

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R123-15

Effective June 28, 2016

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

AUTHORITY: §1, NRS 360.090 and 360.417, as amended by section 65 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2898; §§2 and 79, NRS 360.090 and 360.419; §3, NRS 360.090 and 360.263; §§4-6, NRS 360.090; §§7-9, NRS 360.090, 363A.070 and 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900; §§10-12, NRS 360.090, 363B.060 and 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901; §13, NRS 360.090 and section 16 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2884 (NRS 363C.100); §§14-16, NRS 360.090 and sections 4 and 16 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at pages 2878 and 2884 (NRS 363C.020 and 363C.100); §§17 and 78, NRS 360.090 and sections 16 and 20 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2884 (NRS 363C.100 and 363C.200); §18, NRS 360.090 and sections 8 and 16 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at pages 2880 and 2884 (NRS 363C.045 and 363C.100); §19, NRS 360.090 and sections 11 and 16 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at pages 2881 and 2884 (NRS 363C.070 and 363C.100); §20, NRS 360.090 and sections 16 and 21 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at pages 2884 and 2885 (NRS 363C.100 and 363C.210); §§21-77, NRS 360.090 and sections 16 and 22 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at pages 2884 and 2888 (NRS 363C.100 and 363C.220).

A REGULATION relating to taxation; establishing provisions for the administration, calculation and payment of the commerce tax imposed on the Nevada gross revenue of certain entities engaged in business in this State; adopting provisions for the administration and calculation of the credit against the payroll tax imposed on certain businesses for the payment of the commerce tax by a business; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an annual commerce tax on each business entity engaged in business in this State whose Nevada gross revenue in a fiscal year exceeds \$4,000,000 at a rate that is based on the industry in which the business entity is primarily engaged. (Sections 2-61 of

Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at pages 2878-2896 (Chapter 363C of NRS)) The Nevada gross revenue of a business entity is determined by taking the amount of the gross revenue of the business entity, subtracting various deductions from that amount, then situsing the adjusted amount to this State. (Section 9 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2881 (NRS 363C.055)) To calculate the amount of the commerce tax owed by a business entity, the business entity subtracts \$4,000,000 from its Nevada gross revenue, then multiplies that amount by the rate prescribed for the industry in which the business entity is primarily engaged. (Section 23 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2889 (NRS 363C.300)) This regulation adopts provisions for the administration, calculation and payment of the commerce tax.

Section 14 of this regulation defines the term “business entity” for the purpose of determining whether a person is subject to the commerce tax. **Section 15** of this regulation defines the term “intangible investments” for the purposes of the exemption from the commerce tax for a person whose activity in this State is confined to owning, maintaining and managing the person’s intangible investments or the intangible investments of certain other persons. **Section 16** of this regulation sets forth certain activities by a business entity in this State that constitute conducting a business in this State and, thus, subject the business entity to the commerce tax. **Section 17** of this regulation requires: (1) each business entity engaging in a business in this State in a taxable year to file a Nevada Commerce Tax Return with the Department of Taxation, regardless of whether the business entity owes the tax; and (2) a business entity whose Nevada gross revenue for a taxable year is less than \$4,000,000 to file a Nevada Commerce Tax Return that contains only certain information about the business entity and an affirmation, under penalty of perjury, that the business entity’s Nevada gross revenue for the taxable year is less than \$4,000,000. **Section 18** of this regulation adopts a standard for determining whether a good or service is provided on a complimentary basis and, thus, excluded from the gross revenue of a business entity when calculating the amount of commerce tax owed by the business entity. **Section 19** of this regulation defines the term “fiduciary duty” for the purpose of determining whether a business entity is required by a fiduciary duty to distribute revenue received by the business entity to another person or governmental entity and, thus, entitled to deduct that revenue from the business entity’s gross revenue when calculating the commerce tax. **Section 20** of this regulation sets forth the manner in which a health care provider is required to calculate the deduction from gross revenue for the cost of uncompensated care. **Sections 21-77** of this regulation adopt provisions for the situsing of the gross revenue of a business entity to this State, including, without limitation, setting forth the manner in which certain business entities situs the gross revenue from providing services. **Section 78** of this regulation establishes the method for determining the industry in which a business entity is primarily engaged for the purpose of determining the commerce tax rate of the business entity.

Existing law authorizes a business entity that has paid the commerce tax to receive a credit against the excise tax on the wages paid by certain businesses, commonly known as the modified business tax, in an amount equal to 50 percent of the commerce tax paid by the business for the preceding taxable year. (NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, and NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901) **Sections 8 and 11** of this regulation authorize a business entity that is a member of an affiliated group of entities and provides certain payroll services for the other members of the

affiliated group to receive a credit in an amount equal to 50 percent of the sum of the commerce tax paid by the payroll provider and certain other members of the affiliated group if the Department determines that the payroll provider satisfies certain criteria. **Sections 9 and 12** of this regulation adopt provisions governing the credit available to a business entity that pays a commerce tax deficiency.

