

LCB File No. R011-06

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

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

AUTHORITY: Chapter 20, Statutes of Nevada 2005, Sections 3, 3.5, 4, 5, 8, and 9.

GENERAL PROVISIONS

Section 1. *Duties of the county assessor, Department of Taxation, and county tax receiver.*

1. A county assessor (assessor) shall, prior to turning the roll over to the tax receiver each year:

(a) Determine whether the property is a primary single family residence of the owner and is eligible for a partial abatement of the property taxes accrued against the single-family residence pursuant to Chapter 20, Statutes of Nevada 2005, Section 3.0;

(b) Determine whether the property is a residential rental dwelling eligible for a partial abatement of the property taxes accrued against the rental residential dwelling pursuant to Chapter 20, Statutes of Nevada 2005, Section 3.5;

(c) Determine whether a parcel or other taxable unit of property is eligible for a partial abatement of the property taxes accrued against the parcel or taxable unit of property as provided in Chapter 20, Statutes of Nevada 2005, Section 4; and

(d) Determine whether a parcel or other taxable unit of property is not eligible for a partial abatement pursuant to Chapter 20, Statutes of Nevada 2005, Sections 3, 3.5, or 4.

2. For property valued in accordance with NRS 361.320, NRS 361.323, or NRS 362.100(1)(b), the Department of Taxation (Department) shall, prior to turning the roll over to the tax receiver each year:

(a) Determine whether a parcel or other taxable unit of property is eligible for a partial abatement of the property taxes accrued against the parcel or taxable unit of property as provided in Chapter 20, Statutes of Nevada 2005, Section 4; and

(b) Determine whether a parcel or other taxable unit of property is not eligible for a partial abatement pursuant to Chapter 20, Statutes of Nevada 2005, Section 4.

3. The assessor shall be the custodian of the claims for partial abatement of primary single family residences and eligible rental residential dwellings and shall indicate each property for which he has received a claim for partial abatement. For purposes of the abatement, the assessor may change the roll no later than June 30 each year to indicate the property is eligible for the abatement. The tax receiver shall calculate and apply the appropriate amount of partial abatement to each property on the tax roll which is marked as eligible for the primary residence abatement or the rental abatement. The tax receiver shall apply the general abatement to all other eligible property.

(a) The assessor shall notify the tax receiver of all claims for abatement for the current tax year received by him after the roll has been delivered to the tax receiver. The tax receiver

shall process the claim pursuant to the requirements of Chapter 419, Statutes of Nevada, 2005, Section 20.

(b) The Department shall provide the tax receivers in each county with the abatement percentage to be applied to property eligible for the general partial abatement. The Department shall calculate abatement percentage for each county based on the criteria required by chapter 20, Statutes of Nevada 2005, Section 4.

4. If the assessor or the tax receiver grants an abatement and later receives information or otherwise substantiates that the abatement should not have been granted, the assessor may reverse the designation of the property as eligible for the partial abatement or the tax receiver may send a revised bill, as applicable. The assessor or the tax receiver, as applicable, must notify the taxpayer that the decision to grant an abatement has been reversed and specify the reasons therefore. A taxpayer who is aggrieved by the decision to reverse the abatement may appeal the decision to the Nevada Tax Commission pursuant to Chapter 419, Statutes of Nevada, 2005, Section 19.

Sec. 2. Process for qualifying eligible primary single-family residence; filing, form, contents and execution of claims; availability of forms.

1. Each owner of a primary single-family residence may claim eligibility for partial abatement on a form provided by the county assessor of the county in which the property is located.

(a) If the legal owner of a single-family residence is not a natural person, the property is presumed to be ineligible for the partial abatement afforded by Chapter 20, Statutes of Nevada 2005, Section 3. The foregoing presumption may be rebutted by evidence demonstrating, to the reasonable satisfaction of the assessor, that the legal owner holds title to the property solely for purposes of estate planning or asset protection, and that the property is appropriately characterized as the primary residence of a natural person who holds a substantial ownership interest in the legal owner of the property.

