

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB FILE NO. R074-201**

**The following document is the initial draft regulation proposed  
by the agency submitted on 06/10/2020**

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**LCB File No. xxx**

[Date]

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

AUTHORITY: §1, NRS 360.090, Senate Bill 448

A REGULATION relating to taxation; concerning the manner in which the federal low-income housing transferable tax credits authorized by the Housing Division of the Department of Business and Industry and the application of such tax credits administered by the Department of Taxation pursuant to chapters 363A, 363B and 680B of the Nevada Revised Statutes.

**Legislative Counsel’s Digest:**

During the 2019 Legislative Session, Senate Bill 448 authorized the Housing Division of the Department of Business and Industry to issue and distribute federal low-income housing tax credits to applicants who comply with the qualified allocation plan and qualify to receive such credits in accordance with the plan’s transferrable tax credits. Such tax credits can be applied to excise taxes on banks and payroll taxes under NRS chapters 363A and 363B; gaming licenses fees imposed by the provisions of NRS 463.370 and the general tax on insurance imposed by NRS chapter 680B; or any combination of such taxes and fees.

This regulation sets forth the manner in which the Department applies low income housing transferable tax credits upon the approval and issuance of the credit by the Housing Division of the Department of Business and Industry.

**Section 1.** Chapters 363A, 363B and 680B of NAC are hereby amended by adding thereto the provisions set forth as section 2 of this regulation.

**Sec. 2.** *As used in sections 2 through 7, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 through 13, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Declaration of restrictive covenants and conditions” has the meaning ascribed to it in Senate Bill (SB) 448, Section 3.*

**Sec. 4.** *“Department” means the Nevada Department of Taxation.*

**Sec. 5.** *“Division” means the Nevada Department of Business and Industry, Housing Division.*

**Sec. 6.** *“Low Income housing transferable tax credits” means a tax credit issued by the Division which can be applied to the taxes imposed by the provisions of Chapter 363A, Chapter 363B and Chapter 680B of the Nevada Revised Statutes.*

**Sec. 7.** *“Project sponsor” has the meaning ascribed to it in SB 448, Section 7.*

**Sec. 8.** *“Transferee” means the person or entity to whom the tax credits will be transferred.*

**Sec. 9.** *The Division will provide written notice to the Department of a reservation of a transferable tax credit reserved for a project which identifies the amount of the transferable tax credits.*

**Sec. 10.** *1. If, after the Division completes its review of the project, the Division determines that the project complies with the requirements upon which the transferable tax credits were reserved pursuant to SB 448, and a declaration of restrictive covenants and conditions has been recorded in the office of the county recorder for the county in which the project is located, the Division shall issue the transferable tax credits.*

*2. The Division will provide a written notice to the Department when the Division issues transferable tax credits to the project sponsor, segregated by any tax imposed by NRS chapter 363A, 363B or 680B or any combination of those taxes. The notice must contain:*

*(a) Contact information for both the current holder of the transferable tax credits and for each transferee including:*

- 1) The name of the transferee;*
- 2) The Nevada Taxpayer Identification number issued by the Department for the transferee; and*
- 3) The telephone number and e-mail address for the transferee;*

*(b) Name of who will be managing the tax credits;*

*(c) The tax type(s) the tax credits will be applied to;*

*(d) The dollar amount of the tax credits; and*

*(e) The date the transferee may begin utilizing the tax credit(s).*

**Sec. 11.** *1. A taxpayer who receives transferable tax credits and is also subject to the taxes imposed by the provisions of NRS Chapter 363A, Chapter 363B and Chapter 680B, shall*

*offset such taxes to the extent of the amount of the transferable tax credits. The taxpayer shall submit to the Department, on a form proscribed by the Department, the amount of transferable tax credits that will be applied towards the tax type, along with their quarterly return(s).*

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

**Sec. 12.** *Transferable tax credits shall expire 4 years after the date on which the transferable tax credits were issued to the project sponsor.*

**Sec. 13.** *1. If it is determined by the Division that a project sponsor submitted false statements or made any false representation when obtaining transferable tax credits, or fails to comply with any of the requirements in SB 448, and the transferee has used such credits, the Division shall notify the Department. The Department shall issue a notice of liability to the project sponsor for any portion of the transferable tax credits to which the project sponsor is not entitled.*

*2. The Department will not require a transferee who purchased transferable tax credits in good faith to forfeit the transferable tax credits unless the transferee submitted fraudulent information in connection with the purchase.*

*3. If it is determined by the Division that the transferee submitted fraudulent information in connection with the purchase of transferable tax credits, the Division will notify the Department. Such credits will be subject to forfeiture or repayment by the transferee to the Department for any portion of the transferable tax credits in which the transferee was not entitled.*