Under existing law, the Department of Taxation is authorized to waive all or part of any interest or penalty, or both, imposed on a taxpayer who fails to make a timely payment of a tax if the Executive Director of the Department or a hearing officer finds that the failure to make a timely payment was the result of circumstances beyond the taxpayer's control and occurred despite the exercise of ordinary care and without intent. (NRS 360.419) Existing law further provides that if the Department determines that an overpayment of the commerce tax was made intentionally or by reason of carelessness, the Department must not allow the taxpayer to receive interest on the overpayment. (Section 53 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2895 (NRS 363C.620)) **Sections 2 and 79** of this regulation provide that: (1) if the failure to pay the commerce tax in a timely manner was caused by reliance on the taxpayer's most recent federal income tax return or Nevada Commerce Tax Return to calculate the Nevada gross revenue of the taxpayer, the Department may waive all or part of the penalty or interest, or both, imposed on the taxpayer; and (2) if an overpayment of the commerce tax was caused by such reliance, the overpayment is deemed to be made intentionally or by reason of carelessness, the Department must not allow the taxpayer to receive interest on the overpayment.

Existing law states that if a taxpayer fails to pay the commerce tax within the period required by law, the taxpayer must pay a penalty and interest on the amount of tax owed. Under existing law, the penalty for the failure to pay the tax within the period required by law must be based on a graduated schedule adopted by the Nevada Tax Commission. (NRS 360.417, as amended by section 65 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2898) **Section 1** of this regulation includes the commerce tax in the graduated schedule of penalties adopted by the Commission so that the penalty imposed for a failure to pay the commerce tax in a timely manner is based on the same schedule as the other taxes collected by the Department.

Sections 3-6 of this regulation include references to the commerce tax in certain provisions relating to the administration of taxes by the Department of Taxation.

Section 1. NAC 360.395 is hereby amended to read as follows:

360.395 The penalty imposed pursuant to NRS 360.417 for the late payment of tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 372A, 377, 377A, 444A or 585 of NRS *or sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS)*, or any fee provided for in NRS 482.313 must be in the amount of:

1. If the payment is not more than 10 days late, 2 percent of the amount of the tax or fee due.
2. If the payment is more than 10 days late but not more than 15 days late, 4 percent of the amount of the tax or fee due.
3. If the payment is more than 15 days late but not more than 20 days late, 6 percent of the amount of the tax or fee due.
4. If the payment is more than 20 days late but not more than 30 days late, 8 percent of the amount of the tax or fee due.
5. If the payment is more than 30 days late, 10 percent of the amount of the tax or fee due.

Sec. 2. NAC 360.397 is hereby amended to read as follows:

360.397 1. Except as otherwise provided in NAC 360.398, *and section 79 of this regulation*, a taxpayer or the taxpayer'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 taxpayer or the taxpayer's agent which sets forth the facts and circumstances surrounding the failure of the taxpayer to make the payment in a timely manner.

2. The Department shall not consider a request made pursuant to subsection 1 until the taxpayer has paid in full the tax or fee upon which the interest or penalty is assessed.

Sec. 3. NAC 360.438 is hereby amended to read as follows:

360.438 1. A person may request that the Commission compromise the liability of the person for a tax, contribution, premium, fee, interest or penalty assessed pursuant to the provisions of chapter 360, 360B, 362, 363A, 363B, 368A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS *or sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of*

NRS), as administered or audited by the Department by submitting to the Department, on a form prescribed by the Department, an offer to compromise the liability of the person.

2. An offer to compromise the liability of a person submitted pursuant to subsection 1 must include:

(a) A statement of the grounds upon which the compromise is sought and any other information to support the offer;

(b) Copies of such financial information and documentation as may be required by the Department, including, without limitation, financial statements, bank records, accounting ledgers and a statement or explanation of any assets that may be acquired by the person pursuant to the resolution of a pending claim, cause of action, settlement or insurance disbursement, inheritance or an unsatisfied judgment or court order;

(c) An affirmation, signed under penalty of perjury, attesting to the truthfulness and accuracy of all information and documentation submitted with the offer to compromise; and

(d) A written statement signed by the person consenting to suspend any and all statutory periods of limitation relevant to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets of the taxpayer to satisfy the liability of the taxpayer during the period in which the Commission considers whether to accept or reject the offer of compromise.

3. The Department shall review, analyze and verify an offer of compromise and any accompanying information and documentation submitted pursuant to subsection 1.

4. If, after reviewing, analyzing and verifying the offer pursuant to subsection 3, the Department determines that:

(a) The offer does not comply with subsection 1 or does not include adequate supporting information and documentation, the Department shall return the offer to the person who submitted the offer with a written explanation of the deficiencies.

(b) Except as otherwise provided in paragraph (c), the offer complies with subsection 1, the Department shall forward to the Commission the offer and the recommendation of the Department as to whether the Commission should accept or reject the offer.

(c) The offer complies with subsection 1 and the Department will recommend that the Commission reject the offer, the Department shall advise the person submitting the offer in writing that the Department will recommend that the Commission reject the offer before forwarding the offer and the recommendation of the Department to the Commission pursuant to paragraph (b). A person so advised may withdraw the offer.

