

Chapter 361 of NAC

LCB File No. T042-09

**ADOPTED TEMPORARY REGULATION OF THE
COMMITTEE ON LOCAL GOVERNMENT FINANCE**

Filed with the Secretary of State on June 10, 2009

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

AUTHORITY: §§1-5; NRS 361.4732 and NRS 361.4733(1)(b)(1)

A REGULATION relating to taxation; providing for the administration of an exclusion from certain partial abatements of property taxes resulting from the annexation of real property to a different taxing entity; and providing other matters properly relating thereto.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 4 to 9, inclusive, of this regulation, unless the context otherwise requires, the terms defined in section 3 of this regulation and in sections 3 to 9 of LCB File No. R023-08 have the meanings ascribed to it in those sections.*

Sec. 3. *“Revised tax base” means the amount of ad valorem taxes which would have been levied on property that is annexed, if the property had been annexed by a taxing entity in the year prior to the actual annexation. The revised tax base shall be used in calculating abatements on property taxes due with respect to the annexed property for the year it is annexed as provided in sections 4 through 6 of this regulation, except as otherwise provided in Section 7 of this regulation.*

Sec. 4. *1. If property is annexed into a taxing entity and is subject to the provisions of NRS 361.4732 and NAC 361.613, the county treasurer must:*

(a) Make a calculation of the entity-adjusted parcel tax rates for that property for the prior year for each taxing entity that levied an ad valorem tax on that property in that year and for each taxing entity will levy an ad valorem tax on that property after the annexation is effective, and a calculation of the combined overlapping adjusted tax rate for the annexed property for the prior year, both as provided in Section 5, and use the rates so calculated for all purposes of NAC in which the entity-adjusted parcel tax rates or combined overlapping adjusted tax rate for that parcel for that prior year is used to calculate taxes or abatements for years after that prior year; and

(b) Calculate the revised tax base for the annexed property for the prior fiscal year as provided in Section 6; and

(c) Apply the revised tax base determined pursuant Section 6 as the amount of all ad valorem taxes levied on the property in that county for the immediately preceding fiscal year for the purposes of determining the amount of partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 and 361.4724 in the current fiscal year.

Sec. 5. 1. *The entity-adjusted parcel tax rates for the annexed property for the prior year calculated under this section are the entity adjusted parcel tax rates, as defined in NAC 361.611, for the prior year with the following changes:*

(a) The entity-adjusted parcel tax rates for the prior year for the parcel shall not include the entity adjusted parcel tax rate for the prior year of any taxing entity that will no longer levy a property tax on the annexed property after the annexation.

(b) The ad valorem tax rate of the annexing taxing entity in the prior year shall be treated as an entity-adjusted parcel tax rate applicable to the property in the prior year.

2. The combined overlapping adjusted tax rate applicable to the parcel for the prior year for purposes of this regulation shall be the sum of the entity-adjusted parcel rates described in subsection 1, with the changes described in paragraphs (a) and (b) of that subsection.

Sec. 6. *The revised tax base shall be calculated as follows:*

1. Subtract

(a) the combined overlapping adjusted tax rate actually applied to the property in the prior fiscal year from

(b) the combined overlapping adjusted tax rate calculated for that parcel under subsection 2 of Section 5 hereof, and

2. Divide the result in Subsection 1 by the combined overlapping adjusted tax rate actually applied to the property in the prior fiscal year as specified in paragraph (a) of subsection 1; and

3. Multiply the percentage obtained in Subsection 2 by the actual amount of the prior year ad valorem taxes on the property after abatement required by NRS 361.4722, 361.4723 and 361.4724 and before any exemptions were applied in the prior year; and

4. Add the result obtained in subsection 3 to the prior year ad valorem taxes on the property after abatement required by NRS 361.4722, 361.4723 and 361.4724 and before any exemptions were applied in the prior year. The result is the revised tax base for the prior year for the annexed parcel.

Sec. 7. *The provisions of Sections 4 to 6 of this regulation must not be applied in any manner that:*

(a) Would provide for the abatement of any increase in ad valorem taxes which, in accordance with NRS 361.4726, subsection 3 of NRS 361.4727 or NRS 361.4728, is exempt

from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724; or

(b) Would not allocate the revenue from any increase in ad valorem taxes described in paragraph (a) to the taxing entity which levies that increase or on behalf of which that increase is levied.

Sec. 8. *If an annexing entity did not exist in the prior year, the entity ad valorem property tax rate for the prior year shall equal that entity's ad valorem property tax rate for the year in which the entity first levied an ad valorem property tax.*

Sec. 9. 1. *A county tax receiver or the Department, as applicable, shall ensure that the amount of any property taxes excluded from any partial abatement and added to the tax roll for the current fiscal year as a result of the annexation of a parcel or other taxable unit of real property to a taxing entity:*

(a) Is due solely to an incremental increase in the tax rate which is directly attributable to the annexation of the property to a taxing entity;

(b) Is not due to any increase in the assessed value of the property as a result of any other cause, including, but not limited to, a general appreciation in the market value of property in the area.

2. *A county tax receiver shall:*

(a) Post on its website a listing of all its' taxing districts and the composition of the taxing entities with the ad valorem property tax rate for the current fiscal year and the prior two fiscal years;

(b) Make readily available, upon request, a listing of all the taxing districts and the composition of the taxing entities with the ad valorem property tax rates from fiscal year 2004-2005 to the current fiscal year.

3. The Department will provide a worksheet on the Department's website with regard to the calculation required by these regulations.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T042-09**

The Committee on Local Government Finance adopted temporary regulations assigned LCB File No. T042-09 which pertain to chapter 361 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) Chapter 361 adopted by the Committee on Local Government Finance (CLGF), clarifying the procedures for calculating the amount of taxes not subject to abatement pursuant to NRS 361.4732 regarding the effect of annexation on the calculation of the abatement of property tax, and providing other matters properly relating thereto.

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Taxation, as staff to CLGF, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
1-30-09	Workshop	2-17-09	366	177
3-23-09	Hearing	4-22-09	366	177
4-24-09	Hearing	5-7-09	366	177

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

No written comments were received at the workshop. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lhopper@tax.state.nv.us.

- 2. The number of persons who:**

- (a) Attended and testified at each workshop:**

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
2-17-09	23	6

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Committee/ Public Attended</u>	<u>Public Testified</u>
4-22-09	8/21	4
5-7-09	8/21	4

(c) Submitted to the agency written comments:

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
2/17/09	2
4/22/09	1
5/7/09	1

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

Comments were solicited from local governments, and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct mail to interested parties list maintained by the Department.

Members of the CLGF, officials of the Nevada Department of Taxation, local government officials, and members of the general public commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lhopper@tax.state.nv.us

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

The regulation was adopted with changes reflecting the verbal comments submitted to, or received by, the Department of Taxation primarily from CLGF members and the public during the workshop and hearings listed above. CLGF adopted the temporary regulation as revised in a workshop and hearing; and believed no changes other than those made were necessary.

5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and 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.**

CLGF found that the regulation does not impose a direct and significant burden upon businesses and the public in Nevada. The regulation provides the process by which the property tax abatement may be calculated pursuant to NRS 361.4732 regarding annexation.

The regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses. The immediate and long-term effects of the regulation are to provide a uniform procedure for the calculation of the property tax abatement for parcels annexed into a new tax jurisdiction.

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

The Department anticipates some additional cost for local governments to administer the regulation.

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

There are no other state or government agency regulations that the proposed amendments duplicate.

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

CLGF is not aware of any provision in this regulation which is also governed by federal regulation.

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

CLGF is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.