

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R047-01

July 31, 2001

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

AUTHORITY: §§1-8, NRS 360.090, 361.068, 361.186; §§9-15, NRS 374.291, 374.2911 and 374.725.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 8, inclusive, of this regulation, unless the context otherwise requires, “fine art for public display” has the meaning ascribed to it in paragraph (b) of subsection 5 of NRS 361.068.*

Sec. 3. *For the purposes of NRS 361.186, the department shall interpret:*

1. “Direct costs of owning and exhibiting the fine art” to:

(a) Except as otherwise provided in paragraph (a) of subsection 6 of NRS 361.186, include, without limitation:

(1) Interest payments at a rate that does not exceed the rate set forth in NRS 99.040 on loans used to finance the purchase of the work of fine art during the fiscal year for which the taxpayer is claiming an exemption for the work of fine art.

(2) Insurance payments for the work of fine art, including, without limitation, insurance which provides a guaranty on the authenticity of the work of fine art.

(3) Costs related to the repair, maintenance and conservation of the work of fine art, including, without limitation, cleaning and framing.

(4) Costs related to the moving and storage of the work of fine art in the immediate area of the facility in which the work of fine art is displayed.

(5) Salaries and employee benefits for persons employed to work in the facility in which the work of fine art is displayed, including, without limitation, gallery managers, curators, security personnel, reservations agents and admissions personnel.

(6) Costs related to the operation and maintenance of the facility in which the work of fine art is displayed, including, without limitation, environmental control systems, lighting and security systems that are specific to such a facility.

(7) Rent or other lease obligations for the facility in which the work of fine art is displayed.

(8) Personal property taxes assessed for the work of art, except penalties or interest assessed on such taxes.

(9) Property taxes and personal property taxes assessed for the facility in which the work of fine art is displayed, except penalties or interest assessed on such taxes.

(10) Allowable depreciation pursuant to subsection 4 of NRS 361.227 for furniture or fixtures in the facility in which the work of fine art is displayed.

(11) Allowable depreciation pursuant to paragraph (b) of subsection 1 of NRS 361.227 for real property on which the facility in which the work of fine art is displayed is located and improvements to such a facility.

(12) Communication devices that are used exclusively for informing visitors to the facility about the work of fine art.

(13) Costs for uniforms that persons who are employed by the facility in which the work of fine art is displayed are required to wear, including, without limitation, costs of laundering the uniforms.

(14) Costs associated with cleaning the facility in which the work of fine art is displayed.

(15) Commissions paid to credit card companies for the use of credit cards to pay admission fees.

(16) Advertising costs to notify the public of the display of the work of fine art.

(b) Not include any obligation pursuant to an agreement for the lease or loan of a work of fine art for public display, including, without limitation, rent payments and insurance.

2. “Fees collected for exhibiting the fine art” to include, without limitation, fees paid by visitors to the facility for the rental of communication devices that inform them about the work of fine art.

3. “Resident” to mean a person who lives in this state and possesses a valid driver’s license or other identification issued by this state.

Sec. 4. If an exhibition does not consist solely of fine art for public display owned by the taxpayer, the department will apportion the direct costs of owning and exhibiting the fine art based on the percentage that the value of the fine art for public display owned by the taxpayer bears to the value of all the works of art included in the exhibition.

Sec. 5. For a taxpayer to receive a credit for a donation to a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, such a museum must be operated by an organization that:

1. Qualifies for exemption from taxation pursuant to section 501(c)(3) of the Internal Revenue Code; and

2. The net earnings of which do not inure to the benefit of any private shareholder or other person.

Sec. 6. The affidavit that a taxpayer who is claiming an exemption pursuant to paragraph (j) of subsection 1 of NRS 361.068 must file pursuant to paragraph (a) of subsection 3 of NRS 361.068 with the county assessor on or before June 15 of each year in which the taxpayer claims the exemption must:

1. Be notarized;

2. Be in a form prescribed by the department; and

3. Contain:

(a) A statement that the work of fine art will meet the criteria set forth in paragraph (b) of subsection 5 of NRS 361.068 during the following fiscal year;

(b) A description of the work of fine art for which the taxpayer is claiming an exemption;

(c) The purchase price or appraisal value of the work of fine art;

(d) The fiscal year for which the exemption is sought; and

(e) A statement in substantially the following form:

“I, _____, state under oath and pursuant to the conditions set forth in NRS 361.265 and 361.185, that the attached claim for the property tax exemption is made in good faith and to the best of my knowledge and belief is a true, correct and complete statement that said property meets the requirements of NRS 361.068. Further, I authorize the Nevada tax commission or its designee to inspect the fine art for public display for which I am claiming an exemption and any supporting documents, or otherwise verify the validity of my claim.”

Sec. 7. *To determine the value of a work of fine art for public display for the purposes of subsubparagraph (II) of subparagraph (1) of paragraph (b) of subsection 4 of NRS 361.068, the department shall consider:*

1. For an arm's-length transaction, documentation of the sale, including, without limitation, the purchase price, the name of the seller, the date of the sale and any other documentation that the county assessor required.