5. Except as otherwise provided in this subsection, if a person submits an offer pursuant to subsection 1, the Department shall cease, and shall not commence, any action related to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets in satisfaction of the liability until the Commission accepts or rejects the offer. If the Department determines that the offer submitted pursuant to subsection 1 was offered for the purpose of delaying or avoiding the collection of the liability of the person, the Department may continue or commence any action related to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets in satisfaction of the liability.

6. The Commission will review an offer received from the Department pursuant to subsection 4 and issue a written decision as to whether the Commission accepts or rejects the offer of compromise.

7. If the written decision of the Commission issued pursuant to subsection 6 is the acceptance of the offer of compromise, the Commission may:

(a) Make the acceptance of the offer contingent upon the satisfaction of conditions as the Commission deems appropriate, including, without limitation, that all or part of the amount of the compromise be paid within a specific time frame.

(b) Allow the person submitting the offer to pay the amount of the compromise in reasonable installments. If the Commission allows the person submitting the offer to pay the amount of the compromise in reasonable installments, the Commission may make the acceptance of the offer contingent upon the person complying with the schedule of installment payments.

8. If the Commission makes the acceptance of an offer of compromise contingent upon the satisfaction of a condition pursuant to subsection 7, the Commission will hold a hearing before finally accepting or rejecting the offer to determine whether the conditions upon the acceptance of the offer were satisfied. If the Commission determines that the conditions upon the acceptance of the offer were satisfied, the Commission will issue a written decision to accept the offer of compromise. If the Commission determines that the conditions upon the acceptance of the offer were not satisfied, the Commission will issue a written decision specifying the manner in which such conditions failed to be satisfied.

9. Except as otherwise provided in subsection 10, after the Commission has accepted an offer of compromise and the person has tendered the full amount of money offered in the compromise, the compromise will be deemed to be an accord and satisfaction of the liability of the person for that liability which is the subject of the compromise.

10. If, after a hearing, the Commission determines that the acceptance by the Commission of an offer of compromise was procured through fraud, misrepresentation or concealment or

resulted from a mutual mistake of fact, the Commission may issue a written decision to reinstate the liability of the taxpayer in the amount originally assessed by the Department. The written decision of the Commission is a final decision for the purposes of judicial review.

11. The acceptance of an offer of compromise by the Commission pursuant to this section shall not be deemed to be a limitation on the rights and remedies of the Department with respect to any person not named or identified in the offer of compromise.

Sec. 4. NAC 360.440 is hereby amended to read as follows:

360.440 1. If a taxpayer fails to file a return as required by the applicable provisions of chapter 360, 362, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS *or sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS)*, and he or she wishes to disclose that fact voluntarily to the Commission, the taxpayer or the taxpayer's representative must file with the Department an application for voluntary disclosure on a form prescribed by the Commission before the Department has initiated an audit or investigation of the taxpayer.

2. The Commission will not accept an application filed pursuant to subsection 1 until the application has been approved and signed by the Director. The Director shall not approve and sign the application until he or she has verified that the Department did not initiate an audit or investigation of the taxpayer before the date that the taxpayer filed an application with the Department pursuant to subsection 1. An application is deemed to be filed with the Department on the date the application is received by the Department.

3. After the Director has signed and approved the application, the Commission will provide the taxpayer with a copy of the approved application.

4. For the purposes of subsection 2, the Department has initiated an audit or investigation of a taxpayer if the Department has:

(a) Contacted the taxpayer by telephone, in person or in writing regarding a possible tax liability; or

(b) Given the taxpayer written notice that an audit will be conducted by the Department concerning liability for the type of tax that the taxpayer wishes to disclose voluntarily pursuant to this section.

Sec. 5. NAC 360.444 is hereby amended to read as follows:

360.444 The Commission will not consider the tax liability of a taxpayer as being voluntarily disclosed if, after filing an application for voluntary disclosure pursuant to NAC 360.440, the taxpayer:

1. Within 90 days after the taxpayer has received a copy of the approved application, fails to file with the Department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to NAC 360.440;

2. Within 90 days after the taxpayer has received a copy of the approved application, fails to pay any tax owed for the period described in subsection 1;

3. Fails to make a good faith effort to comply with the applicable provisions of chapter 360, 362, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, *or sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS)*, including, without limitation, registering with the Department, filing tax returns, paying any tax liability and remitting any taxes collected; or

4. Fails to provide an accurate estimate of his or her tax liability in the application for voluntary disclosure filed pursuant to NAC 360.440. The taxpayer shall be deemed to have provided an inaccurate estimate of his or her tax liability if:

(a) The tax liability provided in the application for voluntary disclosure is less than the taxpayer's actual tax liability by 10 percent or more; and

(b) The taxpayer is unable to demonstrate to the Department that he or she made a good faith effort to report accurately his or her tax liability in the application for voluntary disclosure.

