

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R123-15

AUTHORITY:

A REGULATION relating to taxation; providing implementation of the Commerce Tax

Chapter 363C of NRS

Definitions.

1. *“Business entity” means:*
 - a. *an entity identified in subsection 1 of Section 4 of SB 483, which is organized or incorporated pursuant Nevada Revised statutes or statutes of other states, or*
 - b. *an entity or a natural person, who reports their income on any of the following Internal Revenue Forms:*
 - i. *Schedule C (Form 1040), Profit or Loss from Business, or*
 - ii. *Schedule E (Form 1040), Supplemental Income and Loss, - Part I or Part V, - or*
 - iii. *Schedule F (Form 1040), Profit or Loss from Farming, or*
 - iv. *equivalent or successor forms of the above,*
 - v. *for their business or any other person or entity.*
2. *The definition of a corporation includes the corporations treated as Subchapter C and Subchapter S corporations for the federal income tax purposes.*
3. *The definition of “Business entity” does not include the entities specifically excluded as provided in subsection 2 of Section 4 of SB 483, without regards whether they engaged in business or not.*
4. *“Business trust” has the meaning ascribed to it in NRS 88A.030.*
5. *“Commercial domicile” means the principal place from which the trade or business of the entity is directed.*
6. *“Department” means the Nevada Department of Taxation.*
7. *“Engaging in a business” has the meaning ascribed to it in Sec. 6 of SB 483*
8. *“Foreign business trust” has the meaning ascribed to it on NRS 88A.040.*
9. *“Grantor trust” means a trust described in subparagraph (g) of subsection (2) of section 4 of S.B. 483.*
10. *“Qualified trust” means a trust described in subparagraph (k) of subsection (2) of section 4 of S.B. 483.*
11. *“Real estate investment trust” means a trust described in subparagraph (i) of subsection (2) of section 4 of S.B. 483.*
12. *“Situs” means apportionment of the revenue for taxation purposes.*
13. *“Trust” means any trust other than a grantor trust, business trust, foreign business trust, qualified trust, or real estate investment trust.*

Section 1. Clarifying the filing requirements of a business entity

- 1. The tax imposed by Senate Bill 483 is an entity based tax. Each business entity must file the annual return pursuant to Sec. 20 of SB 483 with the Department, even if the business entity has no tax liability pursuant to Secs. 24-49 of SB 483.**
- 2. The Department will determine that a business entity is engaged in business, if it conducts any of the following activities, without limitation:**
 - a. advertising: entering Nevada to purchase, place, or display advertising when the advertising is for the benefit of another and in the ordinary course of business (e.g., the foreign business entity makes signs and brings them into Nevada, sets them up, and maintains them);**
 - b. consignments: having consigned goods in Nevada;**
 - c. contracting: performance of a contract in Nevada regardless of whether the business entity brings its own employees into Nevada, hires local labor, or subcontracts with another;**
 - d. delivering: delivering into Nevada items it has sold;**
 - e. employees or representatives: having employees or representatives in Nevada doing the business of the business entity;**
 - f. federal enclaves: doing business in any area within Nevada, even if the area is leased by, owned by, ceded to, or under the control of the federal government;**
 - g. franchisors: entering into one or more contracts with persons, corporations, or other business entities located in Nevada, by which:**
 - i. the franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor; and**
 - ii. the operation of a franchisee's business pursuant to such plan is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate.**
 - h. holding companies: maintaining a place of business in Nevada and managing, directing, and/or performing services in Nevada for subsidiaries or investee entities for fees;**
 - i. inventory: having an inventory in Nevada or having spot inventory for the convenient delivery to customers, even if the bulk of orders are filled from outside of Nevada;**
 - j. leasing: leasing tangible personal property which is used in Nevada;**
 - k. loan production activities: soliciting sales contracts or loans, gathering financial data, making credit checks, collecting accounts, repossessing property or performing other financial activities in Nevada through employees, independent contractors, or agents, regardless of whether they reside in Nevada;**
 - l. directors and partners acting in exchange for fees:**
 - i. as a director for a corporation or as a general partner in a general partnership which is doing business in Nevada;**
 - ii. as a general partner in a limited partnership which is doing business in Nevada (a foreign business entity which is a limited partner in a limited partnership is not doing business in Nevada, if that is the limited partner's only connection with Nevada);**

