

**ADOPTED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R137-16**

Effective January 27, 2017

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

AUTHORITY: §§1-5, NRS 363A.070; §§6-10, NRS 363B.060.

A REGULATION relating to taxation; establishing requirements for an employer to claim a credit against taxes imposed on certain employers if the employer matches the contribution of an employee to certain college savings plans; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides for college savings plans offered through the Nevada Higher Education Prepaid Tuition Program and the Nevada College Savings Program. Both programs allow persons to pay into investment funds offered by the State, with money paid into the fund and any interest earned on that money available for the costs of higher education. (Chapter 353B of NRS)

Existing law also provides a credit against the excise tax on the wages paid by certain employers to employers who match a contribution of an employee to one of the college savings plans. (NRS 363A.137, 363B.117) **Sections 4 and 9** of this regulation require an employer claiming a tax credit against either excise tax imposed by NRS 363A.130 or 363B.110 to submit both a list of all matching contributions made to an employee’s account with the Nevada Higher Education Prepaid Tuition Program or the Nevada College Savings Program and verification that the contribution was made.

Existing law provides that the amount of the tax credit to which an employer is entitled must not exceed \$500 per contributing employee per year. (NRS 363A.137, 363B.117) **Sections 5 and 10** of this regulation require this limit to be computed based on the calendar year.

**Section 1.** Chapter 363A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

**Sec. 2.** *“Prepaid tuition contract” has the meaning ascribed to it in NRS 353B.030.*

**Sec. 3.** *“Qualified beneficiary” has the meaning ascribed to it in NRS 353B.050.*

**Sec. 4.** *An employer who, pursuant to NRS 363A.137, claims a credit against the excise tax imposed on the employer by NRS 363A.130 must include with the quarterly return filed by the employer pursuant to paragraph (a) of subsection 3 of NRS 363A.130:*

**1.** *Verification of a matching contribution made by the employer:*

**(a)** *To the savings trust account of an employee of the employer in the Nevada College Savings Trust Fund created by NRS 353B.340; or*

**(b)** *To the Nevada Higher Education Prepaid Trust Fund created by NRS 353B.140 to match a contribution made by an employee of the employer on behalf of a qualified beneficiary on whose behalf a prepaid tuition contract is drawn; and*

**2.** *A list of all matching contributions made on a form prescribed by the Department. The list must include, without limitation:*

**(a)** *The name and taxpayer identification number of the employer;*

**(b)** *The name of each employee for whom the matching contribution was made;*

**(c)** *The amount of each matching contribution; and*

**(d)** *The total amount of matching contributions made for each employee during the immediately preceding calendar year.*

**Sec. 5.** *The annual limit set forth in subsection 2 of NRS 363A.137 on the credit described in subsection 1 of that section must be computed based on a calendar year.*

**Sec. 6.** Chapter 363B of NAC is hereby amended by adding thereto the provisions set forth as sections 7 to 10, inclusive, of this regulation.

**Sec. 7.** *“Prepaid tuition contract” has the meaning ascribed to it in NRS 353B.030.*

**Sec. 8.** *“Qualified beneficiary” has the meaning ascribed to it in NRS 353B.050.*

**Sec. 9.** *An employer who, pursuant to NRS 363B.117, claims a credit against the excise tax imposed on the employer by NRS 363B.110 must include with the quarterly return filed by the employer pursuant to paragraph (a) of subsection 3 of NRS 363B.110:*

*1. Verification of a matching contribution made by the employer:*

*(a) To the savings trust account of an employee of the employer in the Nevada College Savings Trust Fund created by NRS 353B.340; or*

*(b) To the Nevada Higher Education Prepaid Trust Fund created by NRS 353B.140 to match a contribution made by an employee of the employer on behalf of a qualified beneficiary on whose behalf a prepaid tuition contract is drawn; and*

*2. A list of all matching contributions made on a form prescribed by the Department. The list must include, without limitation:*

*(a) The name and taxpayer identification number of the employer;*

*(b) The name of each employee for whom the matching contribution was made;*

*(c) The amount of each matching contribution; and*

*(d) The total amount of matching contributions made for each employee during the immediately preceding calendar year.*

**Sec. 10.** *The annual limit set forth in subsection 2 of NRS 363B.117 on the credit described in subsection 1 of that section must be computed based on the calendar year.*

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R137-16**

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

The need and purpose of the proposed permanent regulations identified in LCB File No. R137-16 are to add new provisions and revise, clarify, update, and remove existing provisions relating to the application and administration of the College Savings Plans, for an employer to claim a credit against taxes imposed on certain employer if the employer matches the contribution of an employee to certain college savings plans. The reason for the proposed regulation due to the changes made to Chapter 363A.130 and 363B.110 of the Nevada Revised Statutes (NRS) pursuant to Senate Bill No. 412, which was enacted during the 78th (2015) Session of the Nevada Legislature.

**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 and regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>
9/15/2016	Workshop	9/30/2016	196
10/13/2013	Adoption Hearing	12/5/2016	193

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 lists maintained by the Department.

There were no public responses provided at the workshop or at 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 [hfettic@tax.state.nv.us](mailto:hfettic@tax.state.nv.us)

- 3. The number of persons who:**
- (a) Attended the hearing:** 2 people attended the workshop on 9/30/2015; 75 people attended the adoption hearing.
  - (b) Testified at the hearing:** 0 people testified at the 9/30/2016 workshop; 0 people testified at the adoption hearing.
  - (c) Submitted written comments:** None of the attendees that attended the adoption hearing submitted written comments.

- 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:**

**Testified at Workshop:**

No one testified at the adoption hearing.

**Testified at the adoption hearing:**

No one testified at the adoption hearing.

- 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 businesses and an explanation on how interested persons may obtain a copy of the summary.

**Summary of public responses:**

The following general responses were received by email:

1. Two taxpayers questioned, why it was necessary for an employer to report a list of matching contributions made to an employee's account to the Treasurer's Office and to The Department of Taxation.

**Testimony given at the public workshop:**

No testimony was given during the workshop.

- 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.**

No one proposed any changes at the Adoption Hearing.

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

**(a) The adverse and beneficial affect:**

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse or beneficial economic effects to businesses or to the general public. The benefit of this regulation is for industry and the Department to be provided additional clarity regarding Senate Bill 412.

**(b) The immediate and long-term affect:**

The proposed permanent regulation presents no reasonably foreseeable or anticipated immediate or long-term economic effects to business or to the general public. The benefit of this regulation is for industry and the Department to be provided additional clarity regarding Senate Bill 412.

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

The proposed permanent regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement other than the costs to implement the statutory provision.

**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 regulation does not overlap 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 regulation is 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 regulation does not include any new or increases in existing fees.