Sec. 6. NAC 360.584 is hereby amended to read as follows:

360.584 NAC 360.550 to 360.598, inclusive, apply to online registration, filing and payment by electronic transfer of money for taxes, fees, interest, penalties or other charges provided for in chapters 360, 361, 362, 363A, 363B, 368A, 369, 370, 372, 372A, 374, 377, 377A and 444A of NRS *and sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS)*, and to any fee provided for in NRS 482.313 or chapter 680B of NRS.

Sec. 7. Chapter 363A of NAC is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this regulation.

Sec. 8. 1. *An employer may apply to the Department to be designated as a payroll provider by submitting to the Department such forms, application materials and supporting documents as the Department may require.*

2. The Department shall designate an employer as a payroll provider if the employer demonstrates to the satisfaction of the Department that:

(a) The employer is a member of an affiliated group which:

(1) Provides payroll services for one or more members of the affiliated group;

(2) Pays wages to employees who provide services on behalf of one or more members of the affiliated group; and

(3) Reports and pays the tax imposed by NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, on wages paid to employees who provide services on behalf of one or more members of the affiliated group; and

(b) Each member of the affiliated group for which a tax credit will be claimed pursuant to subsection 4 would have a liability for the tax imposed by NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, if the persons who provide services for that member were treated as employees of that member rather than as employees of the employer.

3. The Department may revoke or cancel the designation of an employer as a payroll provider if the employer no longer qualifies for that designation pursuant to subsection 2. The revocation or cancellation of the designation of an employer as a payroll provider does not preclude the Department from designating another employer as a payroll provider for the affiliated group if the other employer qualifies as a payroll provider pursuant to this section.

4. In reporting and computing the tax imposed by NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, a payroll provider may subtract from the amount calculated pursuant to subsection 1 of NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, a credit in an amount equal to 50 percent of the sum of the commerce tax paid by the payroll provider and each member of the affiliated group that would have been liable for the tax imposed by NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, if the persons who provide services for that

member were treated as employees of that member rather than as employees of the payroll provider.

5. As used in this section:

(a) “Affiliated group” means a group of two or more business entities, each of which is controlled by one or more common owners or by one or more members of the group.

(b) “Commerce tax” means the tax required to be paid pursuant to sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS).

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

(d) “Payroll provider” means an employer who has been designated by the Department as a payroll provider pursuant to subsection 2.

Sec. 9. 1. *If an employer incurs a deficiency in the payment of the commerce tax, the employer is not entitled to the commerce tax credit for the amount of the deficiency until the employer satisfies all or part of the deficiency. The amount of the credit to which the employer is entitled pursuant to this subsection is equal to 50 percent of the amount of the deficiency paid by the employer.*

2. Upon partial or full satisfaction of a deficiency in the payment of the commerce tax, an employer may amend a return of the tax imposed by NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, for any of the 4 calendar quarters immediately following the taxable year for which the commerce tax was required to be paid to claim the commerce tax credit in accordance with the provisions of

subsection 4 of NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900.

3. The Department may make such adjustments to the account of an employer as the Department deems necessary to apply a commerce tax credit and adjust a return of the tax imposed by NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, in accordance with this section.

4. As used in this section:

(a) "Commerce tax" means the tax required to be paid pursuant to sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS).

(b) "Commerce tax credit" means the credit against the tax imposed by NRS 363A.130, as amended by section 68 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2900, which is set forth in subsection 4 of that section.

Sec. 10. Chapter 363B of NAC is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this regulation.

Sec. 11. 1. *An employer may apply to the Department to be designated as a payroll provider by submitting to the Department such forms, application materials and supporting documents as the Department may require.*

2. The Department shall designate an employer as a payroll provider if the employer demonstrates to the satisfaction of the Department that:

(a) The employer is a member of an affiliated group which:

(1) Provides payroll services for one or more members of the affiliated group;

(2) Pays wages to employees who provide services on behalf of one or more members of the affiliated group; and

(3) Reports and pays the tax imposed by NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, on wages paid to employees who provide services on behalf of one or more members of the affiliated group; and

(b) Each member of the affiliated group for which a tax credit will be claimed pursuant to subsection 4 would have a liability for the tax imposed by NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, if the persons who provide services for that member were treated as employees of that member rather than as employees of the employer.

3. The Department may revoke or cancel the designation of an employer as a payroll provider if the employer no longer qualifies for that designation pursuant to subsection 2. The revocation or cancellation of the designation of an employer as a payroll provider does not preclude the Department from designating another employer as a payroll provider for the affiliated group if the other employer qualifies as a payroll provider pursuant to this section.

4. In reporting and computing the tax imposed by NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, a payroll provider may subtract from the amount calculated pursuant to subsection 1 of NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, a credit in an amount equal to 50 percent of the sum of the commerce tax paid by the payroll provider and the members of the affiliated group that would have been liable for the tax imposed by NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, if the persons who provide services for that

member were treated as employees of that member rather than as employees of the payroll provider.

5. As used in this section:

(a) “Affiliated group” means a group of two or more business entities, each of which is controlled by one or more common owners or by one or more members of the group.

(b) “Commerce tax” means the tax required to be paid pursuant to sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS).

