

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R021-17

October 16, 2018

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

AUTHORITY: §§1-6, NRS 360.090 and 361.4722.

A REGULATION relating to property taxes; revising the methods for determining the applicability and amount of the partial abatement of property taxes for remainder parcels of property; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for a partial abatement of property taxes, which has the effect of establishing an annual cap on increases of property taxes imposed on a parcel or other taxable unit of real property. Generally, the partial abatement of property taxes applies only to a parcel or other taxable unit of property for which an assessed valuation was separately established for the immediately preceding fiscal year. Thus, a new parcel or other taxable unit of real property does not receive a partial abatement of property taxes. However, if a new parcel or other taxable unit of property is a remainder parcel, the remainder parcel qualifies for a partial abatement of property taxes and the taxes on the remainder parcel may not increase by more than a certain percentage of the taxes which would have been imposed on the remainder parcel in the prior fiscal year if an assessed valuation had been separately established for the remainder parcel for the prior fiscal year. (NRS 361.4722)

Existing regulations set forth the manner in which a new parcel is determined to be a remainder parcel that qualifies for a partial abatement of property taxes. Under existing regulations, each new parcel of property must be evaluated to determine whether there has been any change in the use of the property that comprises the parcel. If the use of such property has not changed, the parcel is a remainder parcel and qualifies for the partial abatement of taxes. However, if the use of such property has changed, the parcel is a new parcel for development and does not qualify for a partial abatement of taxes. (NAC 361.61034) **Sections 2, 3 and 5** of this regulation revise the language of the existing regulation governing the determination of whether a new parcel is a remainder parcel qualifying for a partial abatement of property taxes. Instead of requiring an evaluation of each new parcel to determine whether there has been any change in

the use of the property that comprises the remainder parcel, **section 5** requires such an evaluation of the property comprising each new parcel for development, which is defined in **section 3** as a new parcel resulting from certain changes made to an existing parcel. Under **section 5**: (1) if the use of that property has not changed, the property qualifies as a remainder parcel; and (2) if the use of that property has changed, the property is a new parcel for development which is not eligible for a partial abatement of property taxes. Finally, **section 5** provides that the provisions of that section apply to the determination of whether a parcel or other taxable unit of property is a remainder parcel for the 2015-2016 tax year and each subsequent tax year.

Sections 1 and 4 of this regulation revise the definitions of “commercial or industrial use” and “vacant land” for the purpose of determining whether the use of the property comprising a new parcel for development has changed.

Existing regulations also set forth the manner in which the amount of the partial abatement for a remainder parcel is calculated. (NAC 361.61036, 361.61038) Under the existing regulations, the first step in calculating that partial abatement is to determine the amount of the net property taxes attributable to the remainder parcel for the prior year. (NAC 361.61036) That amount is calculated by determining the pro rata percentage that the land and improvements of the remainder parcel contributed to the assessed value of each of the parcels which contained the land area of the remainder parcel for the prior year and multiplying that percentage by the total amount of taxes levied in the prior year on that parcel. (NAC 361.61038) **Section 6** of this regulation revises the method for determining the amount of the net property taxes attributable to a remainder parcel so that the amount is determined based on calculating an effective tax rate for the remainder parcel and multiplying that effective tax rate by the taxable value which the remainder parcel would have had if a taxable value had been separately established for the remainder parcel for the prior year.

Section 1. NAC 361.61008 is hereby amended to read as follows:

361.61008 “Commercial or industrial use” means : ~~any use;~~

1. ~~Conducted~~ *Any use conducted* primarily for profit, except for any agricultural use, open-space use, residential use, institutional use, recreational use or use as vacant land ~~held for development; and~~; *or*
2. Any other use that does not constitute any agricultural use, open-space use, residential use, institutional use, recreational use or use as vacant land . ~~held for development.~~

Sec. 2. NAC 361.61014 is hereby amended to read as follows:

361.61014 “New parcel” means a parcel for which a new or different assessor parcel number has been assigned from the prior year . ~~[as a result of the division of any previously existing parcel or parcels, the combination of any previously existing parcels, or any change in the configuration of any parcels or of lot size or lot boundaries, by means of a parcel map, subdivision map, certificate of land division, long-term lease, action of any governmental entity or any other means.]~~

Sec. 3. NAC 361.61016 is hereby amended to read as follows:

361.61016 “New parcel for development” means each new parcel which ~~[is not eligible for the partial abatement in the current year.]~~ *results from the division of any previously existing parcel or parcels, the combination of any previously existing parcels, or any change in the configuration of any parcels or of lot size or lot boundaries, by means of a parcel map, subdivision map, certificate of land division, long-term lease, action of any governmental entity or any other means.*

Sec. 4. NAC 361.6103 is hereby amended to read as follows:

361.6103 “Vacant ~~[land held for development”]~~ *land*” means land which ~~[is held for investment or future development and has not previously been held for]~~ *does not have improvements sufficient to determine a* residential use, commercial or industrial use, institutional use or recreational use.