2. For any other transaction, a written appraisal which has been completed by an independent and qualified appraiser of fine art not more than 3 years before the date on which the affidavit for an exemption required pursuant to paragraph (a) of subsection 3 of NRS 361.068 is filed and any additional documentation that the county assessor required.

Sec. 8. *Upon receiving a request for a poster pursuant to paragraph (b) of subsection 3 of NRS 361.068, the taxpayer shall select which poster to provide to the school or parent.*

Sec. 9. Chapter 374 of NAC is hereby amended by adding thereto the provisions set forth as sections 10 to 15, inclusive, of this regulation.

Sec. 10. *As used in sections 10 to 15, inclusive, of this regulation, unless the context otherwise requires, "fine art for public display" has the meaning ascribed to it in paragraph (a) of subsection 4 of NRS 374.291.*

Sec. 11. *For the purposes of NRS 374.2911, the department shall interpret:*

1. "Direct costs of owning and exhibiting the fine art" to:

(a) Except as otherwise provided in paragraph (a) of subsection 5 of NRS 374.2911, include, without limitation:

(1) Interest payments at a rate that does not exceed the rate set forth in NRS 99.040 on loans used to finance the purchase of the work of fine art during the fiscal year for which the taxpayer is claiming an exemption for the work of fine art.

(2) Insurance payments for the work of fine art, including, without limitation, insurance which provides a guaranty on the authenticity of the work of fine art.

(3) Costs related to the repair, maintenance and conservation of the work of fine art, including, without limitation, cleaning and framing.

(4) Costs related to the moving and storage of the work of fine art in the immediate area of the facility in which the work of fine art is displayed.

(5) Salaries and employee benefits for persons employed to work in the facility in which the work of fine art is displayed, including, without limitation, gallery managers, curators, security personnel, reservations agents and admissions personnel.

(6) Costs related to the operation and maintenance of the facility in which the work of fine art is displayed, including, without limitation, environmental control systems, lighting and security systems that are specific to such a facility.

(7) Rent or other lease obligations for the facility in which the work of fine art is displayed.

(8) Personal property taxes assessed for the work of fine art, except penalties or interest assessed on such taxes.

(9) Property and personal property taxes assessed for the facility in which the work of fine art is displayed, except penalties or interest assessed on such taxes.

(10) Allowable depreciation pursuant to subsection 4 of NRS 361.227 for furniture or fixtures in the facility in which the work of fine art is displayed.

(11) Allowable depreciation pursuant to paragraph (b) of subsection 1 of NRS 361.227 for real property on which the facility in which the work of fine art is displayed is located and improvements to such a facility.

(12) Communication devices that are used exclusively for informing visitors to the facility about the work of fine art.

(13) Costs for uniforms that persons who are employed by the facility in which the work of fine art is displayed are required to wear, including, without limitation, costs of laundering the uniforms.

(14) Costs associated with cleaning the facility in which the work of fine art is displayed.

(15) Commissions paid to credit card companies for the use of credit cards to pay admission fees.

(16) Advertising costs to notify the public of the display of the work of fine art.

(b) Not include any obligation pursuant to an agreement for the lease or loan of a work of fine art for public display, including, without limitation, rent payments and insurance.

2. "Fees collected for exhibiting the fine art" to include, without limitation, fees paid by visitors to the facility for the rental of communication devices that inform them about the work of fine art.

3. "Resident" to mean a person who lives in this state and possesses a valid driver's license or other identification issued by this state.

Sec. 12. *If an exhibition does not consist solely of fine art for public display owned by the taxpayer, the department will apportion the direct costs of owning and exhibiting the fine art based on the percentage that the value of the fine art for public display owned by a taxpayer bears to the value of all the works of art included in the exhibition.*

Sec. 13. *For a taxpayer to receive a credit for a donation to a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, such a museum must be operated by an organization that:*

1. Qualifies for exemption from taxation pursuant to section 501(c)(3) of the Internal Revenue Code; and

2. The net earnings of which do not inure to the benefit of any private shareholder or other person.

Sec. 14. *To determine the value of a work of fine art for public display for the purposes of subparagraph (II) of subparagraph (1) of paragraph (a) of subsection 4 of NRS 374.291, the department shall consider:*

1. For an arm's-length transaction, documentation of the sale, including, without limitation, the purchase price, the name of the seller and the date of the sale and any other documentation that the taxpayer provides.

2. For any other transaction, a written appraisal which has been completed by an independent and qualified appraiser of fine art not more than 3 years before the date on which an exemption pursuant to NRS 374.291 is filed and any additional documentation that the taxpayer provides.

Sec. 15. *Upon receiving a request for a poster pursuant to subsection 3 of NRS 374.291, the taxpayer shall select which poster to provide to the school or parent.*