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

(d) “Payroll provider” means an employer who has been designated by the Department as a payroll provider pursuant to subsection 2.

Sec. 12. 1. *If an employer incurs a deficiency in the payment of the commerce tax, the employer is not entitled to the commerce tax credit for the amount of the deficiency until the employer satisfies all or part of the deficiency. The amount of the credit to which the employer is entitled pursuant to this subsection is equal to 50 percent of the amount of the deficiency paid by the employer.*

2. Upon partial or full satisfaction of a deficiency in the payment of the commerce tax, an employer may amend a return of the tax imposed by NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, for any of the 4 calendar quarters immediately following the taxable year for which the commerce tax was required to be paid to claim the commerce tax credit in accordance with the provisions of

subsection 4 of NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901.

3. The Department may make such adjustments to the account of an employer as the Department deems necessary to apply a commerce tax credit and adjust a return of the tax imposed by NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, in accordance with this section.

4. As used in this section:

(a) “Commerce tax” means the tax required to be paid pursuant to sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS).

(b) “Commerce tax credit” means the credit against the tax imposed by NRS 363B.110, as amended by section 70 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2901, which is set forth in subsection 4 of that section.

Sec. 13. Chapter 363C of NAC is hereby amended by adding thereto the provisions set forth as sections 14 to 79, inclusive, of this regulation.

Sec. 14. 1. *The commerce tax is a tax imposed on each business entity engaging in a business in this State. To determine whether a business entity is engaging in a business in this State, the Department must consider the activities of the business entity and not the activities of other entities in which the business entity owns an interest.*

2. Except as otherwise provided in subsection 3 and sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS), for the purpose of determining whether a person or other entity is subject to the commerce tax, a person or other entity is a business entity if the person is:

(a) An entity organized pursuant to title 7 of NRS or another equivalent statute of this State or another jurisdiction, other than an entity organized pursuant to chapter 82 or 84 of NRS.

(b) A state, national, domestic or foreign bank, whether organized under the laws of this State, another state or another country, or under federal law.

(c) A savings and loan association or savings bank, whether organized under the laws of this State, another state or another country, or under federal law.

(d) A partnership governed by chapter 87 of NRS or another equivalent statute of this State or another jurisdiction.

(e) A registered limited-liability partnership registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive.

(f) A business association.

(g) A joint venture, except a joint operating or co-ownership arrangement which meets the requirements of 26 C.F.R. § 1.761-2(a)(3), Treas. Reg. § 1.761-2(a)(3), that elects out of federal partnership treatment as provided by 26 U.S.C. § 761(a).

(h) A joint stock company.

(i) A holding company.

(j) A natural person who is required to file with the Internal Revenue Service a:

(1) Schedule C (Form 1040), Profit or Loss from Business, or its equivalent or successor form;

(2) Schedule E (Form 1040), Supplemental Income and Loss, or its equivalent or successor form, if an activity of the natural person is reported on Part I of that Schedule; or

(3) Schedule F (Form 1040), Profit or Loss from Farming, or its equivalent or successor form.

(k) Any other person engaging in a business in this State.

3. For the purpose of determining whether a person or other entity is subject to the commerce tax, a person or other entity is not a business entity if the person or entity is listed in subsection 2 of section 4 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878, regardless of whether the person or entity is engaging in a business in this State.

4. As used in this section:

(a) "Holding company" means an entity that confines its activities to owning stock in, and supervising management of, other companies.

(b) "Joint stock company" means a common-law unincorporated business enterprise of natural persons possessing common capital with ownership interests represented by shares of stock.

(c) "Joint venture" means a partnership engaged in the joint prosecution of a particular transaction for mutual profit.

Sec. 15. For the purposes of the exemption from the commerce tax set forth in paragraph (m) of subsection 2 of section 4 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (NRS 363C.020), the term "intangible investments" includes, without limitation, the intangible investments described in that paragraph and an interest in any entity, including, without limitation, a trust, S corporation, partnership, limited-liability company or other entity in which a person owns an interest, regardless of whether that person controls or participates in the management of the entity in which the person owns an interest.

Sec. 16. *For the purpose of determining whether a business entity is engaging in a business in this State, a business entity is commencing or conducting business in this State if the business entity:*

- 1. In the ordinary course of business, enters this State to purchase, place or display advertising for the benefit of another person;*
- 2. Has consigned goods in this State;*
- 3. Performs a contract in this State, regardless of whether the person brings his or her own employees into this State, hires local labor or subcontracts with another person for such employment or labor;*
- 4. Delivers into this State in its own vehicles items which the business entity has sold;*
- 5. Has employees or representatives in this State doing the person's business;*
- 6. Does business in any area within this State, regardless of whether the area is leased by, owned by, ceded to or under the control of the Federal Government;*
- 7. Enters into one or more contracts as a franchisor with a franchisee by which:*
 - (a) 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*
 - (b) The operation of the 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;*
- 8. Maintains a place of business in this State from which the person supervises the management of an entity in which the person has an ownership interest or managing,*

directing or providing services for fees in this State for an entity in which the person has an ownership interest;

