



STATE OF NEVADA
DEPARTMENT OF TAXATION

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Posted: November 4, 2016

NOTICE OF PUBLIC HEARING
FOR THE ADOPTION OF TEMPORARY REGULATION OF THE
NEVADA TAX COMMISSION

The Nevada Tax Commission (Tax Commission) will hold a public hearing on December 5, 2016 commencing at 9:00 a.m. at the Silver State Insurance Exchange, 2310 S. Carson Street, Suite 2, Carson City with video-conferencing to the Silver State Insurance Exchange, 150 N. Stephanie, Suite 100, Henderson, Nevada. The Tax Commission will receive testimony from all interested persons and consider and take action on proposed temporary adoption of amendments, additions and deletions to the Nevada Administrative Code as identified in **Temporary Regulation on Locally-Assessed Aircraft Taxable Situs and Allocation of Taxable Value**.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The Need for and Purpose of the Proposed Temporary Regulations.

These regulations provide guidance to county assessors in the proper determination of taxable situs in and outside of Nevada for aircraft. In addition, the regulation provides guidance on the proper allocation of taxable value when multiple locations with tax situs exist. The purpose is to improve uniformity in the property tax treatment of aircraft in all Nevada jurisdictions.

Terms or Substance of the Proposed Temporary Regulation or Description of the Subjects and Issues Involved.

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 temporary 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 servicemember 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.

2. Estimated Economic Effect of the Proposed Temporary Regulation on the Business which it is to Regulate, and the Public.

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.

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

B. 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.

3. The Methods Used by the Agency in Determining the Impact on a Small Business.

The Department mailed or emailed a Small Business Impact Statement and Questionnaire on October 13, 2016 to persons and businesses on the Department's interested parties list. Three responses were

received. Amendments were made after testimony at the workshops to reflect the current method of allocation of taxable value and therefore the Department believes there is minimal to no new impact on a small business.

4. Estimated Cost to Agency for Enforcement of the Proposed Temporary Regulation.

The proposed temporary regulation is expected to improve the uniform administration of the property tax on aircraft. The estimated cost of enforcement related to administration of the program to the Department of Taxation is minimal.

5. Regulations of Other State or Local Governmental Agencies which the Proposed Temporary Regulation Overlaps or Duplicates and the Necessity Therefore.

The proposed temporary regulation does not overlap or duplicate regulations of other state or local governmental agencies.

6. Establishment of New Fee or Existing Fee Increase.

None

7. Regulation required by Federal law.

Not applicable

8. More stringent than federal regulation

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. How to obtain the approved or revised text of regulations:

You may obtain a copy of the proposed regulation by writing to the Nevada Department of Taxation, Division of Local Government Services, 1550 College Parkway, Carson City, Nevada 89706; or by calling the office at (775) 684-2100. The proposed regulation is also available for review and download on the Department of Taxation website: http://tax.nv.gov/Boards/Public_Meetings/

Persons wishing to comment on the proposed action of the Nevada Tax Commission may appear at the above scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Department of Taxation, 1550 College Parkway, Suite 115, Carson City, Nevada 89706. **Written submissions must be received at least two weeks prior to the above scheduled public hearing.**

A copy of this notice and the proposed temporary regulations to be adopted and amended will be on file at the Nevada State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed temporary regulations to be adopted and amended will be available at the Department of Taxation, at the addresses listed below and on the Department of Taxation website, <http://tax.nv.gov/> and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of the proposed temporary regulations will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

Under NRS 233B.064(2), when adopting any regulation, the Agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporation, and its reason for overruling the consideration urged against its adoption.

Deonne Contine, Secretary



By Terry E. Rubald, Deputy Executive Director
Department of Taxation
November 4, 2016

Note 1: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Taxation in writing, at 1550 College Parkway, Carson City Nevada, 89706 or call (775) 684-2180 prior to the meeting.

Note 2: Materials and files for items on this notice are maintained in the offices of the Department of Taxation located in Carson City, Nevada. Requests for copies of materials and files for items on this notice may be made to:
Terry Rubald, Deputy Executive Director, Department of Taxation, 1550 College Parkway, Suite 115, Carson City, NV 89706

Note 3: Notice of this meeting was posted in the following Carson City, Nevada locations: Department of Taxation, 1550 College Parkway; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was emailed for posting to the following locations: Department of Taxation, 4600 Kietzke Lane, Building L, Suite 235, Reno; Department of Taxation, 2550 Paseo Verde, Suite 180, Henderson; Department of Taxation, 555 E. Washington Street; Las Vegas; Clark County Office, 500 South Grand Central Parkway, Las Vegas. Notice of this meeting was posted on the Internet through the Department of Taxation website <http://tax.nv.gov/> and on the Internet website maintained by the Legislative Counsel Bureau <http://leg.state.nv.us/> and the Department of Administration website <https://notice.nv.gov/>.
