



**STATE OF NEVADA
DEPARTMENT OF TAXATION**

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Posted: 11/2/21

NOTICE OF WORKSHOP

To: To All Interested Parties
From: Shellie Hughes, Executive Director, Department of Taxation
Date: November 2, 2021
Re: Workshop on LCB Draft of Proposed Permanent Regulation R074-20

The Department of Taxation will hold a workshop to solicit comments from interested parties on the following proposed permanent regulation:

This proposed regulation (LCB File No. R074-20) is revising provisions relating to taxation; establishing requirements for the administration of transferrable tax credits issued to sponsors of certain low-income housing projects; and providing other matters properly relating thereto.

Date and Time of Meeting: November 16, 2021 9:00 a.m.

The workshop will be held at the following location:

Place of Meeting:

**Nevada Department of Taxation
1550 College Parkway STE 115
Large Conference Room
Carson City, Nevada 89706**

This meeting will also be available by zoom. Please use the link below to join the webinar:

<https://us02web.zoom.us/j/88365075560>

Or One tap mobile:

+13462487799, 88365075560# US (Houston)

+16699009128, 88365075560# US (San Jose)

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or

+1 301 715 8592

Webinar ID: 883 6507 5560

International numbers available: <https://us02web.zoom.us/j/88365075560>

A copy of the regulation referenced above can be found on the Department's website at https://tax.nv.gov/Boards/Public_Meetings/ and at the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>.

All interested parties will have the opportunity to present their ideas. Please submit all suggestions in writing at least one week prior to the Workshop so the suggestions can be disseminated at the meeting. Written comments may be accepted at any time. All public input will be considered in preparing a proposed regulation to be presented to the Nevada Tax Commission for adoption.

Members of the public who are disabled and require accommodations or assistance at the Workshop are requested to notify the Department of Taxation in writing or by calling 775-684-2096 no later than five working days prior to the Workshop.

Notice has been posted at the following location: The Department of Taxation - 1550 College Parkway, STE 115, Carson City, Nevada.

Notice has been EMAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Suite 235, Reno, Nevada; Department of Taxation - 555 E. Washington Avenue, Grant Sawyer Office Building, Las Vegas, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; and the Nevada State Library, 100 Stewart Street, Carson City, Nevada, Interested Parties Group & Mailing List maintained by the Department & the Nevada Public Notice Website : <https://notice.nv.gov/>. Notice of this meeting was posted on the Department of Taxation website <https://tax.nv.gov/> and on the Legislative website at <https://www.leg.state.nv.us/>.

If you have any questions, please feel free to call Sarah Glazner at 775-684-2059.

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R074-20

February 2, 2021

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

AUTHORITY: §§1-9, NRS 360.090 and 360.867.

A REGULATION relating to taxation; establishing requirements for the administration of transferrable tax credits issued to sponsors of certain low-income housing projects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Housing Division of the Department of Business and Industry to issue transferable tax credits, that are authorized to be taken against certain state taxes, to the sponsor of a project for the acquisition, development, construction, improvement, expansion, reconstruction or rehabilitation of low-income housing. Under existing law, the Nevada Tax Commission is required to adopt regulations prescribing the manner in which such transferable tax credits will be administered. (NRS 360.867)

Existing law requires the Housing Division to notify the Department of Taxation of all transferable tax credits issued to a sponsor of a low-income housing project and of all such transferable tax credits transferred. (NRS 360.867) **Section 7** of this regulation requires the notification to be in writing and sets forth certain requirements for its contents.

Under existing law, transferable tax credits issued by the Housing Division to a sponsor of a low-income housing project may be applied to: (1) certain excise taxes on banks and payroll taxes; (2) certain gaming license fees; (3) certain general taxes on insurance premiums; or (4) any combination of such taxes and fees. (NRS 360.867) **Section 8** of this regulation requires a holder of transferable tax credits who is applying such credits to an amount of taxes due to offset the amount of such taxes due to the extent of the transferable tax credits. **Section 8** also requires the holder to include with his or her quarterly tax return a form indicating the type of tax to which the credit was applied and the amount of the credit applied.