9. Has inventory in this State or has spot inventory in this State for the convenient delivery to customers, regardless of whether the bulk of orders are filled from outside of this State;

10. Leases tangible personal property which is used in this State;

11. Provides loan production activities in this State through employees, independent contractors, agents or other representatives, regardless of whether such persons reside in this State, including, without limitation, soliciting sales contracts or loans, gathering financial data, making credit checks, collecting accounts, repossessing property or providing other financial activities;

12. In exchange for fees, acts as a general partner in a general partnership or limited partnership which is doing business in this State or as a director of a corporation which is doing business in this State;

13. Maintains a place of business in this State;

14. Assembles, processes, manufactures or stores goods in this State;

15. Holds, acquires, leases or disposes of any real property located in this State;

16. Provides any service while physically present in this State through employees, independent contractors, agents or other representatives, regardless of whether the employee, independent contractor, agent or representative providing the service resides in this State, including, without limitation:

(a) Maintaining or repairing property located in this State whether under warranty or by separate contract;

- (b) Installing, erecting or modifying property in this State;*
 - (c) Conducting training classes, seminars or lectures in this State;*
 - (d) Providing any kind of technical assistance in this State, including, without limitation, engineering services; or*
 - (e) Investigating, handling or otherwise assisting in resolving customer complaints in this State;*
- 17. Sends materials to this State to be stored while awaiting orders for the shipment of the materials;*
- 18. Stages or participates in shows, theatrical performances, sporting events or other such events in this State;*
- 19. Has an employee, independent contractor, agent or other representative in this State, regardless of whether that person resides in this State, to promote or induce sales of the person's goods or services;*
- 20. Has a telephone number that is answered in this State;*
- 21. Carries passengers or personal property, including, without limitation, oil and gas transmitted by pipeline, from one point in this State to another point within this State if pickup and delivery occurs within this State;*
- 22. Has facilities or an employee, independent contractor, agent or other representative in this State, regardless of whether the employee, independent contractor, agent or representative resides in this State:*
- (a) For storing, delivering or shipping goods from within this State;*
 - (b) For servicing, maintaining or repairing vehicles, trailers, containers or other equipment in this State;*

(c) For coordinating and directing the transportation of passengers or freight in this State;

or

(d) For doing any other business in this State; or

23. Engages in any other activity that constitutes sufficient nexus to subject the business entity to the commerce tax in a manner consistent with the United States Constitution.

Sec. 17. 1. Each business entity engaging in a business in this State during a taxable year must file a Nevada Commerce Tax Return for that taxable year pursuant to subsection 2 of section 20 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2885 (NRS 363C.200), regardless of whether the business entity is liable for payment of the commerce tax pursuant to sections 23 to 49, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2889 (NRS 363C.300 to 363C.560, inclusive).

2. A business entity engaging in a business in this State whose Nevada gross revenue for a taxable year is less than \$4,000,000 shall provide on its Nevada Commerce Tax Return only the following information:

(a) The taxable year;

(b) The tax identification number issued to the business entity by the Department;

(c) The NAICS code that corresponds to the business category in which the business entity is primarily engaged, as set forth in sections in sections 24 to 48, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2889 (NRS 363C.310 to 363C.550, inclusive), or, if the NAICS code of the business entity does not correspond to a business category set forth in those sections, the NAICS code of the business entity;

(d) The legal name and address of the business entity; and

(e) The affirmation of the business entity or the business entity's authorized representative, signed under penalty of perjury, that the Nevada gross revenue of the business entity for the taxable year was less than \$4,000,000.

Sec. 18. *For the purposes of paragraph (c) of subsection 3 of section 8 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2880 (NRS 363C.045), goods or services are provided on a complimentary basis if the goods or services are provided at no charge, in exchange for points or credits earned pursuant to a program under which points or credits are earned or awarded to the customers of a business entity or in exchange for a coupon, voucher or certificate.*

Sec. 19. *For the purposes of determining whether revenue received by a business entity is pass-through revenue pursuant to paragraph (a) of subsection 1 of section 11 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2881 (NRS 363C.070), "fiduciary duty" means a duty arising from a relationship governed by the provisions of NRS 162.010 to 162.140, inclusive.*

Sec. 20. 1. *For the purpose of calculating the amount of the deduction from gross revenue set forth in paragraphs (i) and (j) of subsection 1 of section 21 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2885 (NRS 363C.210), the actual cost to a health care provider for uncompensated care is an amount equal to the operating expenses of the health care provider for the most recent federal tax year of the health care provider, multiplied by:*

(a) The uncompensated care ratio of the health care provider calculated for the most recent federal tax year of the health care provider; or

(b) If the health care provider elects to use the uncompensated care ratio calculated for the most recent report filed by the health care provider pursuant to subsection 3 of NRS 449.490, the uncompensated care ratio calculated for that report. A health care provider that elects to use the uncompensated care ratio described in this subsection shall maintain sufficient records to verify the validity of the calculation of the uncompensated care ratio.

