

MODIFIED BUSINESS TAX (MBT) RATE REDUCTION CALCULATION BASED ON PROVISIONS IN NRS 360.203 (S.B. 483 - 2015)

Calculation is for the MBT Tax Rates Effective Beginning in FY 2024 (July 1, 2023) Based on the Calculation Using FY 2022 Actual Collections and the Economic Forum May 4, 2021, General Fund Revenue Forecast Adjusted for Actions Approved by the Legislature in the 2021 Regular Session (81st Session) and Court Decisions

	A	B: A x 1.04	C	D:	E: (C-B)	F: (D&E)	G	H	I: (F,G,&H)	J	K: (J-H)
Revenue Source	Forecast: Net After Commerce Tax Credits and All Other Tax Credits	Trigger Threshold: 104% of MBT- Total, Commerce Tax, and Branch Bank Excise Tax	Actual: Net After Commerce Tax Credits and All Other Tax Credits	Share of Total MBT	\$ Difference: Actual - Trigger Threshold	Allocated Rate Reduction Amount	Actual: Before Commerce Tax Credits and All Other Tax Credits	Current MBT Tax Rates ^(1.)	MBT Rates Based on Reduction Calculation ^(3.)	MBT Tax Rates After Adjustment to Comply with NRS 360.203, Subsection 4, Effective July 1, 2023 ^{(2.)(3.)(4.)}	MBT Tax Rate Reduction Amount
MBT-NFI (NRS Chapter 363B)			\$688,802,229	91.2%		\$113,150,796	\$747,602,083	1.378%	1.169%	1.170%	-0.208%
MBT-FI & Mining (NRS Chapter 363A)			\$66,869,542	8.8%		\$10,984,781	\$67,804,363	1.853%	1.553%	1.554%	-0.299%
MBT-Total	\$649,505,500		\$755,671,771	100.0%		\$124,135,577	\$815,406,446				
Commerce Tax (NRS Chapter 363C)	\$228,516,000		\$281,881,659								
Branch Bank Excise Tax (NRS Chapter 363A)	\$2,512,000		\$2,336,987								
Total-MBT: Total, Commerce Tax, and Branch Bank Excise Tax	\$880,533,500	\$915,754,840	\$1,039,890,417		\$124,135,577						

NOTES:

(1.) These are the MBT tax rates that resulted from the September 2018 rate reduction calculation performed by the Department of Taxation to be effective beginning with FY 2020 (July 1, 2019) until the passage of S.B. 551 during the 2019 Regular Session (80th Session). Based on the Nevada Supreme Court's ruling on May 13, 2021, upholding the First Judicial District Court's September 21, 2020, ruling that passage of Sections 2, 3, 37, and 39 of S.B. 551 without a two-thirds majority in the Senate was in violation of the Nevada Constitution, these MBT tax rates, based on the September 2018 rate reduction calculation under NRS 360.203, were required to be effective July 1, 2019, and the NRS 360.203 MBT rate reduction calculation provisions were to be retained in the NRS.

(2.) Pursuant to subsection 3 of NRS 360.203, any rate reduction required pursuant to subsections 1 and 2 of NRS 360.203 to the MBT-NFI tax rate (NRS 363B.110) and MBT-FI & Mining tax rate (NRS 363A.130) becomes effective on July 1 of the odd-numbered year immediately following the fiscal year in which the Department of Taxation made the determination.

(3.) The Department of Taxation used the same methodology to administer the MBT rate reduction calculation provisions in NRS 360.203 that were developed for the initial rate reduction calculation performed in September 2016 and was used for the September 2018 and September 2020 required calculations. There were no rate reductions required from the September 2016 and 2020 calculations. The actual MBT tax rates from the September 2022 calculation determined from the rate reduction calculation methodology were 1.169% for the MBT-NFI and 1.553% for the MBT-FI & Mining. However, to comply with the intent of the provisions of NRS 360.203, subsection 4, the Department was required to set the MBT-NFI rate at 1.170% and adjust the MBT-FI & Mining tax rate up to 1.554% to maintain the proportional consistency of the MBT rate reduction calculation.

Although the language in NRS 360.203, subsection 4, states "is 1.17 percent", the intent was for this requirement to be "less than or equal to 1.17 percent" based on the testimony on the rate reduction calculation provisions provided to the Assembly Committee of the Whole on May 30, 2015 during the 2015 Regular Session (79th Session). Based on this intent, if the rate reduction calculation results in a tax rate for the MBT-NFI at or below 1.17%, then the MBT-NFI tax rate is required to be imposed at 1.17% by the Department of Taxation.

(4.) NRS 360.203 Reduction of rate of certain taxes on business under certain circumstances; duties of Department.

1. Except as otherwise provided in subsection 4, on or before September 30 of each even-numbered year, the Department shall determine the combined revenue from the taxes imposed by chapters 363A and 363B of NRS and the commerce tax imposed by chapter 363C of NRS for the preceding fiscal year.

2. Except as otherwise provided in subsection 4, if the combined revenue determined pursuant to subsection 1 exceeds by more than 4 percent the amount of the combined anticipated revenue from those taxes for that fiscal year, as projected by the Economic Forum for that fiscal year pursuant to paragraph (e) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year, the Department shall determine the rate at which the taxes imposed pursuant to NRS 363A.130 and 363B.110, in combination with the revenue from the commerce tax imposed by chapter 363C of NRS, would have generated a combined revenue of 4 percent more than the amount anticipated. In making the determination required by this subsection, the Department shall reduce the rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110 in the proportion that the actual amount collected from each tax for the preceding fiscal year bears to the total combined amount collected from both taxes for the preceding fiscal year.

