*2. The application must be submitted on a form prescribed by the Executive Director of the Commission within the applicable period prescribed in subsection 3. The application must include, without limitation:*

*(a) A certificate of endorsement from the governing body of the county, city or town in which the new grocery store will be located, which must:*

*(1) Be issued by the governing body of the county, city or town in a manner consistent with the procedures adopted by the governing body for evaluating the benefits of tax abatements for the economic development of the county, city or town; and*

*(2) Describe the partial abatement of taxes determined by the governing body of the county, city or town to be beneficial for the economic development of the county, city or town;*

*(b) Evidence satisfactory to the Commission that the governing body of the county, city or town provided notice of the hearing at which the governing body considered whether to endorse the application to the board of trustees of the school district in which the grocery store will be located;*

*(c) Evidence satisfactory to the Commission that the new grocery store for which the partial abatement of taxes is sought will be located within the Southern Nevada Enterprise Community; and*

*(d) Evidence satisfactory to the Commission that the total amount of partial abatements of taxes applied for pursuant to this section, together with the total amount of partial abatements of taxes to which the applicant is entitled pursuant to NRS 361.4722, 361.4723 and 361.4724, does not exceed 82 percent of the total amount of personal property taxes otherwise due on all property for which the applicant is seeking a partial abatement pursuant to this section.*

*3. If the application is for a partial abatement of any personal property tax imposed pursuant to chapter 361 of NRS, the application must be submitted not earlier than 18 months before the new grocery store is located within the Southern Nevada Enterprise Community. If the application is for a partial abatement of the taxes imposed pursuant to chapter 374 of*

*NRS, the application must be submitted not later than 60 days after the date of acquisition of the eligible machinery or equipment.*

*4. Except as otherwise provided in subsection 5:*

*(a) If an application submitted to the Commission pursuant to this section is received at least 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at that meeting; or*

*(b) If an application submitted to the Commission pursuant to this section is received less than 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at the next regularly scheduled meeting immediately following that meeting.*

*5. If the Commission determines that an application submitted pursuant to this section requires special or additional review and consideration by the Commission, the Commission may postpone consideration of the application until the next regularly scheduled meeting of the Commission.*

*6. The Commission will approve an application for a partial abatement if the applicant satisfies all requirements of this section and subsection 3 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784.*

*7. If the Commission approves an application for a partial abatement, the Commission will forward to the Department, with the certificate of eligibility required pursuant to subsection 4 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784, any materials submitted to the Commission in support of the application submitted pursuant to this section.*

8. *If the Commission approves an application for a partial abatement from the tax imposed pursuant to chapter 374 of NRS, the taxpayer is eligible for an abatement from the tax for not more than 2 years for eligible machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.*

9. *If a person whose partial abatement has been approved pursuant to this section and is in effect:*

*(a) Ceases to meet the requirements set forth in this section or section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784; or*

*(b) Ceases operation of the grocery store before the expiration of the period specified in the agreement the applicant executed with the Commission pursuant to subsection 3 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784,*

*↳ the person shall pay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, an amount equal to the amount of the tax abatement that was allowed pursuant to this section before the failure of the person to comply with the agreement fully, unless the Nevada Tax Commission determines that the person has substantially complied with the requirements of the agreement and section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784. Except as otherwise provided in NRS 360.232 and 360.320, the person shall, in addition to the amount required to be paid pursuant to this subsection, pay interest on that amount at the rate most recently established pursuant to NRS*

*99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment of the tax would have been due had the partial abatement not been approved until the date of payment of the tax.*

*10. As used in this section, unless the context otherwise requires:*

*(a) "Commission" means the Commission on Economic Development.*

*(b) "Eligible machinery or equipment" has the meaning ascribed to it subsection 3 of NRS 374.357.*

*(c) "Grocery store" has the meaning ascribed to it in subsection 7 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784.*

**Sec. 3.** *1. A person who qualifies pursuant to section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785, may apply to the Commission for a partial abatement of any tax on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment imposed pursuant to chapter 374 of NRS for the expansion of a grocery store which is located within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597.*

*2. The application must be submitted on a form prescribed by the Executive Director of the Commission within the applicable period prescribed in subsection 3. The application must include, without limitation:*

*(a) A certificate of endorsement from the governing body of the county, city or town in which the grocery store is located, which must:*

*(1) Be issued by the governing body of the county, city or town in a manner consistent with the procedures adopted by the governing body for evaluating the benefits of tax abatements for the economic development of the county, city or town; and*

*(2) Describe the partial abatement of taxes determined by the governing body of the county, city or town to be beneficial for the economic development of the county, city or town;*

*(b) Evidence satisfactory to the Commission that the governing body of the county, city or town provided notice of the hearing at which the governing body considered whether to endorse the application to the board of trustees of the school district in which the grocery store is located;*

*(c) Evidence satisfactory to the Commission that the grocery store for which the partial abatement of taxes is sought is located within the Southern Nevada Enterprise Community; and*

*(d) Evidence satisfactory to the Commission that the total amount of any partial abatement of taxes applied for pursuant to this section, together with the total amount of partial abatements of taxes to which the applicant is entitled pursuant to NRS 361.4722, 361.4723 and 361.4724, does not exceed 82 percent of the total amount of personal property tax otherwise due on all property for which the applicant is seeking a partial abatement pursuant to this section.*

*3. The application must be submitted not later than 60 days after the date of acquisition of the eligible machinery or equipment.*