- m. place of business: maintaining a place of business in Nevada;*
 - n. processing: assembling, processing, manufacturing, or storing goods in Nevada;*
 - o. real estate: holding, acquiring, leasing, or disposing of any property located in Nevada;*
 - p. services, including, but not limited to the following:*
 - i. providing any service in Nevada, regardless of whether the employees, independent contractors, agents, or other representatives performing the services reside in Nevada;*
 - ii. maintaining or repairing property located in Nevada whether under warranty or by separate contract; installing, erecting, or modifying property in Nevada;*
 - iii. conducting training classes, seminars or lectures in Nevada;*
 - iv. providing any kind of technical assistance in Nevada, including, but not limited to, engineering services;*
 - v. investigating, handling or otherwise assisting in resolving customer complaints in Nevada.*
 - q. shipment: sending materials to Nevada to be stored awaiting orders for their shipment;*
 - r. shows and performances: the staging of or participating in shows, theatrical performances, sporting events, or other events within Nevada;*
 - s. solicitation: having employees, independent contractors, agents, or other representatives in Nevada, regardless of whether they reside in Nevada, to promote or induce sales of the foreign business entity's goods or services;*
 - t. telephone listing: having a telephone number that is used for business purposes and answered in Nevada;*
 - u. transportation: carrying passengers or freight (any personal property including oil and gas transmitted by pipeline) from one point in Nevada to another point within Nevada, if pickup and delivery, occurs within Nevada; or*
 - v. having facilities and/or employees, independent contractors, agents, or other representatives in Nevada, regardless of whether they reside in Nevada:*
 - i. for storage, delivery, or shipment of goods;*
 - ii. for servicing, maintaining, or repair of vehicles, trailers, containers, and other equipment;*
 - iii. for coordinating and directing the transportation of passengers or freight; or (iv) for doing any other business of the business entity.*
- 3. In determining whether an entity is engaged in business in Nevada, the Department will consider the nature and character of the activities of the entity itself and not the activities of another entity in which the entity holds a legal ownership interest.*

Section 2. Fiduciary duty.

- 1. For the purposes of section 11 of SB 483, the fiduciary duty shall be applied in the meaning and to the relationship as ascribed in the Uniform Fiduciary Act, NRS 162.010 to 162.140.*

Section 3. *Process for reporting and changing the NAICS Code designation.*

- 1. A business entity shall designate its NAICS code and corresponding tax rate on its initial Commerce Tax return and will use such NAICS code on all subsequent Commerce Tax returns filings with the Department.*
- 2. If a business entity is engaged in more than one business category set forth in sections 24 to 49 of SB 483, such business entity will identify their primary NAICS code based on the code which has the greatest percentage of Nevada gross revenue. At the election of the business entity and for the purpose of the initial selection, the NAICS code identification may be made by averaging Nevada gross revenue generated over the prior three years.*
- 3. Unless the Department discovers that the business entity has submitted an erroneous or inaccurate NAICS code, the Department will record the designation on the initial return as the NAICS code for the business entity.*
- 4. If the Department determines that the business entity has submitted an erroneous or inaccurate NAICS code, the Department will notify the business entity requesting additional documentation or clarification regarding the NAICS code designation.*
- 5. If the business entity intends to use a NAICS code designation different than the NAICS code initially designated by the business entity, the business entity must notify the Department in writing on a form designated by the Department no later than the due date of the Commerce Tax Return each year. The request should include the prior category, the new category, the reason for the change and all documentation supporting its change in NAICS category.*
- 6. The Department will review the NAICS designation change request and make a determination regarding the change in NAICS designation and tax rate within 60 days of receipt of the request and documentation required herein. If the Department does not respond within 60 days, the change will be considered granted.*
- 7. If the Department later determines that a NAICS code change was submitted based on fraudulent or erroneous information, and the change resulted in underreporting of tax liability by the business entity, the Department shall not be estopped from assessing liability.*

Section 4. *Commerce Tax Recovery Charge*

- 1. The Commerce Tax is a tax imposed on the gross revenue of a business entity, and not on a customer. The business entity is prohibited from assessing it directly against the customer.*
- 2. The business entity may itemize a Commerce Tax recovery charge among the other charges on a customer's invoice or receipt if:*
 - a) The business entity makes a written statement on the customer's the invoice that the charge is the cost of compliance with the tax imposed upon it pursuant to section 20 of SB 483;*
 - b) The customer's invoice clearly indicates that the Commerce Tax recovery charge is part of the total price collected from the customer and is not an additional charge assessed on the customer's total.*
- 3. The total amount collected from the customer is the measure of Commerce Tax, less allowed deductions.*

Section 5. Provisions for persons whose activities confined to owning, maintenance and management of intangible investments

1. *For the purposes of subparagraph (m) of subsection (2) of section 4 of S.B. 483, the phrase “person whose activities within this State are confined to the owning, maintenance and management of the person’s intangible assets” means any legal entity, including a trust, whose activities within Nevada are confined to the owning, maintenance and management of intangible assets of which the trust is the legal owner.*
2. *For the purposes of subparagraph (m) of subsection (2) of section 4 of S.B. 483, the types of intangible assets similar to the investments in stocks should include an interest in other legal entities, organized pursuant Nevada Revised statutes or statutes of other states, without regard to whether the person, or the beneficiary, or the fiduciary controls or participates in the management of such entities.*

Section 6. Calculating Uncompensated care for purposes of the deduction from gross revenue in Section 21(i) of Senate Bill 483.

