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## Small Business Impact Statement

Per NRS 233B.0609

### Temporary Regulation

#### Locally-Assessed Aircraft Taxable Situs and Allocation of Taxable Value

The Department concluded the impact on small businesses based on the contents of the regulation will be minimal because the calculation for the allocation of taxable value does not change existing practice.

#### *Description of Proposed Changes to the Regulation*

There is no existing regulation governing the determination of taxable situs of aircraft; or the proper allocation of taxable value when more than one taxable situs exists. **Sections 3 through 22** provide definitions of terms and phrases used in the body of the proposed temporary regulation. In particular, the term "aircraft" is defined as a contrivance used or designed for the navigation of or for flight in the air. A number of examples are provided. Centrally-assessed aircraft of companies of an interstate or inter-county nature are specifically excluded from the definition of aircraft because permanent regulations already exist which cover centrally-assessed aircraft. Also included in the definitions in **Section 21** is the term "Taxable situs," which means the location or locations where aircraft receives benefits and protection from the local government sufficient to confer the power to tax.

**Section 23** provides for the type of documentation that would show that an aircraft is part of the inventory of the business and therefore exempt. The burden for proving that an aircraft is eligible for the exemption is on the taxpayer. **Section 23** provides a list of the types of documents necessary to show the aircraft is eligible for exemption.

**Section 24** provides that aircraft owned by an active-duty serviceperson or his or her spouse serving in Nevada does not establish taxable situs pursuant to federal law with certain exceptions. **Section 25** provides that an aircraft owned by a foreign air carrier, based and registered abroad and used exclusively in international commerce is deemed to have not acquired taxable situs in Nevada.

**Section 26** provides for the types of information that are necessary when declaring aircraft pursuant to the requirements of NRS 361.265. **Section 27** refers to the Nevada Administrative Code sections which regulate how aircraft are to be valued.

**Section 28** provides the criteria by which taxable situs may be acquired. **Section 29** provides the authority to establish taxable value is conferred on the county assessor of the county where the aircraft is habitually situated when not in flight.

**Section 30** provides that the burden of proof is on the taxpayer to show whether an aircraft has acquired taxable situs outside of Nevada and is therefore eligible for allocation of the taxable value. Section 30 also provides examples of the types of documents that would provide sufficient information to prove taxable situs.

**Section 31** provides the authority to the county assessor to determine whether an aircraft has acquired tax situs in Nevada and in another jurisdiction. The assessor is required to allocate the portion of the aircraft's taxable value that fairly reflects its use in Nevada. The section provides the formula for calculation of the allocation of taxable value, which is the same as is currently in applied by county assessors.

**Section 32** provides that an aircraft must remain listed on a county's assessment roll until the taxpayer provides written notice to the assessor that the aircraft no longer has a taxable situs in the county.

**Section 33** provides that a commercial or general aircraft which is titled or registered to fractional owners must be assessed as a single taxable unit.

**Section 34** provides that the portion of the total taxable value for which there was no allocation or apportionment within Nevada for the immediately preceding year is not subject to the general abatement afforded under NRS 361.4722.

***Methods Considered to Ascertain the Impact of Temporary Regulation***

The Department solicited comments from the public through two workshops, an additional written comment period and an adoption hearing. Notice of the workshops and the hearing were noticed as required on three different websites and individual notices sent to the interested parties lists maintained by the Department. In addition, the Department sent a Small Business Impact Statement and Questionnaire to small businesses on its interested parties list and received three responses from small businesses or on behalf of small businesses.

***Description of How Comment was Solicited from Affected Small Businesses***

The Department of Taxation (Department) on behalf of the Nevada Tax Commission ("Commission") conducted a workshop on the dates listed below to solicit input on Temporary Regulation on Locally Assessed Aircraft Taxable Situs and Taxable Value Allocation.

