

**ADOPTED REGULATION OF THE
COMMISSION ON ECONOMIC DEVELOPMENT**

LCB File No. R016-00

Effective May 2, 2001

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

AUTHORITY: §1, NRS 360.750.

Section 1. NAC 364A.147, 364A.148 and 364A.149 are hereby repealed.

TEXT OF REPEALED SECTIONS

364A.147 Exemption for proposed business: Application for exemption pursuant to NRS 364A.170.

1. A proposed business seeking the exemption described in subsection 1 of NRS 364A.170 must apply for the exemption on the form prescribed by the commission on economic development.

2. The commission on economic development will deny or approve and certify each application for an exemption at the first regularly scheduled meeting following receipt of the application if the application is received at least 10 working days before the meeting. An application that is received within the 10 working days before a meeting will be considered at the

next regularly scheduled meeting of the commission following the one before which it was received.

364A.148 Exemption for proposed business: Interpretation of “proposed business” by commission on economic development; application of exemption granted pursuant to NRS 364A.170 to existing business.

1. As used in NRS 364A.170 and chapter 364A of NAC, the commission on economic development will interpret the term “proposed business” to include:

(a) In a county whose population is 35,000 or more, the expansion of an existing business if the expansion will result in:

(1) The addition of at least 75 full-time employees to the payroll of the business in addition to the highest number of employees of the business in the past 3 years by the fourth quarter that the expansion is in operation; and

(2) A new capital investment in Nevada of at least \$1,000,000.

(b) In a county whose population is less than 35,000, the expansion of an existing business if the expansion will result in:

(1) The addition of at least 25 full-time employees to the payroll of the business in addition to the highest number of employees of the business in the past 3 years by the fourth quarter that the expansion is in operation; and

(2) A new capital investment in Nevada of at least \$250,000.

2. An exemption granted pursuant to NRS 364A.170 to an existing business for an expansion applies only to the additional employees resulting from the expansion. The tax due pursuant to chapter 364A of NRS on the basis of the existing employees must be calculated in

the same manner and paid at the same times as before the expansion existed until the exemption expires or is otherwise terminated.

364A.149 Exemption for proposed business: Consistency with plan for economic diversification and development of commission on economic development as qualification for exemption granted pursuant to NRS 364A.170.

1. To demonstrate consistency with the plan for economic diversification and development of the commission on economic development, as required by paragraph (b) of subsection 3 of NRS 364A.170, a proposed business must:

(a) Comply with state and local laws and obtain all required state and local licenses and permits required to operate the business;

(b) Provide a minimum hourly wage for entry level employees of at least 70 percent of the average statewide hourly wage; and

(c) Provide a medical insurance plan for all employees which includes an option for health insurance coverage for the dependents of employees.

2. The following business sectors are inconsistent with the plan for economic diversification and development and therefore a proposed business which is a part of one of these sectors will not be certified by the commission as eligible for the exemption:

(a) Tourism and travel.

(b) Gaming.

(c) Lodging.

NOTICE OF ADOPTION OF LCB FILE NO. R016-00

The Commission on Economic Development adopted amendments to chapter 364A of NAC to establish the administrative procedural language and timing for business tax abatements per SB 537 of the 1999 Legislative Session.

Notice date: 10/9/00
Hearing date: 11/8/00

Date of Adoption by Agency: 11/8/00
Filing date: 5/2/01

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 364A.

1. A 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.

Notices of hearing for the adoption and amendment of the proposed permanent regulation was posted at the following locations: Commission on Economic Development, 108 East Proctor Street, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library.

A copy of the notice of hearing and the proposed permanent regulation was placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed permanent regulation was also made available and placed on file at the Commission on Economic Development, 108 East Proctor Street, Carson City, Nevada; and in all counties in which an office of the Commission on Economic Development is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

The hearing was held on November 8, 2000 at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada and audio/video conference at the Nevada State Legislative Building, Room 3138, 401 South Carson Street, Carson City, Nevada. It appears that due to the primarily procedural nature of the proposed permanent regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed permanent regulation and testified at the hearing. A copy of the transcript of the hearing, for which a reasonable fee may be charged, may be obtained by calling the Commission on Economic Development at (775) 687-4325, or by writing to the Commission on Economic Development at 108 East Proctor Street, Carson City, Nevada, 89701.

The proposed permanent regulation was submitted to the Legislative Counsel Bureau, which completed its review on February 14, 2000. Thus, the proposed regulation, for practical purposes, was discussed at two workshops and has been heard and considered at one public hearing of the Commission on Economic Development.

2. The number of persons who:

(a) Attended the hearing: 26

(b) Testified at the hearing: 2

(c) Submitted to the Commission written comments: Written comments were submitted by the Nevada Taxpayers Association requesting the amendments to the administrative code prior to the hearing. No other written comments by the general public were submitted to, or received by, the staff of the Commission or the Commission on Economic Development.

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

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, by direct mail to interested businesses and persons on the Commission's mailing list.

Comments from the above-referenced in #2 were received relative to the original regulation and proposed draft of the permanent regulation with respect to the abatement of business tax as outlined in Senate Bill 537 of the Nevada Legislature.

4. If the permanent regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the permanent regulation without change.

The proposed permanent regulation was modified at public workshops prior to adoption, due to issues raised by the Department of Taxation and by those referred to in #2.

The proposed permanent regulation was not changed at the public hearing since no additional concerns were raised by the affected public, the Department of Taxation or Commission members, and the Commission on Economic Development believed no changes other than those made were necessary.

5. The estimated economic effect of the adopted permanent regulation on the businesses which it is to regulate on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

(a) Adverse and beneficial effects.

The proposed permanent regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. However, the permanent regulation does impact businesses, which could have a beneficial economic effect on businesses and the general public. That effect cannot be quantified at this time.

(b) Immediate and long-term effects.

Same as #5(a) above.

6. The estimated cost to the agency for enforcement of the adopted permanent regulation.

The proposed permanent regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement. However, it appears that there may be some minor additional administrative costs for the Commission on Economic Development and the Department of Taxation, which cannot be quantified at this time.

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

The proposed permanent regulation is particular to the Commission on Economic Development and the Department of Taxation practices and procedures and does not appear to overlap or duplicate regulations of other state or local governmental agencies.

8. If the permanent regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no known federal regulations pertaining to sales/use tax abatement program procedures, which are the subject of the proposed permanent regulation.

9. If the permanent regulation provides a new fee or increase an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed permanent regulation does not provide a new fee or increase an existing fee.