1. *The actual cost of uncompensated care shall be equal to the amount of the business entity’s Operating Expenses multiplied by the Uncompensated Care Ratio where:*
 - a) *operating expenses are the amounts reported on line 2 and line 21, Internal Revenue Service Form 1065 or the amounts reported on line 2 and line 20, Internal Revenue Service Form 1120S or the corresponding line items from any other federal form filed for the federal tax year immediately preceding the year the Commerce Tax return became due, less any items that have already been subtracted from total revenue (e.g., bad debts);*
 - b) *uncompensated care ratio means uncompensated care charges less partial payments divided by total charges;*
 - c) *uncompensated care charges are the standard charges for health care services where the provider has not received any payment or where the provider has received partial payment that does not cover the cost of the health care provided to the patient. Uncompensated care charges do not include any portion of a charge that the health care provider has no right to collect under a private health care plan, or under an agreement with an individual for a specific amount.*
 - d) *standard charges must be comparable to the charges applied to services provided to all patients of the health care provider;*
 - e) *partial payment is an amount that has been received toward uncompensated care charges that does not cover the cost of the services provided;*
 - f) *total charges are charges for all health care services, including uncompensated care;*
 - g) *records that clearly identify the procedure performed, and the standard charge for such a service, as well as payments received must be maintained by the health care provider for all uncompensated care.*
2. *A business entity required to file a report pursuant to section 3 of NRS 449.490 may elect to utilize the uncompensated care ratio percentage calculated for the report filed for the calendar year preceding the year in which the Commerce Tax became due. The uncompensated care ratio percentage shall be substantiated by the business entity’s records sufficient to verify the validity of the calculation.*

Section 7. *Waiver or reduction of penalty or interest for late payment of the Commerce Tax when there was an underpayment based on taxpayer's business entity's reliance on revenue calculations from its most recent federal income tax year.*

- 1. The Department may waive or reduce a penalty, or an interest, or both, for an underpayment of the Commerce Tax, if the underpayment, as determined by the Department, has been caused by the business entity's reliance for calculating its Nevada gross revenue on its federal income tax calculations for the federal income tax year immediately preceding the year the Commerce Tax was paid.*
- 2. In determining whether to waive or reduce the penalty or interest, or both, for a underpayment pursuant to subsection 1, the Department may consider whether the total Nevada gross revenue reported on the business entity's timely filed Commerce Tax return was the same as or similar to the revenue amount indicated on the federal income tax return of the business entity for the federal income tax year immediately preceding the year the Commerce Tax return is filed and the liability was paid.*

Section 8. *Request for waiver or reduction of penalty or interest after filing amended Commerce Tax return.*

- 1. A business entity or the business entity's agent may request the waiver or reduction of the penalty or interest, or both, by submitting to the Department a written statement signed under oath by the business entity or the business entity's agent which sets forth that in an attempt to timely file its return and pay its Commerce Tax liability, the business entity relied on the revenue calculation from the federal income tax year immediately preceding the year it filed its Commerce Tax.*
- 2. The Department shall not consider a request made pursuant to subsection 1 until the business entity has paid in full the tax upon which the interest or penalty is assessed and has submitted the federal income tax return on which it relied in calculating its Nevada gross revenue to the Department or any additional documentation that supports the business entity's reliance on the revenue calculation used for federal income tax purposes.*

Section 9. *Intentional or careless overpayment of Commerce Tax*

- 1. The Department will determine that an overpayment of Commerce Tax made intentionally or by reason of carelessness by the business entity shall not allow for any interest on overpayment, if such overpayment was a result of the business entity's reliance, for calculating its Nevada gross revenue, on its federal income tax calculations for the federal income tax year immediately preceding the year the Commerce Tax was paid.*

Section 10. *Situsing of Gross Revenue from Services*

- 1. "A purchaser only located in Nevada" for an individual means a resident of Nevada having no business locations outside Nevada.*
- 2. "A purchaser only located in Nevada" for any other entity means that both of the following apply:*
 - a. A business entity's commercial domicile is in Nevada; and*

- b. The entity has no physical locations outside Nevada.*
- 3. All services performed for a purchaser where both the provider and the purchaser are only located in Nevada shall be situated one hundred percent to Nevada.*
- 4. For services that are performed within and outside of Nevada, the gross revenue should be situated based on the following guidelines:*

(1) Accounting services

- a) If accounting services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada, if the services performed benefit to purchaser's operations located in Nevada.*
- b) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, accounting services may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual and such individual has no business locations outside of Nevada, at the individual's residence. The term "principal place of business" for those other than individuals refers to the location where the business unit being provided the service primarily maintains its operations. In determining the "principal place of business" of a purchaser, the following measures, if known, shall be considered in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the accounting service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address, acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(2) Advertising services

- a) This provision only applies to those providing advertising services and not those actually receiving advertising revenue for allowing an advertisement to be placed in a newspaper, magazine, radio, television or similar media.*
- b) If advertising services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, advertising services may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the advertising service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and**

(iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(3) Agents/managers of athletes/entertainers/artists/etc.

- a) If an agent/manager represents an athlete in negotiating a contract to play for a Nevada-based team, or for an individual to appear at a Nevada-based sporting event, the gross receipts are situated to Nevada regardless of where the negotiations occur.*
- b) If an agent/manager represents an entertainer in negotiating a contract to perform at a Nevada-based event, the gross receipts related to that event are situated to Nevada regardless of where the negotiations occur.*
- c) If an agent/manager represents an entertainer in negotiating a contract to perform at a Nevada location and locations outside of Nevada, the gross receipts are situated to Nevada based on the number of known Nevada events compared to all known events.*
- d) If an agent/manager represents an athlete or entertainer in negotiating a contract to endorse something or someone in Nevada, the gross receipts are situated to Nevada based on the number of known Nevada events compared to all known events. If no event locations are known, the gross receipts are situated to where the athlete or entertainer resides.*