2. The assessor shall verify eligibility as necessary. The assessor must consider whether the property is otherwise eligible for the general abatement.

3. The form for claiming the primary single-family abatement may contain a statement which provides in all material respects that:

(a) The claimant is the owner of a primary single family residence exclusive of any other residence in Nevada;

(b) The property is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence;

(c) The claimant agrees to notify the assessor if the property is no longer used as the primary single family residence; and

(d) The claim is affirmed and certified by the owner of the property under penalties provided by law.

4. The claim must be signed by:

(a) Any owner of the property of record;

(b) Any person of lawful age, authorized by an executed power of attorney to sign an application on behalf of any person described in paragraph (a);

(c) The guardian or conservator of any person described in paragraph (a) or the executor or administrator of such a person's estate.

5. Claims may be amended to reflect changes in ownership and occupation of the property. Changes in ownership and occupation of property on the secured tax roll which occur after the lien date of July 1 shall be reflected on the secured tax roll of the following fiscal year. Changes in ownership and occupation of property on the unsecured tax roll which occur after the close of the unsecured roll on April 30 each year shall be reflected on either the secured or unsecured tax roll of the following fiscal year, whichever is appropriate.

Sec. 3. Eligibility of properties with multiple buildings; multiple parcels; farmsteads for the single-family residence abatement.

1. "Primary residence" means a residence as defined by Chapter 419, Statutes of Nevada 2005, Section 25 modifying Chapter 20, Statutes of Nevada 2005, Section 3 (6)(b) and includes any buildings or structures appurtenant thereto so long as the buildings or structures:

(a) Exist for the use, enjoyment and benefit of the occupant of the single-family dwelling;

(b) Are not used in the furtherance of a business, except as provided by Chapter 20, Statutes of Nevada 2005, Section 3 (5)(a); and

(c) Are not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

2. The primary residence including any buildings or structures as defined in Section 3(1), existing on more than one parcel may be considered a taxable unit for purposes of determining eligibility for the partial abatement afforded a single-family residence.

3. "Farmstead" means the land and buildings necessary to support the primary residence. A farmstead is a separate taxable unit from the land and improvements operated as part of an agricultural property for purposes of determining eligibility for the partial abatement afforded a single-family residence.

Sec. 4. Methodology for applying the primary single-family residence partial abatement for taxable units with a mixed use. *When a taxable unit of real property has a residential use and one or more other uses such as a commercial or agricultural use, and if the owner designates the taxable unit as the primary residence of the owner, the assessor may determine what portion of the taxable unit is occupied exclusively by the owner; what portion of the taxable unit is devoted to other uses; and apply the appropriate abatement to each portion of the taxable unit so occupied.*

Sec. 5. Property used in the operation of a home business. *A single-family residence which is used in the operation of a home business may consist of the residence and other improvements typically associated with the residence, such as, but not limited to, a detached garage.*

Sec. 6. Process for qualifying eligible rental properties.

1. The assessor shall mail to all owners of residential rental property each year, a notice of the right to claim a partial abatement of property tax.

a.) "Rental" property means property for which consideration is paid for the use or occupation of the property. Property for which zero consideration is paid but is occupied by a family member shall be considered to be a rental property.

b.) *“Transient lodging” means any facility, structure, or portion of any structure which is occupied or intended or designed for occupancy and held out for use by persons who pay rent for dwelling, lodging, or sleeping purposes, and includes any hotel, resort hotel, motel, bed and breakfast, lodging house, time-share project, vacation home, apartment house, recreational vehicle park/campground, or other similar structure or facility, or portion thereof.*

c.) *The term “transient lodging” does not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, nursing home, home for the aged people, foster home, or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint; and housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees; any room within a private dwelling house or other single-family dwelling unit if the transient lodging use is a minimal incidental use to the principal residential use of the permanent or principal owner who resides in and occupies the dwelling.*

d.) *The burden of establishing that the housing or facility is not transient lodging as defined herein shall be on the owner thereof, who shall file with the assessor such information as the assessor may require to establish and maintain such status.*