<b>Date of Notice</b>	<b>Workshop or Hearing</b>	<b>Date of Workshop or Hearing</b>	<b>Total Number Notified</b>	<b>Number of Businesses Notified</b>
10-3-2016	Workshop	10-21-2016	321	91
10-17-2016	Workshop	11-1-2016	200	98

The workshop on October 21, 2016 was held at the Board Room of the Gaming Control Board located on College Parkway in Carson City with video conferencing to the Grant Sawyer State Office Building, Room 2450, located on East Washington Avenue in Las Vegas, Nevada. The workshop on November 1, 2016 was held in Nevada Department of Taxation offices located on 1550 College Parkway in Carson City and 2550 Paseo Verde Parkway, Henderson, Nevada and with tele-conferencing available.

In accordance with NRS 241.020, meeting notices and agendas were posted at the principal office of the Department of Taxation in Carson City, Nevada, as well Department of Taxation offices in Reno, Henderson, and Las Vegas, and on the Department's website at [www.tax.state.nv.us](http://www.tax.state.nv.us), the Department of Administration website at <https://notice.nv.gov/> and the Legislative Counsel Bureau website at <http://leg.state.nv.us>. The notices were also posted at the NV State Library and Archives, the Las Vegas Library, the Clark County Government Center, the Attorney General's office, and the Legislative Counsel Bureau. In addition, the notices were faxed to the following libraries for posting: Amargosa Valley Library, Boulder City Library District, Clark County Library, Churchill County Library, Elko County Library, Esmeralda County Library District, Henderson District Public Libraries, Humboldt County Library, Lincoln County Library, Mineral County Library, Pahrump Community Library, Pershing County Library, Round Mountain Public Library, and White Pine County Library. In addition, the workshop and meeting notices were mailed to all persons on the Department of Taxation's interested parties list.

The Department of Taxation also solicited input from small businesses by emailing a Small Business Impact Statement and Questionnaire on October 13, 2016 to persons on a list of businesses and trade associations maintained by the Department. Three responses were received. No small businesses commented on the regulation at the workshop, however attorneys representing large casino taxpayers were present as well as county assessors.

Copies of the minutes from these meetings are available from the Department of Taxation, Local Government Services Division, 1550 College Parkway, Carson City, Nevada 89706, or call Chali Spurlock at (775) 684-2066.

### ***Estimated Economic Impact***

The Department determined that the regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. The proposed temporary regulation presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public.

**Sections 23, 24, and 25** of the regulation provide clarity that aircraft meeting certain criteria either are subject to exemption or do not establish taxable situs. The types of information required by **Section 26** on property declarations are the types of information already required and collected by county assessors. **Section 27** does not change the current method of valuation of aircraft. These sections do not impose an economic burden on small business.

**Section 28** lays the foundation for determining taxable situs, thus providing taxpayers the opportunity to reduce the taxable value allocated to Nevada. **Section 30** conforms State policy to many U.S. Supreme Court and other court decisions that provide a tax must be fairly apportioned to a state if more than one tax situs exists. The section also provides guidance to the taxpayer on how to prove taxable situs inside and outside of Nevada. **Section 31** provides a formula in which the ratio of the time spent in a taxable situs by using the number of overnights within Nevada is divided by the total number of overnights in the fiscal year. The resulting percentage is assumed to be the allocation percentage representing the taxable situs in Nevada. This formula represents existing practice and only affects those aircraft which are eligible and apply for an allocated value.

### ***Beneficial Effects***

The economic benefit is derived from an improved and consistent administration of the determination of taxable situs and the allocation of taxable value of aircraft to Nevada when more than one taxable situs exists.

### ***Adverse Effects***

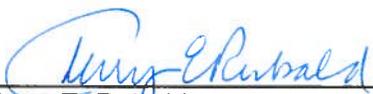
The regulation presents no reasonably foreseeable or anticipated, adverse economic effects to small businesses or to the general public.

### ***Immediate and Long-Term Effects***

The immediate and long-term effects will be to improve the uniform and equal application of property taxes on aircraft.

## **CERTIFICATION**

I certify that the information contained in this statement was prepared properly; a concerted effort was made to determine the impact of the proposed regulation on small business; and the information is accurate to the best of my knowledge or belief.

  
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Terry E. Rubald  
Deputy Executive Director  
Nevada Department of Taxation

Date: November 4, 2016