(4) Agency - Other

- a) If agency services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada if the services performed are of benefit to purchaser's operations located in Nevada.*
- b) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, agency services may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the "principal place of business" of a purchaser, the following measures, if known, shall be considered in sequential order:
 - (i) The branch, division, or other unit where the purchaser (customer) primarily receives the benefit of the agency service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(5) Appraisal services

- a) If the appraised property is located wholly in Nevada (regardless of where the purchaser is located), the gross receipts are situated to Nevada.*

(6) Architecture services (including drafting services)

- a) If architectural services are performed for a purchaser and the property being designed is to be located wholly in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*

(7) Athletes (including owners of animals used in sporting events)

- a) If an athlete receives remuneration for participating in or obtaining prize monies from a Nevada based event, the gross receipts are situated to Nevada. Remuneration includes, but is not limited to, money, fair market value of property, or fair market value of services.*
- b) (b) If an athlete is paid for appearing at a Nevada-based event, the gross receipts are situated to Nevada.*
- c) (c) If an athlete is paid for endorsing a thing or a person in Nevada, the gross receipts are situated to Nevada based on the number of known Nevada events compared to all known events. If no event locations are known, the gross receipts are situated where the athlete resides. In dealing with national endorsements, in general, four and one-tenth per cent will be accepted in accordance with Nevada's population.*

(8) Barbershop/beauty salon/spa services

- a) If barbershop, beauty salon, or spa services are performed in Nevada, the gross receipts are situated to Nevada.*

(9) Cable/satellite services

- a) Gross receipts from cable/satellite services are situated to Nevada, in general, if the purchaser's (subscriber's) place of primary use is in Nevada, regardless of where the cable and satellite services originate. In general, the purchaser's (subscriber's) billing address will be accepted as the primary use location unless the seller of the service knows the purchaser (subscriber) is using the service in multiple locations.*
- b) If the cable/satellite service provider knows that the purchaser (subscriber) is using the service in multiple locations inside and outside Nevada, the gross receipts are situated to Nevada based on the number of properties in Nevada where the purchaser (subscriber) receives these cable/satellite services compared to everywhere.*
- c) Gross receipts from providing billing and other ancillary services for cable/satellite service providers shall be situated to Nevada based on the location of the purchaser's (cable/satellite service provider's) customers. If not known, the location(s) of the purchaser may be used.*

(10) Call center services

- a) Gross receipts from providing call center services on a fixed cost basis shall be situated based on the location of the purchaser. Gross receipts from providing call center services on a variable (or per call) cost basis shall be situated to Nevada based on the location of the purchaser's customers. In determining the location of the purchaser and/or the purchaser's customers, the following, if known, apply in sequential order:*

- (i) The location (e.g. home, branch, division, or other business unit) where the purchaser and/or purchaser's customer primarily receives the benefit of the service;*
- (ii) The primary location of the management operations of the purchaser's and/or purchaser's customers business units; and*
- (iii) The purchaser's and/or purchaser's customers' billing address is acceptable if provided in good faith. To determine the purchaser's and/or purchaser's customer's billing address, a provider of call center services may rely on the area code and/or zip code of the purchaser and/or purchaser's customer.*

(11) Child care (day care or education) services

- a) If child care services are performed in Nevada, the gross receipts are situated to Nevada.*

(12) Collection Agency Services (including Repossession Services)

- a) If collection services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*
- b) If collection services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, collection services may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the collection service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(13) Computer programming services

- a) If computer programming services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada, regardless of where the service provider is located.*
- b) If computer programming services are performed for a purchaser that will use the computer programming within and outside of Nevada, the gross receipts are situated to Nevada if either of the following apply:
 - (i) The services performed are related to a purchaser's operations located in Nevada; or*
 - (ii) The services are performed that do not relate to a purchaser's specific operation. The services are situated to Nevada based on the purchaser's number of users in Nevada compared with the number of users everywhere.**

(14) Construction contractors

- a) If construction contracting services are performed for a purchaser and the property being constructed is located wholly in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*

(15) Contract manufacturing services

- a) For purposes of this rule, contract manufacturing includes a business entity which provides manufacturing services on a piece of property that the contract manufacturer does not own. Contract manufacturing should be situated the same as the sale or delivery of tangible personal property under Section 22 of SB 483.*
- b) If the purchaser does not provide the location outside of this state (i.e. a minimum of city and state) where the product is to be shipped, the gross receipts in this situation are situated to the location where the contract manufacturing is performed.*

(16) Data processing services

- a) If data processing services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*
- b) If data processing services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, data processing services may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:*
- (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the data processing service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.*

(17) Director's and partner's fees

- a) Remuneration, except for wages, received by a director of a corporation for the performance of his/her duties are situated to the headquarters of the corporation. Remuneration includes, but is not limited to, money, stock, fair market value of property, or fair market value of services.*

(18) Employment services

- a) Employment services are situated to Nevada if the employee is assigned to a post of duty (i.e., where employee primarily works) located in Nevada.*

(19) Engineering services

- a) If engineering services are performed for a purchaser and the property is located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*

(20) Entertainer services

- a) If an entertainer receives remuneration for participating or appearing at a Nevada based event, the gross receipts are situated to Nevada. Remuneration includes, but is not limited to, money, fair market value of property, or fair market value of services.*
- b) If an entertainer is paid for endorsing a thing or a person in Nevada, the gross receipts are situated to Nevada based on the number of known Nevada events compared to all known events. If no event locations are known, the gross receipts are situated where the athlete resides. In dealing with national endorsements, in general, four and one-tenth per cent (4.1 %) will be accepted in accordance with Nevada's population.*