2. A health care provider shall maintain for all uncompensated care a record of the service provided, the standard charge for the service and the payments received by the health care provider for the service.

3. As used in this section:

(a) "Health care provider" has the meaning ascribed to it in section 21 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2885 (NRS 363C.210).

(b) "Operating expenses" means:

(1) The amount reported on lines 2 and 21 of Form 1065, U.S. Return of Partnership Income, or its equivalent or successor form;

(2) The amount reported on lines 2 and 20 of Form 1120S, U.S. Income Tax Return for an S Corporation, or its equivalent or successor form; or

(3) The corresponding line item from any other federal tax form filed by the health care provider,

↪ with respect to services situated to this State pursuant to section 49 of this regulation, less any such amounts that have been deducted from its gross revenue pursuant to subsection 1 of section 21 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2885 (NRS 363C.210), including, without limitation, bad debts.

(c) “Uncompensated care charges” means an amount equal to the standard charge for health care services for which the health care provider has not received any payment or for which the health care provider has received partial payment that does not cover the cost of the health care services provided to the patient, excluding any portion of a charge that the health care provider has no right to collect under a private health care plan, under an agreement with a patient for a specific amount or under the charge limitations imposed by a program described in subparagraphs (1), (2) and (3) of paragraph (i) of subsection 1 of section 21 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2885 (NRS 363C.210). For the purposes of this paragraph, the standard charge for health care services must be comparable to the charges applied to health care services provided to all patients of the health care provider.

(d) “Uncompensated care ratio” means the ratio equal to uncompensated care charges, less the amounts received toward uncompensated care charges that do not cover the cost of the health care services provided to a patient, divided by the total charges for all health care services, including, without limitation, uncompensated care charges.

Sec. 21. The provisions of sections 22 to 75, inclusive, of this regulation set forth the method for situsing to this State the gross revenue from the provision of certain services for the purposes of the commerce tax. Sections 22 to 75, inclusive, of this regulation are not intended to set forth a comprehensive list of services but provides the method for situsing to this State the gross revenue from each service listed. If a service is not specifically listed in sections 22 to 75, inclusive, of this regulation, the provisions of those sections providing the method for situsing a similar service may provide guidance. The provision of a service that is not listed in sections 22 to 75, inclusive, of this regulation or similar to a service listed in those

sections may be handled on a case-by-case basis, the revenue from such a service must be situated to this State in accordance with section 22 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2888 (NRS 363C.220). The Department reserves the right to review and adjust any situsing of gross revenue made by a business entity.

Sec. 22. 1. For the purposes of sections 22 to 75, inclusive, of this regulation, a purchaser is “located only in this State” if:

(a) The purchaser is a natural person who is a resident of this State and has no business locations outside of this State.

(b) The purchaser is a person, other than a natural person, whose commercial domicile is in this State and that has no physical locations outside of this State.

2. As used in this section, “commercial domicile” means the principal place from which a person’s trade or business is conducted.

Sec. 23. 1. If a business entity provides accounting services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.

2. If accounting services are provided for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services provided benefit specific operations of the purchaser that are located in this State.

3. At the election of a business entity that provides accounting services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from accounting services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who has no operations located outside of this State, to the residence of the purchaser.

4. As used in this section, “principal place of business” means the location where the business unit purchasing the accounting services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the accounting services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 24. 1. This section applies only to a business entity that provides advertising services and not to a business entity that receives advertising revenue for allowing an advertisement to be placed in a newspaper or magazine, or on the radio or television, or similar media.

2. If a business entity provides advertising services for a purchaser located only in this State, the gross revenue from the advertising services is situated to this State, regardless of where the services are provided.

3. If a business entity provides advertising services for a purchaser with operations located both within and outside of this State, the gross revenue from the advertising services is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.

4. At the election of a business entity that provides advertising services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from advertising

services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who has no operations located outside of this State, to the residence of the purchaser.

5. As used in this section, “principal place of business” means the location where the business unit purchasing the advertising services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the advertising services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 25. 1. *If an agent or manager represents an athlete in negotiating a contract to play for a sports team based in this State, or for a natural person to appear at a sporting event held in this State, the gross revenue from that service is situated to this State, regardless of where the negotiations occur.*

2. If an agent or manager represents an entertainer in negotiating a contract to perform at an event held in this State, the gross revenue related to that event are situated to this State, regardless of where the negotiations occur.

3. If an agent or manager represents an entertainer in negotiating a contract to perform at locations both within and outside of this State, the gross revenue from that service is situated

to this State based on the number of known events held in this State compared to all known events held both within and outside of this State.

4. If an agent or manager represents an athlete or entertainer in negotiating a contract to endorse a person, place or thing in this State, the gross revenue from that service is situated to this State based on the number of known events held in this State compared to all known events held both within and outside of this State. If no event locations are known, the gross revenue is situated to the location where the athlete or entertainer resides.

Sec. 26. *1. Except as otherwise provided in section 25 of this regulation, if a business entity provides agency services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.*

2. Except as otherwise provided in section 25 of this regulation, if a business entity provides agency services for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services provided benefit specific operations of the purchaser that are located in this State.