*4. Except as otherwise provided in subsection 5:*

*(a) If an application submitted to the Commission pursuant to this section is received at least 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at that meeting; or*

*(b) If an application submitted to the Commission pursuant to this section is received less than 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at the next regularly scheduled meeting immediately following that meeting.*

*5. If the Commission determines that an application submitted pursuant to this section requires special or additional review and consideration by the Commission, the Commission may postpone consideration of the application until the next regularly scheduled meeting of the Commission.*

*6. The Commission will approve an application for a partial abatement if the applicant satisfies all requirements of this section and subsection 3 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785.*

*7. If the Commission approves an application for a partial abatement, the Commission will forward to the Department, with the certificate of eligibility required pursuant to subsection 4 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785, any materials submitted to the Commission in support of the application submitted pursuant to this section.*

*8. If the Commission approves an application for a partial abatement, the taxpayer is eligible for an abatement from the tax for not more than 2 years for eligible machinery or*

*equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.*

*9. If a person whose partial abatement has been approved pursuant to this section and is in effect:*

*(a) Ceases to meet the requirements set forth in this section or section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785; or*

*(b) Ceases operation of the grocery store before the expiration of the period specified in the agreement the applicant executed with the Commission pursuant to subsection 3 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785,*

*↳ the person shall pay to the Department an amount equal to the amount of the tax abatement that was allowed pursuant to this section before the failure of the person to comply with the agreement fully, unless the Nevada Tax Commission determines that the person has substantially complied with the requirements of the agreement and section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785. Except as otherwise provided in NRS 360.232 and 360.320, the person shall, in addition to the amount required to be paid pursuant to this subsection, pay interest on that amount at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment of the tax would have been due had the partial abatement not been approved until the date of payment of the tax.*

*10. As used in this section, unless the context otherwise requires:*



*(a) "Commission" means the Commission on Economic Development.*

*(b) "Eligible machinery or equipment" has the meaning ascribed to it subsection 3 of NRS 374.357.*

*(c) "Grocery store" has the meaning ascribed to it in subsection 7 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R168-07**

The Commission on Economic Development adopted regulations assigned LCB File No. R168-07 which pertain to chapter 231 of the Nevada Administrative Code on December 19, 2007.

**Notice date:** November 20, 2007

**Date of adoption by agency:** December 19, 2007

**Hearing date:** December 19, 2007

**Filing date:** February 25, 2008

**INFORMATIONAL STATEMENT**

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

A Notice of Public Hearing was posted November 20, 2007. Public comment was solicited through two workshops held on October 1, 2007 and October 2, 2007. The meetings were held at the Legislative Counsel Bureau, 401 South Carson Street, Carson City, Nevada and 555 E. Washington Street, Las Vegas, Nevada. Discussion was held, and clarification was made to the regulations. A Notice of Intent was posted November 20, 2007 and public comment was heard on December 19, 2007. The regulations were adopted as amended. A copy of the minutes is available through the Nevada Commission on Economic Development, 108 East Proctor Street, Carson City, Nevada 89701. Nevada Administrative Rulemaking procedures were followed.

**2. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statement.**

At the October 1<sup>st</sup> public workshop the following attended: NCED Staff Members--Tim Rubald, Executive Director; Joe Reel, Director, Research & Business Development; Kimberly Elliott, Marketing Director; Lynette Castillo, Business Development Specialist; Menyone Thomas, Administrative Assistant IV. Guests Present: John Edmond, Edmond Town Center; Paul Jones, Edmond Town Center; Terry Sheridan, City of North Las Vegas.

At the October 2<sup>nd</sup> public workshop the following attended: NCED Staff Members--Tim Rubald, Executive Director; Kimberly Elliott, Marketing Director; Menyone Thomas, Administrative Assistant IV. Guests Present: Heidi Pettenger, Department of Taxation; Mike Majewski, City of North Las Vegas.

At the December 19<sup>th</sup> adoption hearing the following attended—Lt. Governor Brian Krolicki; NCED Commissioner SaraBeth Brown; NCED Commissioner LeRoy Goodman; NCED Commissioner Monte Miller; NCED Commissioner Patty Wade; NCED Commissioner Frank Woodbeck; Shane Chesney, Deputy Attorney General; NCED Acting

Executive Director, Jerry Sandstrom; Kristen Anderson, Executive Assistant; Kimberly Elliott, Marketing Director; Joe Locurto, Rural Economic Development Director; Joe Reel, Business and Research Director; Margene Stenger, ASO II; Kristen Anderson, Executive Assistant; Susan Combs, Incentives Coordinator.

- 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.**

Public comment was solicited at the workshops and the hearing to adopt regulations. Comments are reflected in the minutes from each of the meetings. Copies of the minutes may be obtained from the Nevada Commission on Economic Development, 108 East Proctor Street, Carson City, Nevada 89701.

- 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 regulations were adopted as amended through the workshops, no additional comments were received during the adoption hearing.

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

The change to the administrative code was necessary to be consistent with current statutory language. No adverse effects will be incurred by businesses or the public. Eligible businesses will benefit from paying lower property taxes during the abatement period.

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

None.

- 7. A description of any regulation 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.**

The adoption of these regulations does not overlap or duplicate any regulations of other state or local agencies, nor do they overlap or duplicate a federal regulation, nor are they required pursuant to federal law.

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

Not applicable.

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 adoption of these regulations does not establish a new fee or increase an existing fee.