(21) Entertainment/amusement services

- a) If the entertainment services being purchased are to be performed wholly in Nevada, the gross receipts are situated to Nevada, regardless of where the services are purchased.*
- b) If the entertainment services being purchased are to be performed within and outside of Nevada and originate and terminate from a location in Nevada, the gross receipts are situated to Nevada regardless of where the purchaser makes the purchase of the services.*
- c) In the case of gross receipts from the selling of admission passes that can be used at locations within and outside of Nevada, gross receipts are situated to Nevada if the admission is to be primarily used at locations in Nevada.*

(22) Exterminating services

- a) If exterminating services are performed in Nevada, the gross receipts are situated to Nevada.*

(23) Facilities management services (including landscaping services)

- a) If the facility being managed is located wholly in Nevada, the gross receipts are situated to Nevada.*

(24) Financial services

- a) If financial services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*

- b) *Revenue from the servicing of loans secured by real property located in Nevada is sited to Nevada.*

(25) Funeral services

- a) *Funeral services includes, but is not limited to, making arrangements for viewings, embalming, burying, interring, cremating, arranging transportation of the deceased, and all other services associated with providing funeral services.*
- b) *If all of the funeral services are performed in Nevada, the gross receipts are sited to Nevada.*
- c) *if portions of the funeral services are performed within and outside of Nevada, gross receipts from the funeral services are sited to Nevada if the burying or cremation takes place in Nevada.*

(26) Gambling services

- a) *Winnings received from a wager placed at a Nevada location are sited to Nevada.*

(27) Healthcare provider services

- a) *If healthcare services are performed in Nevada, the gross receipts are sited to Nevada.*
- b) *If a healthcare service is provided partly in Nevada and outside of Nevada, a reasonable allocation for the services performed in Nevada must be made.*

(28) Independent writers/artists services

- a) *If the writer/artist delivers the item to the purchaser in tangible or on an electronic media/device, the gross receipts are sited to Nevada if the purchaser receives the item in Nevada.*
- b) *(b) If the writer/artist does not know the location of the purchaser receiving the item, then gross receipts are sited to Nevada if the purchaser's address to which the writer/artist sends the invoice is located in Nevada.*

(29) Internet/web hosting services

- a) *If Internet or web hosting services are performed for a purchaser only located in Nevada, the gross receipts are sited to Nevada regardless of where the web host is located.*
- b) *If Internet or web hosting services are performed for a purchaser only located outside of Nevada, the gross receipts are sited outside Nevada regardless of where the web host is located.*
- c) *At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, Internet or web hosting services may be sited according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:*

- (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the Internet or web hosting service;*
- (ii) The primary location of the management operations of the purchaser's business unit; and*
- (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.*

(30) Investigation services

- a) If investigation services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*
- b) If investigation services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada if the services performed are related to purchaser's operations located in Nevada.*

(31) Legal services

- a) If legal services are performed that relate to Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*
- b) Except as provided in paragraph (a) of this rule, if legal services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*
- c) If legal services are performed for a purchaser with operations in both Nevada and in another state or jurisdiction, the gross receipts are situated to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- d) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, legal services may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the legal service;*
 - (ii) The primary location of the management operations of the purchaser's business unit;*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(32) Linen/uniform supply/dry cleaning services

- a) If linen/uniform supply/dry cleaning services are delivered to or picked up at a location in Nevada, the gross receipts are situated to Nevada. If the property is delivered to or picked up at a location outside of Nevada, the gross receipts are situated outside Nevada.*

(33) Magazines/newspapers

- a) Subscription and advertising gross receipts are to be sited to Nevada based upon the proportion of the purchaser's (publication's) circulation located in Nevada over the total of the purchaser's (publication's) circulation located everywhere.*

(34) Management consulting services

- a) If management consulting services are performed for a purchaser only located in Nevada, the gross receipts are sited to Nevada regardless of where the services are performed.*
- b) If management consulting services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are sited to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- c) At the election of the management consulting service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, such services may be sited according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the management consulting service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(35) Market research services

- a) If market research services are performed for a purchaser only located in Nevada, the gross receipts are sited to Nevada regardless of where the services are performed.*
- b) If market research services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are sited to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, market research services may be sited according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the market research service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and**

(iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(36) Membership fees

- a) If the membership fees being paid are for the right to participate in events at a specific location or specific locations only located in Nevada, the gross receipts are situated to Nevada, regardless of where the fees are paid.*
- b) In the case of gross receipts from the selling of admission passes that can be used at locations within and outside of Nevada, gross receipts are situated to Nevada if the admission is to be primarily used at locations in Nevada.*
- c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, membership fees may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the "principal place of business" of a purchaser, the following measures, if known, shall be considered in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily uses the membership for which the fee was paid;*
 - (ii) The purchaser's primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(37) Money order/wire transfer services

- a) If money order/wire transfer services are delivered to or picked up at a location in Nevada, the fee for such services are situated to Nevada, regardless of where the money order/wire transfer service originates.*