Existing law requires a sponsor of a low-income housing project to repay any portion of transferrable tax credits to which the project sponsor is not entitled if it is found that the project sponsor made false statements or representations when obtaining the credits or failed to comply with certain other requirements. Under existing law, transferable tax credits that were purchased in good faith are not subject to forfeiture or repayment by a transferee unless the transferee submitted fraudulent information in connection with the purchase. (NRS 360.869) **Section 9** of

this regulation requires the Housing Division to notify the Department of Taxation if the Housing Division finds that: (1) a transferee has used transferrable credits obtained by a project sponsor who made false statements or representations when obtaining the credits or failed to comply with certain other requirements; or (2) a transferee submitted fraudulent information in connection with the purchase of transferrable tax credits.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Division” means the Housing Division of the Department of Business and Industry.*

Sec. 4. *“Project sponsor” has the meaning ascribed to it in NRS 360.865.*

Sec. 5. *“Transferable tax credits” means transferable tax credits issued by the Division pursuant to NRS 360.867.*

Sec. 6. *“Transferee” means a person to whom transferable tax credits have been or will be transferred.*

Sec. 7. *A notification by the Division to the Department of the issuance or transfer of transferable tax credits pursuant to subparagraph (3) of paragraph (b) of subsection 6 of NRS 360.867 must be in writing and include, as applicable and without limitation:*

1. Contact information for both the current holder of the transferable tax credits and for each transferee, including, without limitation:

(a) The name, telephone number and electronic mail address of the current holder and of each transferee; and

(b) The taxpayer identification number issued by the Department for the current holder and for each transferee;

- 2. The name of the person who will be managing the transferable tax credits;*
- 3. The type of tax to which the transferable tax credits will be applied;*
- 4. The dollar amount of the transferable tax credits; and*
- 5. The date that the transferable tax credits may begin to be utilized.*

Sec. 8. 1. *A holder of transferable tax credits who is applying such credits to an amount of taxes due pursuant to chapter 363A, 363B or 680B of NRS shall offset the amount of such taxes due to the extent of the amount of the transferable tax credits. The holder shall include with his or her quarterly tax return a form prescribed by the Department that specifies:*

- (a) Each type of tax to which the transferable tax credits will be applied; and*
- (b) The amount of transferable tax credits that will be applied to the taxes due for each type of tax specified in paragraph (a).*

2. The amount of transferable tax credits claimed in a single tax return must not exceed the amount of tax due for that return.

Sec. 9. 1. *The Division shall notify the Department if the Division finds that:*

- (a) A transferee has used transferable tax credits; and*
- (b) The project sponsor who obtained the transferable tax credits used by the transferee:
 - (1) Submitted a false statement or made a false representation when applying for the transferable tax credits; or*
 - (2) Failed to comply with the requirements of NRS 360.860 to 360.870, inclusive.**

2. Upon receipt of a notification pursuant to subsection 1, the Department shall issue a notice of liability to the project sponsor for any portion of the transferable tax credits to which the project sponsor is not entitled.

3. The Division shall notify the Department if the Division finds that a transferee submitted fraudulent information in connection with the purchase of transferable tax credits. Such transferable tax credits will be subject to forfeiture or repayment by the transferee to the Department for any portion to which the transferee is not entitled.

**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608 and NRS 233B.0609**

LCB File No. R074-20

1. Background

The Department of Taxation has drafted Proposed Regulation R074-20 to establish requirements for the administration of transferrable tax credits issued to sponsors of certain low-income housing projects; and providing other matters properly relating thereto.

Existing law authorizes the Housing Division of the Department of Business and Industry to issue transferable tax credits, that are authorized to be taken against certain state taxes, to the sponsor of a project for the acquisition, development, construction, improvement, expansion, reconstruction, or rehabilitation of low-income housing. Under existing law, the Nevada Tax Commission is required to adopt regulations prescribing the manner in which such transferable tax credits will be administered. (NRS 360.867)

Existing law requires the Housing Division to notify the Department of Taxation of all transferable tax credits issued to a sponsor of a low-income housing project and of all such transferable tax credits transferred. (NRS 360.867) Section 7 of this regulation requires the notification to be in writing and sets forth certain requirements for its contents.