2. *The claim must be filed annually with the county assessor of the county in which the claimant’s rental unit is located no later than June 15th of each year.*

3. *A claim for partial abatement of property taxes of rental property must be accompanied by an affidavit stating that the rents received equal or are less than the final fair market rents published by the United States Department of Housing and Urban Development. In order for the assessor to compare the taxpayer’s claim for partial abatement to the market rents published by the United States Department Of Housing And Urban Development, the taxpayer must also report the highest rent charged by the taxpayer for the period from March 31, of the year prior to lien date to March 31, of the current year.*

a.) *Studio apartments shall be considered to be single rooms for purposes of determining the market rent published by the United States Department of Housing and Urban Development.*

4. *The Department shall provide the assessor in each county with the final fair market rents published as of March 31 of the most current year by the Department of Housing and Urban Development, excluding utility allowances. Utility allowances shall be based on the reports entitled “Allowances for Tenant-Furnished Utilities and Other Services” submitted to the U.S. Department of Housing and Urban Development, form HUD-52667 by Nevada regional housing authorities. The Department shall collect the reports from each regional housing authority and transmit the appropriate report to each county assessor.*

5. *The county assessor shall determine whether property is eligible for the partial abatement by comparing the reported rental rate, less utilities if any are included in the rent, to the final fair market rents published as of March 31 of the most current year by the Department of Housing and Urban Development, excluding the appropriate regional Housing Authority Utility Allowance.*

6. *The owner of the property shall maintain accurate records in support of the information requested. The information is subject to audit at any time by the county assessor.*

7. *The county assessor shall disallow claims for partial abatement of 3 % if any unit in which the rents received, less the utilities if any are included in the rent, exceed the final fair*

market rents published by the Department of Housing and Urban Development, excluding the appropriate regional Housing Authority Utility Allowance .

8. Any claim for abatement denied by the county assessor may be appealed pursuant to the requirements of Chapter 20, Nevada Statutes 2005.

Sec. 7. Determination of unit of real or personal property and centrally-assessed property not eligible for the general abatement.

1. The value allocated and apportioned to a taxing district shall be considered a unit of real or personal property.

2. For any interstate or intercounty company valued pursuant to NRS 361.320, property not eligible for the general abatement shall include, but is not limited to, the following:

a.) Property of any company for which there was no allocation of value to, or apportionment of value within, Nevada for the prior year;

b.) Property classified as twelve-month construction work in progress; and

c.) Property identified in the current year Nevada book value or ~~un~~adjusted Nevada value, as appropriate, unless it has already been reported by the taxpayer as twelve-month construction work in progress and the taxpayer certifies that capital expenditures are reported in construction work in progress prior to being transferred to plant in service.

Sec. 8. Calculation of the abatement. *For purposes of comparison, the tax levy resulting prior to the application of all abatements and exemptions in the prior year must be compared to the tax levy resulting prior to the application of all abatements and exemptions in the current year.*

Sec. 9. Calculation of the abatement as applied to property escaping taxation, correction of error, and underassessed property.

1. Property escaping taxation pursuant to NRS 361.325, 361.769, or underassessed or not assessed pursuant to NRS 361.767, shall be considered to be new property for the fiscal year in which it escaped taxation. For each year following the year of escaped taxation, the calculation of the abatement for taxes shall be made as if the property had been on the tax roll in the prior year.

2. For each year following the year in which the assessment of property has been adjusted to correct a clerical error pursuant to NRS 361.765 or a factual error pursuant to NRS 361.768, the calculation of the abatement may be readjusted and the abatement calculated on the tax due on the value as corrected.