(38) Moving/Storage Services

- a) If the moving service destination is to a location in Nevada, the gross receipts are situated to Nevada. Fees for incidental storage during a moving service are not situated to Nevada if both of the following apply:
 - (i) The storage does not occur in Nevada; and*
 - (ii) The storage fee is separately billed from the moving service.**
- b) Fees for packing and/or unpacking services shall be situated based upon where such services are provided.*
- c) Fees for storage services shall be situated to Nevada to the extent the storage took place in Nevada.*

(39) Payroll services

- a) This section does not apply to a payroll provider that provides payroll services as part of an affiliated group for the purposes of Commerce Tax credit.*
- b) If payroll services are performed for a purchaser with its employees only located in Nevada, the gross receipts are situated to Nevada, regardless of where the services are performed.*
- c) If payroll services are performed for a purchaser with employees within and outside of Nevada and the payroll services are provided for more than one state including Nevada, the gross receipts are situated to Nevada based on the purchaser's number of employees (covered by the services) located in Nevada to the number of employees everywhere.*

(40) Promoters of arts/sports/similar event services

- a) If a promoter promotes a Nevada-based event, the gross receipts are situated to Nevada regardless of where the promoting services are performed.*

(41) Radio/television broadcasting/internet advertising services

- a) Broadcasting and Internet advertising gross receipts (including receipts from commercials and pay-per-click advertisements) are to be situated to Nevada based upon the proportion of the television or radio station's audience or Internet provider's subscribers located in Nevada over the total of the television or radio station's audience or Internet provider's subscribers located everywhere.*

(42) Real estate broker services

- a) Gross receipts earned by a real estate broker as defined in NRS 645.030, on property located in Nevada are situated to Nevada, regardless of where the broker's services were performed.*

(43) Repair/maintenance/installation services

- a) If the property to be repaired, maintained, or installed is dropped off and picked up at the service provider's location in Nevada, the gross receipts are situated to Nevada.*
- b) If the property is shipped to the service provider's location in Nevada from outside of Nevada but is then picked up at the location in Nevada, the gross receipts are situated to Nevada.*
- c) If the property is dropped off or shipped to the service provider's location in Nevada and then shipped outside of Nevada, the gross receipts are situated outside of Nevada.*

(44) Security services

- a) If security services are performed in Nevada, the gross receipts are situated to Nevada.*
- b) If security services are performed outside of Nevada, the gross receipts are situated outside of Nevada.*

(45) Tax preparation services

- a) If tax preparation services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*
- b) If tax preparation services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, tax preparation services may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the tax preparation service; the branch, division, or other unit where the purchaser primarily receives the benefit of the tax preparation service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(46) Technical assistance services

- a) If technical assistance services are performed for a purchaser only located in Nevada, the gross receipts are situated to Nevada regardless of where the services are performed.*
- b) If technical assistance services are performed for a purchaser with operations within and outside of Nevada, the gross receipts are situated to Nevada if the services performed are related to purchaser's operations located in Nevada.*
- c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, technical assistance fees may be situated according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:
 - (i) The branch, division, or other unit where the purchaser primarily receives the benefit of the technical assistance service;*
 - (ii) The primary location of the management operations of the purchaser's business unit; and*
 - (iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.**

(47) Telecommunications services (including ancillary telecommunications services)

- (a) Except as provided in in this rule gross receipts from the sale of telecommunications service or mobile telecommunications service shall be sitused to Nevada if the customer's place of primary use of the service is in this state. In general, the customer's "place of primary use" means the street address representing where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, such address is the place of primary use only if it is within the licensed service area of the customer's home service provider.*
- (b) Gross receipts from the sale of telecommunications service sold on an individual call-by-call basis shall be sitused to Nevada if either of the following applies:
 - (i) The call both originates and terminates in this state;*
 - (ii) The call either originates or terminates in this state and the service address also is located in this state.**
- (c) Gross receipts from the sale of post-paid telecommunications service shall be sitused to Nevada if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system, or as identified by information received by the seller from its service provider where the system used to transport such signals is not that of the seller, is located in this state.*
- (d) Gross receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service shall be sitused to Nevada if the purchaser obtains the prepaid card or similar means of conveyance at a location in Nevada. Gross receipts from recharging a prepaid telecommunications service or mobile telecommunications service shall be sitused to Nevada if the purchaser's billing information indicates a Nevada location.*
- (e) Gross receipts from the sale of private communication services shall be sitused to Nevada as follows:
 - (i) The gross receipts from the sale of each channel termination point within this state;*
 - (ii) The gross receipts from the sale of the total channel mileage between each termination point within this state;*
 - (iii) The gross receipts from the sale of service segments for a channel between two customer channel termination points, one of which is located in this state and the other outside this state, and which segments are separately charged, shall be sitused fifty per cent to Nevada and fifty per cent to the other state or jurisdiction in which the customer channel termination points are located; or*
 - (iv) The gross receipts from the sale of service for segments of a channel located in this state and in more than one other states or equivalent jurisdictions, and which segments are not separately billed, shall be sitused to Nevada based on the percentage determined by dividing the number of customer channel termination points in the state or equivalent jurisdiction by the total number of customer channel termination points.**
- (f) Gross receipts from the sale of billing services and ancillary services for telecommunications service shall be sitused to Nevada based on the location of the purchaser's customers. If not known, the location(s) of the purchaser may be used.*