Under existing law, transferable tax credits issued by the Housing Division to a sponsor of a low-income housing project may be applied to: (1) certain excise taxes on banks and payroll taxes; (2) certain gaming license fees; (3) certain general taxes on insurance premiums; or (4) any combination of such taxes and fees. (NRS 360.867) Section 8 of this regulation requires a holder of transferable tax credits who is applying such credits to an amount of taxes due to offset the amount of such taxes due to the extent of the transferable tax credits. Section 8 also requires the holder to include with his or her quarterly tax return a form indicating the type of tax to which the credit was applied, and the amount of the credit applied.

Existing law requires a sponsor of a low-income housing project to repay any portion of transferrable tax credits to which the project sponsor is not entitled if it is found that the project sponsor made false statements or representations when obtaining the credits or failed to comply with certain other requirements. Under existing law, transferable tax credits that were purchased in good faith are not subject to forfeiture or repayment by a transferee unless the transferee submitted fraudulent information in connection with the purchase. (NRS 360.869) Section 9 of this regulation requires the Housing Division to notify the Department of Taxation if the Housing Division finds that: (1) a transferee has used transferrable credits obtained by a project sponsor who made false statements or representations when obtaining the credits or failed to comply with certain other requirements; or (2) a transferee submitted fraudulent information in connection

with the purchase of transferrable tax credits.

- 2. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R074-20. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department to 210 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content of the response is summarized below:

- Two (2) responses to the Small Business Impact Questionnaire were received. Both small businesses reported that there will be no impact to their business whatsoever.

Anyone interested in obtaining a copy of the completed small business impact questionnaire used for this summary, can contact:

Sarah Glazner
Nevada Department of Taxation
1550 College Parkway Ste 115
Carson City, NV 89706
Phone: (775) 684-2059
Fax: (775) 684-2020
sglazner@tax.state.nv.us

- 3. The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small businesses.**

The Department analyzed the two questionnaires received and used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes.

- 4. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate:**

Direct and indirect adverse effects

The Department finds that there are no reasonable, foreseeable, or anticipated direct or indirect adverse economic effect on small businesses.

Direct and indirect beneficial effects

The Department finds that there are no reasonable, foreseeable, or anticipated direct or indirect beneficial economic effect on small businesses.

- 5. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

The proposed regulation presents no reasonable, foreseeable, or anticipated adverse impact to small businesses; therefore, no efforts were required to reduce the impact on small businesses.

- 6. The estimated cost to the agency for enforcement of the proposed regulation.**

The proposed regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

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

The proposed permanent regulation does not include new fees or increase an existing fee.

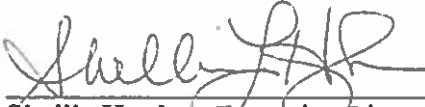
- 8. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

The proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

- 9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The Department has determined that there will be no adverse impacts to small businesses based on its analysis of comment received.

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



Shellie Hughes, Executive Director
November 2, 2021

Nevada Department of Taxation Regulatory Workshop **Draft of Proposed Regulation R074-20**

NEVADA DEPARTMENT OF
TAXATION
1550 College Pkwy STE 115
Large Conference Room
Carson City, Nevada 89706

November 16, 2021
9:00AM

Note: Items on this agenda may be taken in a different order than listed.
Items may be combined for consideration by the Department of Taxation.
Items may be pulled or removed from the agenda at any time.

- I. Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.
- II. The Department will hold a workshop to solicit comments from interested parties on the following topic:

This proposed regulation (LCB File No. R074-20) is revising provisions relating to taxation; establishing requirements for the administration of transferrable tax credits issued to sponsors of certain low-income housing projects; and providing other matters properly relating thereto.

- III. ****Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.**
- IV. Adjourn

****This item is to receive public comment on any issue and any discussion of those issues; provided that comment will be limited to areas relevant to and within the authority of the Nevada Department of Taxation. No action will be taken on any items raised in the public comment period. Public Comment may not be limited based on viewpoint.**

Please contact Sarah Glazner at 775-684-2059 or sglazner@tax.state.nv.us for any support materials. The support materials will be available at <https://tax.nv.gov/> and made available during the meeting located at the Nevada Department of Taxation, 1550 College Pkwy STE 115, Carson City, NV.

Members of the public who are disabled and require accommodations or assistance at this workshop are requested to notify the Department of Taxation in writing or call 775-684-2096 no later than five working days prior to the workshop.

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