

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R074-20

February 2, 2021

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

AUTHORITY: §§1-9, NRS 360.090 and 360.867.

A REGULATION relating to taxation; establishing requirements for the administration of transferrable tax credits issued to sponsors of certain low-income housing projects; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Housing Division of the Department of Business and Industry to issue transferable tax credits, that are authorized to be taken against certain state taxes, to the sponsor of a project for the acquisition, development, construction, improvement, expansion, reconstruction or rehabilitation of low-income housing. Under existing law, the Nevada Tax Commission is required to adopt regulations prescribing the manner in which such transferable tax credits will be administered. (NRS 360.867)

Existing law requires the Housing Division to notify the Department of Taxation of all transferable tax credits issued to a sponsor of a low-income housing project and of all such transferable tax credits transferred. (NRS 360.867) **Section 7** of this regulation requires the notification to be in writing and sets forth certain requirements for its contents.

Under existing law, transferable tax credits issued by the Housing Division to a sponsor of a low-income housing project may be applied to: (1) certain excise taxes on banks and payroll taxes; (2) certain gaming license fees; (3) certain general taxes on insurance premiums; or (4) any combination of such taxes and fees. (NRS 360.867) **Section 8** of this regulation requires a holder of transferable tax credits who is applying such credits to an amount of taxes due to offset the amount of such taxes due to the extent of the transferable tax credits. **Section 8** also requires the holder to include with his or her quarterly tax return a form indicating the type of tax to which the credit was applied and the amount of the credit applied.

Existing law requires a sponsor of a low-income housing project to repay any portion of transferrable tax credits to which the project sponsor is not entitled if it is found that the project sponsor made false statements or representations when obtaining the credits or failed to comply with certain other requirements. Under existing law, transferable tax credits that were purchased in good faith are not subject to forfeiture or repayment by a transferee unless the transferee submitted fraudulent information in connection with the purchase. (NRS 360.869) **Section 9** of

this regulation requires the Housing Division to notify the Department of Taxation if the Housing Division finds that: (1) a transferee has used transferrable credits obtained by a project sponsor who made false statements or representations when obtaining the credits or failed to comply with certain other requirements; or (2) a transferee submitted fraudulent information in connection with the purchase of transferrable tax credits.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Division” means the Housing Division of the Department of Business and Industry.*

Sec. 4. *“Project sponsor” has the meaning ascribed to it in NRS 360.865.*

Sec. 5. *“Transferable tax credits” means transferable tax credits issued by the Division pursuant to NRS 360.867.*

Sec. 6. *“Transferee” means a person to whom transferable tax credits have been or will be transferred.*

Sec. 7. *A notification by the Division to the Department of the issuance or transfer of transferable tax credits pursuant to subparagraph (3) of paragraph (b) of subsection 6 of NRS 360.867 must be in writing and include, as applicable and without limitation:*

1. Contact information for both the current holder of the transferable tax credits and for each transferee, including, without limitation:

(a) The name, telephone number and electronic mail address of the current holder and of each transferee; and

(b) The taxpayer identification number issued by the Department for the current holder and for each transferee;

2. The name of the person who will be managing the transferable tax credits;

3. The type of tax to which the transferable tax credits will be applied;

4. The dollar amount of the transferable tax credits; and

5. The date that the transferable tax credits may begin to be utilized.

Sec. 8. 1. *A holder of transferable tax credits who is applying such credits to an amount of taxes due pursuant to chapter 363A, 363B or 680B of NRS shall offset the amount of such taxes due to the extent of the amount of the transferable tax credits. The holder shall include with his or her quarterly tax return a form prescribed by the Department that specifies:*

(a) Each type of tax to which the transferable tax credits will be applied; and

(b) The amount of transferable tax credits that will be applied to the taxes due for each type of tax specified in paragraph (a).

2. The amount of transferable tax credits claimed in a single tax return must not exceed the amount of tax due for that return.

Sec. 9. 1. *The Division shall notify the Department if the Division finds that:*

(a) A transferee has used transferable tax credits; and

(b) The project sponsor who obtained the transferable tax credits used by the transferee:

(1) Submitted a false statement or made a false representation when applying for the transferable tax credits; or

(2) Failed to comply with the requirements of NRS 360.860 to 360.870, inclusive.

2. Upon receipt of a notification pursuant to subsection 1, 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.

3. The Division shall notify the Department if the Division finds that a transferee submitted fraudulent information in connection with the purchase of transferable tax credits. Such transferable tax credits will be subject to forfeiture or repayment by the transferee to the Department for any portion to which the transferee is not entitled.