- (g) *Gross receipts from the sale of access fees, such as the carrier access charge paid by an interexchange carrier to connect to a local exchange network in Nevada, shall be sited to Nevada as follows:*
- (i) *Gross receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in Nevada are sited to Nevada.*
 - (ii) *Gross receipts from access fees attributable to interstate telecommunications service are sourced fifty per cent to Nevada if the interstate call either originates or terminates in Nevada.*
 - (iii) *Gross receipts from interstate end user access line charges, such as the surcharge approved by the federal communications commission and levied pursuant to the Code of Federal Regulations, Title 47, Part 69, shall also be sourced to Nevada if the customer's service address is in Nevada.*

(48) Testing laboratories

- a) *If testing services are performed in Nevada, the gross receipts are sited to Nevada.*
- b) *If testing services are performed outside of Nevada, the gross receipts are sited outside of Nevada.*

(49) Towing services

- a) *If the towing services originate from a location in Nevada, the gross receipts are sited to Nevada if the destination is also in Nevada.*

(50) Transportation services

- a) *If transportation services originate from a location in Nevada, the gross receipts are sited to Nevada if the destination is also in Nevada as documented by the bill of lading.*
- b) *If transportation services provided by a common motor carrier as defined in NRS 706.036 originate in a location in Nevada, the gross receipts are sited to Nevada if the destination where the passenger or property finally exits the transportation is also in Nevada.*

(51) Travel arrangement services

- a) *If travel arrangement services are performed for a purchaser only located in Nevada, the gross receipts are sited to Nevada, regardless of where the services are performed or the location of the travel destination.*
- b) *If travel arrangement services are performed for a purchaser with operations within and without Nevada, the gross receipts are sited to Nevada if the services performed are related to a specific employee whose post of duty is in Nevada.*

(52) Veterinarian services

- a) *If veterinarian services are performed in Nevada, the gross receipts are sited to Nevada.*

(53) Waste management services

- a) If waste management services are performed in Nevada, the gross receipts are situated to Nevada.*
- 5. If the services relate to various locations both within and without outside of Nevada, the gross receipts may be situated to Nevada using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.*
- 6. For certain services the following methods will be acceptable as a default:*
 - a) For the appraisal services: the value of the appraised property in Nevada compared to the total value of the appraised property everywhere.*
 - b) For architectural services and construction contracting services: the number of properties anticipated to be built in Nevada compared to the total number of properties anticipated to be built everywhere. If the services are not for standardized buildings, square footage may be used as a method of apportionment unless it creates a distortion.*
 - c) For engineering services: the number of properties located in Nevada compared to the total number of properties located everywhere.*
 - d) For facilities management services: the number of properties located in Nevada compared to the total number of properties located everywhere. If the services are not for standardized buildings, square footage may be used as a method of apportionment unless it creates a distortion.*
 - e) For financial planning services: the number of locations in Nevada compared to everywhere.*

Section 11. *Situsing of Gross Revenue from Sale, lease or sublease, rent or subrent of property.*

- 1. Revenues from the lease or sublease, rent or subrent of tangible personal property are situated where the lease is to take place pursuant to NRS 360B.365 and 360B.370. If a lease or sublease, rental or subrental of real property or tangible personal property is treated as a sale for federal income tax purposes, then the receipts from the transaction are situated in the same manner as a sale.*
- 2. Revenues from sale of tangible personal property is situated to the location where the sale is deemed to take place, in accordance with NRS 360B.360.*
- 3. Gross revenue from sale, lease rental, sublease or sub-rental of real property is situated to the location of the real property.*

Section 12. *Situsing of Other Gross Revenue.*

- 1. Business interruption insurance proceeds for lost revenue received by the business entity are situated to Nevada if the business entity is located in Nevada.*
- 2. Revenue received by the business entity as a forgiven debt is situated to Nevada if the business entity is located in Nevada.*

Proposed amendments to chapters 363A and 363B of NAC to allow a payroll provider to take a commerce tax credit toward affiliated group MBT liability.

Sec. 1. Chapter NAC 363A is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. 1. *“Affiliated group” means a group of two or more business entities, each of which is controlled by one or more common United States owners or by one or more members of the group.*

2. *As used in this section:*

(a) “Business entity” has the meaning ascribed to it in section 4 of Senate Bill 483.

(b) “Controlled by” means the direct or indirect ownership, control or possession of 50 percent or more of a business entity.

Sec. 3. *“Commerce tax” means the tax imposed by section 20 of Senate Bill 483.*

Sec. 4. *“Commerce tax credit” means the credit described in subsection 4 of NRS 363A.130 as amended by section 68 of Senate Bill 483.*

Sec. 5. *“Modified business tax” means the tax imposed by NRS 363A.130.*

Sec. 6. *“Payroll provider” means a member of an affiliated group which:*

- 1. Provides payroll services for one or more members of the group;*
- 2. Pays wages to employees performing services on behalf of one or more members of the affiliated group;*
- 3. Reports and pays modified business tax on wages paid to employees performing services on behalf of one or more members of the affiliated group; and*
- 4. Has applied to and been approved by the Department, pursuant to section 7 of this regulation, to compute the commerce tax credit in the manner described in section 8 of this regulation.*

Sec. 7. 1. *An employer may apply to the Department to be recognized as a payroll provider by submitting to the Department such forms, application materials and supporting documents as the Department may require. To be recognized as a payroll provider, the employer must demonstrate to the satisfaction of the Department that:*

(a) The employer meets each of the conditions described in section 6 of this regulation; and

(b) Each member of the affiliated group that has activity in Nevada would have a liability for the modified business tax if the persons providing services for that member were treated as that member’s own employees and not those of the employer.