Sec. 5. NAC 361.61034 is hereby amended to read as follows:

361.61034 1. Each new parcel *for development* must be separately evaluated to determine whether there has been any change in the use of the property that comprises the parcel.

2. A determination that there is a change in the use of the property must be based on a finding that:

(a) The property was being used as vacant land ~~held for development~~ as of the commencement of the prior year and:

(1) As the result of the recording of a subdivision map creating individual lots for residential development, the property is held for residential use as of the commencement of the current year; ~~or~~

(2) *As the result of the recording of a subdivision map creating a new commercial or industrial subdivision or the creation of new parcels within such a subdivision, the property is held for commercial or industrial use as of the commencement of the current year; or*

(3) As the result of new construction on the parcel sufficient to allow for an identification of the use of the property, the property is in agricultural use, open-space use, residential use, commercial or industrial use, institutional use or recreational use as of the commencement of the current year; or

(b) The use of the property as of the commencement of the current year for agricultural use, open-space use, residential use, commercial or industrial use, institutional use or recreational use is different from the use of the property as of the commencement of the prior year.

3. *For the purpose of determining whether there has been a change in the use of the property that comprises a new parcel for development that was created from an existing parcel that had more than one use in the prior year, the use of the portion of the existing parcel from which the new parcel for development was created must be determined to be the use of the property that comprises the new parcel for development in the current year.*

4. If the use of the property:

(a) Has not changed, the parcel is a remainder parcel.

(b) Has changed, the parcel is a new parcel for development ~~;~~

~~—4.]~~ *which is not eligible for the partial abatement of taxes provided by subsection 2 of NRS 361.4722.*

5. The provisions of this section apply to the determination of whether a new parcel or other taxable unit of property is a remainder parcel for the tax year beginning on July 1, 2015, and each subsequent tax year.

6. As used in this section, “use of the property” means the principal use of the property for one of the following purposes:

(a) Agricultural use;

(b) Open-space use;

(c) Residential use;

(d) Commercial or industrial use;

(e) Institutional use;

(f) Recreational use; or

(g) Use as vacant land . ~~[held for development.]~~

Sec. 6. NAC 361.61038 is hereby amended to read as follows:

361.61038 1. Except as otherwise provided in subsection 2, the amount of net property taxes attributable to the land area of and any improvements to a remainder parcel for the prior year must be determined as follows:

(a) Identify each of the parcels which contained the land area of the remainder parcel in the prior year.

(b) Determine the ~~pro-rata percentage that the remainder parcel's land and improvements contributed to the assessed~~ *taxable* value of each of the parcels identified in paragraph (a) for the prior year.

(c) ~~Multiply the percentage determined in paragraph (b) for each of the parcels identified in paragraph (a) by~~ *Determine* the total amount of taxes levied, or which would have been levied but for any exemptions from taxation, in the prior year on ~~that parcel.~~ *each of the parcels identified in paragraph (a) for the prior year.*

(d) *Calculate the effective tax rate for the remainder parcel for the prior year by dividing the total amount of taxes determined pursuant to paragraph (c) by the total of the taxable values identified pursuant to paragraph (b).*

(e) *Determine the taxable value that the remainder parcel would have had if a taxable value for the remainder parcel had been separately established for the prior year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year.*

(f) The amount of net property taxes attributable to the remainder parcel for the prior year is the ~~sum of the products determined pursuant to paragraph (c) for each of the parcels identified in paragraph (a).~~ *amount obtained by multiplying the effective tax rate for the remainder parcel calculated pursuant to paragraph (d) by the taxable value of the remainder parcel determined pursuant to paragraph (e).*

2. The owner of a remainder parcel may appeal to the Nevada Tax Commission pursuant to NRS 361.4734 and any regulations adopted to carry out that section to show that the method prescribed in subsection 1 produces an inequitable result. Pursuant to such an appeal, the Nevada Tax Commission may use an alternative method that provides an equitable result.

3. As used in this section, “total amount of taxes levied” means the lower of the total amount of property taxes assessed to a parcel or the total amount of property taxes assessed as the result of a final decision on an appeal, less the amount of any partial abatement of property taxes applied to that parcel pursuant to NRS 361.4722, 361.4723 or 361.4724.