Sec. 10. Application of Recapture. *For the purpose of carrying out the provisions of section 5 of chapter 20, Statutes of Nevada 2005, for the fiscal year beginning on July 1, 2005:*

1. A decrease in the taxable value of a parcel or other taxable unit of property may occur as a result of, without limitation, obsolescence or a change in the allocation ratio of centrally assessed property to the State of Nevada.

2. The tax receiver shall calculate the taxable value of a parcel or other taxable unit of property as of:

(a) July 1, 2003;

(b) July 1, 2004; and

(c) July 1, 2005.

3. *The tax receiver shall apply the provisions of section 5 of chapter 20, Statutes of Nevada 2005, to a parcel or other taxable unit of property only if:*

(a) the taxable value of the property on July 1, 2004, is at least 15 percent less than the taxable value of the property on July 1, 2003; and

(b) the taxable value of the property on July 1, 2005, is at least 15 percent greater than the taxable value of the property on July 1, 2004.

4. *If, pursuant to subsection 3, the tax receiver is required to apply the provisions of section 5 of Chapter 20, Statutes of Nevada 2005, to a parcel or other taxable unit of property, the tax receiver shall calculate:*

(a) The product of:

(1) the combined ad valorem tax rate for the fiscal year beginning on July 1, 2005, which applies to the area in which the property is located; and

(2) the difference between:

(i) the assessed value of the property on July 1, 2004; and

(ii) the assessed value of the property on July 1, 2003, or July 1, 2005,

whichever is less;

(b) The product of:

(1) a factor determined by dividing the amount of the ad valorem tax liability of the property for the fiscal year beginning on July 1, 2005, after applying any partial abatement required by Chapter 20, Statutes of Nevada 2005, by the assessed value of the property on July 1, 2005; and

(2) the difference between:

(i) the assessed value of the property on July 1, 2004; and

(ii) the assessed value of the property on July 1, 2003, or July 1, 2005,

whichever is less; and

(c) The amount remaining after subtracting the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a).

5. *If, pursuant to subsection 3, the tax receiver is required to apply the provisions of section 5 of Chapter 20, Statutes of Nevada 2005, to a parcel or other taxable unit of property, the tax receiver shall levy on the property for the fiscal year beginning on July 1, 2005, in addition to the amount of ad valorem taxes determined after applying any partial abatement required by Chapter 20, Statutes of Nevada 2005, one-third of the amount determined pursuant to paragraph (c) of subsection 4.*

6. *This section does not apply to value resulting from correction of factual or clerical errors.*

Sec. 11. Summary reports of tax billings required.

1. *The tax receiver shall send a summary report of the total amount billed for the current tax year by taxing entity to the Department of Taxation and each taxing entity no later than September 1 of the current tax year for property on the secured roll. The summary report shall segregate the information by the following categories:*

a.) The total of all parcels or taxable units on the secured roll by land use code;

b.) The total of all primary single family parcels or taxable units for which a claim for partial abatement of taxes was received and was determined eligible by land use code;

c.) The total of all rental parcels or taxable units for which a claim for partial abatement of taxes was received and was determined eligible by land use code;

d.) The total of all parcels or taxable units other than primary single family or eligible rental parcels or taxable units for which a partial abatement of taxes was applied by land use code;

e.) The total of all parcels or taxable units designated as new property which are not otherwise eligible for a partial abatement by land use code.

2. The summary report shall include the following information by the categories listed in Section 12(1):

a.) The total number of parcels or taxable units;

b.) The total assessed value;

c.) The total taxes otherwise due before application of the partial abatement;

d.) The total amount of taxes abated, if applicable;

e.) The total amount of taxes recaptured, if applicable;

f.) The total incremental tax not subject to abatement because of an exempt tax rate, if applicable;

g.) The total amount of exemptions; and

h.) The revised total taxes due.

3. The tax receiver shall send a summary report of the total amount billed for the current tax year by taxing entity to the Department of Taxation and each taxing entity no later than June 1 of the current fiscal year for property on the unsecured roll. The summary report shall list the same types of information specified in Section 12(1).