2. *The Department may revoke or cancel the payroll provider designation if the employer no longer meets the requirements of this section. Such a revocation or cancellation does not preclude the approval of another employer as a payroll provider for the affiliated group.*

Sec. 8. *In computing and reporting the modified business tax, a payroll provider is entitled to subtract from the amount calculated pursuant to NRS 363A.130 a credit in an amount equal to 50 percent of the sum of all commerce tax paid by the payroll provider and the members of the affiliated group.*

Sec. 9. *If a business entity incurs a Commerce Tax liability, but does not pay the Commerce Tax as required by section 20(2) of Senate Bill 483, the business entity is not entitled to the Modified Business Tax credit as provided in Sections 68 and 70 of Senate Bill 483 until the Commerce Tax liability is satisfied.*

Sec. 10. *Should the Commerce Tax liability be partially satisfied, the business entity will only be allowed to take credit equal to 50 percent of the amount paid.*

Sec. 11. *Upon any Commerce Tax liability being either partially or fully satisfied, the business entity may amend any previously filed Modified Business Tax returns for the periods following the taxable year(s) for which the Commerce Tax payment was made, to reflect the qualifying credit. The amended returns should be filed within the statutory period as provided in NRS 363A.160.*

Sec. 12. *The Department may make any adjustments to a business entity's account to apply available credits and adjust the Modified Business Tax returns.*

Sec. 13. NAC 363A.010 is hereby amended to read as follows:

363A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 363A.020 to 363A.110, inclusive, *and sections 2 to 6, inclusive, of this regulation*, have the meanings ascribed to them in those sections.

Sec. 14. Chapter NAC 363B is hereby amended by adding thereto the provisions set forth as sections 11 to 17, inclusive, of this regulation.

Sec.15. 1. *“Affiliated group” means a group of two or more business entities, each of which is controlled by one or more common United States owners or by one or more members of the group. 2. As used in this section:*

(a) “Business entity” has the meaning ascribed to it in section 4 of Senate Bill 483.

(b) “Controlled by” means the direct or indirect ownership, control or possession of 50 percent or more of a business entity.

Sec. 16. *“Commerce tax” means the tax imposed by section 20 of Senate Bill 483.*

Sec. 17. *“Commerce tax credit” means the credit described in subsection 4 of NRS 363B.110 as amended by section 70 of Senate Bill 483.*

Sec. 18. *“Modified business tax” means the tax imposed by NRS 363B.110.*

Sec. 19. *“Payroll provider” means a member of an affiliated group which:*

- 1. Provides payroll services for one or more members of the group;*
- 2. Pays wages to employees performing services on behalf of one or more members of the affiliated group;*
- 3. Reports and pays modified business tax on wages paid to employees performing services on behalf of one or more members of the affiliated group; and*
- 4. Has applied to and been approved by the Department, pursuant to section 20 of this regulation, to compute the commerce tax credit in the manner described in section 21 of this regulation.*

Sec. 20. 1. An employer may apply to the Department to be recognized as a payroll provider by submitting to the Department such forms, application materials and supporting documents as the Department may require. To be recognized as a payroll provider, the employer must demonstrate to the satisfaction of the Department that:

(a) The employer meets each of the conditions described in section 19 of this regulation; and

(b) Each member of the affiliated group that has activity in Nevada would have a liability for the modified business tax if the persons providing services for that member were treated as that member's own employees and not those of the employer.

2. The Department may revoke or cancel the payroll provider designation if the employer no longer meets the requirements of this section. Such a revocation or cancellation does not preclude the approval of another employer as a payroll provider for the affiliated group.

Sec. 21. In computing and reporting the modified business tax, a payroll provider is entitled to subtract from the amount calculated pursuant to NRS 363B.110 a credit in an amount equal to 50 percent of the sum of all commerce tax paid by the payroll provider and the members of the affiliated group.

Sec. 22. If a business entity incurs a Commerce Tax liability, but does not pay the Commerce Tax as required by section 20(2) of Senate Bill 483, the business entity is not entitled to the Modified Business Tax credit as provided in Sections 68 and 70 of Senate Bill 483 until the Commerce Tax liability is satisfied.

Sec. 23. Should the Commerce Tax liability be partially satisfied, the business entity will only be allowed to take credit equal to 50 percent of the amount paid.

Sec. 24. Upon any Commerce Tax liability being either partially or fully satisfied, the business entity may amend any previously filed Modified Business Tax returns for the periods following the taxable year(s) for which the Commerce Tax payment was made, to reflect the qualifying credit. The amended returns should be filed within the statutory period as provided in NRS 363B.150.

Sec. 25. The Department may make any adjustments to a business entity's account to apply available credits and adjust the Modified Business Tax returns.

Sec. 26. NAC 363B.010 is hereby amended to read as follows:

363B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 363B.020 to 363B.100, inclusive, **and sections 11 to 15, inclusive, of this regulation**, have the meanings ascribed to them in those sections.