

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R134-13

Effective October 24, 2014

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

AUTHORITY: §1, NRS 360.759.

A REGULATION relating to taxation; establishing certain provisions relating to transferable tax credits for film and other productions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes a program for the issuance of transferable tax credits to producers of film, television and other media productions who satisfy certain criteria and apply for such credits on or before December 31, 2017. (NRS 360.758-360.7598) Under existing law, a producer applies for the transferable tax credits by submitting an application to the Office of Economic Development. The Office determines whether the producer is qualified for the credits and the amount of credits to be issued. (NRS 360.759-360.7594) Transferable tax credits issued by the Office may be applied to the gaming license fee administered by the State Gaming Control Board, certain taxes administered by the Department of Taxation or a combination of those fees and taxes. Under existing law, the Office must adopt regulations governing the issuance of transferable tax credits, and the Nevada Tax Commission must adopt regulations prescribing the manner in which transferable tax credits will be administered. (NRS 360.759)

This regulation specifies the manner in which the Department will receive notice of the issuance of transferable tax credits that will be applied to certain taxes administered by the Department and the manner in which those credits may be applied in tax returns filed with the Department. Under this regulation: (1) the Office must provide certain notices to the Department concerning the issuance of transferable tax credits and the amount of transferable tax credits to be applied to each of the taxes administered by the Department; and (2) notices must be provided to the Department when such credits are transferred. This regulation also provides that a return filed with the Department in which transferable tax credits are applied must be: (1) accompanied by a form provided by the Department that indicates the amount of credit to apply to the taxes due for that return; and (2) mailed to the Department at a certain address.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto a new section to read as follows:

1. If the Office certifies the audit provided by a producer pursuant to paragraph (e) of subsection 3 of NRS 360.759 and determines that all other requirements for transferable tax credits have been met, at the same time that the Office notifies the producer that transferable tax credits will be issued, the Office shall notify the Department that the transferable tax credits will be issued. The notice must provide the name of the producer and the amount of transferable tax credits that will be issued.

2. Upon receipt of the irrevocable declaration filed by a producer pursuant to subsection 6 of NRS 360.759 to declare the amount of transferable tax credits that will be applied to each tax or fee set forth in subsection 1 of NRS 360.759, the Office shall forward to the Department a copy of the certificate of eligibility which:

(a) Identifies the amount of transferable tax credits to be applied to the taxes imposed by chapters 363A, 363B and 680B of NRS, segregated by the amount of credit to be applied to each of those taxes; and

(b) Accounts for all of the credits which will be applied to those taxes.

3. Within 5 calendar days after receiving notice from a producer of the transfer of transferable tax credits pursuant to subsection 6 of NRS 360.759, the Office shall notify the Department of all transferable tax credits transferred, segregated by each credit applied to the taxes imposed by chapter 363A, 363B or 680B of NRS. The notification must include, without limitation:

(a) Contact information for the current holder of the transferable tax credits and each person to whom the transferable tax credits will be transferred;

(b) The current state of residence of the current holder of the transferable tax credits and each person to whom the transferable tax credits will be transferred;

(c) The dollar amount of the transfer; and

(d) The proposed date of the transfer.

4. A holder of the transferable tax credits, other than a producer, who intends to transfer any credit applied to the taxes imposed by chapter 363A, 363B or 680B of NRS must notify the Department of all such credits to be transferred, segregated by each credit applicable to the taxes set forth in chapters 363A, 363B and 680B of NRS. The notification must include, without limitation:

(a) Contact information for the current holder of the transferable tax credits and each person to whom the transferable tax credits will be transferred;

(b) The current state of residence of the current holder of the transferable tax credits and each person to whom the transferable tax credits will be transferred;

(c) The dollar amount of the transfer; and

(d) The proposed date of the transfer.

5. A holder of transferable tax credits who is applying such a credit to an amount of taxes due pursuant to chapter 363A, 363B or 680B of NRS shall include with the applicable return a form provided by the Department that indicates the amount of credit applied to the taxes due for that return.

6. A return in which any transferable tax credits are applied to a tax due pursuant to chapter 363A, 363B or 680B of NRS must be mailed to the Department at the following address:

Film Tax Credit Return Processing

Nevada Department of Taxation

1550 College Parkway, Suite 115

Carson City, NV 89706

7. The amount of credit claimed in a single tax return may not exceed the amount of tax due for that return.

8. As used in this section:

(a) "Certificate of eligibility" means a certificate of eligibility for transferable tax credits.

(b) "Office" means the Office of Economic Development.

(c) "Transferable tax credits" means transferable tax credits issued by the Office pursuant to NRS 360.759.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R134-13

1. A clear and concise explanation of the need for the adopted regulation.

The need for this Regulation is to implement the film tax credit provisions contained in NRS 360.759 which were enacted in the 2013 legislative session. It provides guidelines for the Department to obtain information from the Governor's Office of Economic Development and to provide guidance to a taxpayer in claiming the film tax credit and filing returns.

2. Description of how public comment was solicited, a summary of public response, and an explanation of 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>
02/06/2014	Workshop	02/24/2014	322
03/25/2014	Adoption Hearing	05/05/2014	322

The mailing list included the interested parties list maintained by the Department. Notices were also 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 email to other interested parties list maintained by the Department.

See response to #5 for a summary of the public responses to the Regulation

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2030 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at mblanks@tax.state.nv.us.

3. The number of persons who:

(a) Attended each hearing: 3 people attended the workshop; 77 people attended the adoption hearing.

(b) Testified at each hearing: No one testified at the workshop or at the adoption hearing.

(c) Submitted written comments: No written comments were received.

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

No one testified at the workshop or at the adoption hearing. No written comments were received

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

See response to #2 for description of how comments were solicited from affected business and an explanation on how interested persons may obtain a copy of the summary.

Summary of workshop discussion

There was no discussion as no one testified at either the workshop or 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) 684-2030 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at mblanks@tax.state.nv.us.

6. **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 Regulation was adopted as drafted as there was no public input.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

(a) Estimated economic effect on the businesses which they are to regulate.

The proposed permanent regulations present no reasonably foreseeable or anticipated adverse economic effects to Film industry. The benefits of these regulations are that the industry along with the Department will be provided guidance in claiming and filing returns related to the film tax credit.

(b) Estimated economic effect on the public which they are to regulate.

The proposed permanent regulations present no reasonably foreseeable or anticipated adverse economic effects to public.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

The proposed permanent regulations present no significant foreseeable or anticipated cost or decrease in costs for enforcement other than the costs to implement the statutory provisions of the excise tax.

- 9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulations do not overlap or duplicate any regulation of other state or local governmental entities.

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

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

- 11. 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 proposed regulations do not include new or increases in existing fees.