3. Except as otherwise provided in subsection 4, effective on July 1 of the odd-numbered year immediately following the year in which the Department made the determination described in subsection 1, the rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110 that are determined pursuant to subsection 2, rounded to the nearest one-thousandth of a percent, must thereafter be the rate of those taxes, unless further adjusted in a subsequent fiscal year.

4. If, pursuant to subsection 3, the rate of the tax imposed pursuant to NRS 363B.110 is 1.17 percent:

(a) The Department is no longer required to make the determinations required by subsections 1 and 2; and

(b) The rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110 must not be further adjusted pursuant to subsection 3.

(Added to NRS by 2015, 2896; R 2019, 3294)

MODIFIED BUSINESS TAX (MBT) RATE REDUCTION CALCULATION BASED ON PROVISIONS IN NRS 360.203 (S.B. 483 - 2015)

Calculation is for the MBT Tax Rates Effective Beginning in FY 2024 (July 1, 2023) Based on FY 2022 Actual Collections and the Economic Forum May 4, 2021, General Fund Revenue Forecast Adjusted for Actions Approved by the Legislature in the 2021 Regular Session (81st Session) and Court Decisions

Detailed Numbers on Actual and Forecast Collections for the Modified Business Tax (MBT), Commerce Tax, Branch Bank Excise Tax and Tax Credits Required for the MBT Rate Reduction Calculation Required in NRS 360.203	FY 2022 Forecast	FY 2022 Actual
	Economic Forum May 1, 2021, Forecast Adjusted for Legislative Actions and Court Decisions	Actual Numbers Reported by the Department of Taxation
MBT: GROSS BEFORE TAX CREDITS		
MBT-NFI: Gross Before Tax Credits	\$641,875,000	\$747,602,083
MBT-FI: Gross Before Tax Credits	\$41,734,000	\$46,926,269
MBT-Mining: Gross Before Tax Credits	\$21,910,000	\$20,878,094
MBT-Total: Gross Before Tax Credits	\$705,519,000	\$815,406,446
MBT: COMMERCE TAX CREDITS		
MBT-NFI: Commerce Tax Credits (NRS 363B.110 (4))		-\$47,232,337
MBT-FI: Commerce Tax Credits (NRS 363A.130 (4))		-\$548,227
MBT-Mining: Commerce Tax Credits (NRS 363A.130 (4))		-\$66,316
MBT-Total: Gross Before Tax Credits	-\$44,611,000	-\$47,846,881
MBT: GROSS AFTER COMMERCE TAX CREDITS		
MBT-NFI: Gross After Commerce Tax Credits		\$700,369,745
MBT-FI: Gross After Commerce Tax Credits		\$46,378,041
MBT-Mining: Gross After Commerce Tax Credits		\$20,811,778
MBT-Total: Gross After Commerce Tax Credits	\$660,908,000	\$767,559,565
TAX CREDIT PROGRAMS SPECIFIC TO THE MBT ONLY		
Education Choice Scholarship Tax Credits (NRS 363A.139 & 363B.119)	-\$11,400,000	-\$11,782,700
MBT-NFI		-\$11,462,423
MBT-FI&Mining		-\$320,277
College Savings Plan Tax Credits (NRS 363A.137 & 363B.117)	-\$2,500	-\$473
MBT-NFI		-\$473
MBT-FI&Mining		\$0
Total Tax Credits - MBT Specific	-\$11,402,500	-\$11,783,173
MBT-NFI	\$0	-\$11,462,896
MBT-FI&Mining	\$0	-\$320,277
MBT: NET AFTER COMMERCE TAX CREDITS AND TAX CREDITS SPECIFIC TO THE MBT ONLY		
MBT-Total: Net After Tax Credits Specific to the MBT Only	\$649,505,500	\$755,776,392
TAX CREDIT PROGRAMS NOT SPECIFIC TO THE MBT ONLY		
Film Transferrable Tax Credits (NRS 360.759)	\$0	-\$104,621
MBT-NFI	\$0	-\$104,621
MBT-FI&Mining	\$0	\$0
Economic Development Transferrable Tax Credits (NRS 360.889)	\$0	\$0
MBT-NFI	\$0	\$0
MBT-FI&Mining	\$0	\$0
Catalyst Account Transferrable Tax Credits (NRS 231.1555)	\$0	\$0
MBT-NFI	\$0	\$0
MBT-FI&Mining	\$0	\$0
Total Tax Credits - Not MBT Specific	\$0	-\$104,621
MBT-NFI	\$0	-\$104,621
MBT-FI&Mining	\$0	\$0
MBT: NET AFTER COMMERCE TAX CREDITS AND ALL OTHER TAX CREDITS		
MBT-NFI: Net After Commerce Tax Credits and All Other Tax Credits		\$688,802,229
MBT-FI: Net After Commerce Tax Credits and All Other Tax Credits		\$46,057,764
MBT-Mining: Net After Commerce Tax Credits and All Other Tax Credits		\$20,811,778
MBT-Total: Net After Commerce Tax Credits and All Other Tax Credits	\$649,505,500	\$755,671,771
Commerce Tax (NRS Chapter 363C)	\$228,516,000	\$281,881,659
Branch Bank Excise Tax (NRS 363A.120)	\$2,512,000	\$2,336,987