

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R057-21

November 12, 2021

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

AUTHORITY: § 1, NRS 360.090, 363C.020, as amended by section 1 of Assembly Bill No. 435, chapter 139, Statutes of Nevada 2021, at page 580, and NRS 363C.100.

A REGULATION relating to taxation; establishing requirements for the exemption from the commerce tax for persons who take part in certain events for a purpose related to the conduct of a business; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law imposes an annual commerce tax on each business entity whose gross revenue earned in this State during a fiscal year exceeds \$4,000,000. The tax is imposed at a rate based on the industry in which the business entity is primarily engaged. (Chapter 363C of NRS) Existing law exempts from the commerce tax a person who takes part in an exhibition, trade show, industry or corporate meeting or similar event held in this State for a purpose related to the conduct of a business, including, without limitation, an organizer, manager or sponsor of such an event or an exhibitor at such an event. (NRS 363C.020, as amended by section 1 of Assembly Bill No. 435, chapter 139, Statutes of Nevada 2021, at page 580) This regulation clarifies that this exemption applies only to a person who: (1) participates in an event of limited duration primarily attended by members of a particular trade or industry for the purpose of exhibiting their merchandise or services or discussing matters of interest to members of that trade or industry; and (2) does not engage in any business activity in this State other than the participation, organization, management or sponsorship of such an event.

Section 1. NAC 363C.210 is hereby amended to read as follows:

363C.210 1. The commerce tax is a tax imposed on each business entity engaging in a business in this State. To determine whether a business entity is engaging in a business in this State, the Department must consider the activities of the business entity and not the activities of other entities in which the business entity owns an interest.

2. Except as otherwise provided in ~~subsection~~ *subsections 3 and 4* and chapter 363C of NRS, for the purpose of determining whether a person or other entity is subject to the commerce tax, a person or other entity is a business entity if the person is:

(a) An entity organized pursuant to title 7 of NRS or another equivalent statute of this State or another jurisdiction, other than an entity organized pursuant to chapter 82 or 84 of NRS.

(b) A state, national, domestic or foreign bank, whether organized under the laws of this State, another state or another country, or under federal law.

(c) A savings and loan association or savings bank, whether organized under the laws of this State, another state or another country, or under federal law.

(d) A partnership governed by chapter 87 of NRS or another equivalent statute of this State or another jurisdiction.

(e) A registered limited-liability partnership registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive.

(f) A business association.

(g) A joint venture, except a joint operating or co-ownership arrangement which meets the requirements of 26 C.F.R. § 1.761-2(a)(3), Treas. Reg. § 1.761-2(a)(3), that elects out of federal partnership treatment as provided by 26 U.S.C. § 761(a).

(h) A joint stock company.

(i) A holding company.

(j) A natural person who is required to file with the Internal Revenue Service a:

(1) Schedule C (Form 1040), Profit or Loss from Business, or its equivalent or successor form;

(2) Schedule E (Form 1040), Supplemental Income and Loss, or its equivalent or successor form, if an activity of the natural person is reported on Part I of that Schedule; or

(3) Schedule F (Form 1040), Profit or Loss from Farming, or its equivalent or successor form.

(k) Any other person engaging in a business in this State.

3. ~~For~~ *Except as otherwise provided in subsection 4, for* the purpose of determining whether a person or other entity is subject to the commerce tax, a person or other entity is not a business entity if the person or entity is listed in subsection 2 of NRS 363C.020, *as amended by section 1 of Assembly Bill No. 435, chapter 139, Statutes of Nevada 2021, at page 580,* regardless of whether the person or entity is engaging in a business in this State.

4. *The exclusion from the definition of “business entity” set forth in paragraph (n) of subsection 2 of NRS 363C.020, as amended by section 1 of Assembly Bill No. 435, chapter 139, Statutes of Nevada 2021, at page 580, applies only to a person who:*

(a) Participates in an event of limited duration primarily attended by members of a particular trade or industry for the purpose of exhibiting their merchandise or services or discussing matters of interest to members of that trade or industry; and

(b) Does not engage in any business activity in this State other than the participation, organization, management or sponsorship of an event described in paragraph (a).

5. As used in this section:

(a) “Holding company” means an entity that confines its activities to owning stock in, and supervising management of, other companies.

(b) “Joint stock company” means a common-law unincorporated business enterprise of natural persons possessing common capital with ownership interests represented by shares of stock.

(c) “Joint venture” means a partnership engaged in the joint prosecution of a particular transaction for mutual profit.