3. At the election of a business entity that provides agency services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from agency services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who has no operations located outside of this State, to the residence of the purchaser.

4. As used in this section, “principal place of business” means the location where the business unit purchasing the agency services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the agency services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 27. If a business entity conducts an appraisal of real property located in this State, the gross revenue from the appraisal is situated to this State, regardless of where the purchaser of the appraisal is located.

Sec. 28. 1. If a business entity provides architectural services for a purchaser and the property being designed is to be located wholly in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.

2. If a business entity provides architectural services for a purchaser and the property being designed is to be located both within and outside of this State, the amount of the gross revenue from the architectural services that is situated to this State is equal to the amount of the gross revenue from those services multiplied:

(a) By a fraction, the numerator of which is the number of properties anticipated to be built in this State and the denominator of which is the number of properties anticipated to be built both within and outside of this State; or

(b) If the architectural services are not for standardized buildings, by a fraction, the numerator of which is the square footage of the properties anticipated to be built in this State and the denominator of which is the square footage of the properties anticipated to be built both within and outside of this State.

Sec. 29. 1. *If an athlete receives remuneration, including, without limitation, money, property or services, for participating in, or obtaining prize money from, an event held in this State, the gross revenue received by the athlete is situated to this State.*

2. If an athlete is paid for appearing at an event held in this State, the gross revenue received by the athlete is situated to this State.

3. If an athlete is paid for endorsing a person, place or thing in this State, the gross revenue received by the athlete is situated to this State based on the number of known events held in this State compared to all known events held both within and outside of this State. If no event locations are known, the gross revenue is situated to the residence of the athlete.

4. As used in this section, “athlete” includes, without limitation, the owner of an animal used in a sporting event.

Sec. 30. *If a business entity provides barbering, cosmetology, beauty salon or spa services in this State, the gross revenue from those services is situated to this State.*

Sec. 31. 1. *If the primary place of use of cable or satellite service by the purchaser or subscriber of the service is in this State, the gross revenue from the sale of the cable or satellite service is situated to this State, regardless of where the cable or satellite service originates. The primary place of use of cable or satellite service by a purchaser or subscriber is deemed to be the billing address for the service unless the seller of the service knows the purchaser or subscriber is using the service at multiple locations.*

2. If a provider of cable or satellite service knows that the purchaser or subscriber is using the service at multiple locations both within and outside of this State, the amount of the gross revenue from the sale of the service that is situated to this State is equal to the gross revenue from the sale of the service multiplied by a fraction, the numerator of which is the

number of properties in this State where the purchaser or subscriber receives the service and the denominator of which is the total number of properties where the purchaser or subscriber receives the service.

3. If a purchaser or subscriber of cable or satellite service is located in this State, the gross revenue from providing billing and other ancillary services for the provider of the cable or satellite service is situated to this State. If the location of the purchaser or subscriber of the cable or satellite service is not known, the gross revenue from providing billing and other ancillary services for the provider of the cable or satellite service is situated to the location of the provider of the cable or satellite service.

Sec. 32. *1. The gross revenue from providing call center services on a fixed-cost basis is situated to the location of the purchaser of the services.*

2. The gross revenue from providing call center services on a variable, or per-call, cost basis is situated to the location of the customer of the purchaser of the call center services.

3. For the purposes of this section, the location of the purchaser of call center services or the purchaser's customer is determined by applying the following, if known, in sequential order:

(a) The location of the residence, branch, division or other business unit where the purchaser or purchaser's customer primarily receives the benefit of the call center services;

(b) The primary location of the management operations of the business unit of the purchaser or purchaser's customer; and

(c) The billing address of the purchaser or purchaser's customer, if the billing address is provided in good faith, is a site where the purchaser or customer has actual operations or resides and is not merely a post office box. To determine the billing address of the purchaser

or purchaser's customer, a provider of call center services may use the area code or zip code of the purchaser or purchaser's customer.

Sec. 33. *If a business entity provides child care services in this State, the gross revenue from those services is situated to this State.*

Sec. 34. 1. *If a business entity provides collection services for a purchaser located only in this State, the gross revenue is situated to this State, regardless of where the services are provided.*

2. *If a business entity provides collection services for a purchaser with operations located both within and outside of this State, the gross revenue is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.*

3. *At the election of a business entity that provides collection services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from collection services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.*

4. *As used in this section, "principal place of business" means the location where the business unit purchasing the collection services 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:*

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the collection services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 35. 1. *If a business entity provides computer programming services for a purchaser located only in this State, the gross revenue is situated to this State, regardless of where the business entity is located.*

2. *If a business entity provides computer programming services for a purchaser that will use the services both within and outside of this State:*

(a) The gross revenue is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.

(b) If services are provided that do not relate to the specific operations of the purchaser in this State, the amount of the gross revenue situated to this State is equal to the gross revenue from the service multiplied by a fraction, the numerator of which is the purchaser's number of users in this State and the denominator of which is the purchaser's number of users both within and outside of this State.

Sec. 36. 1. *If a business entity provides construction contracting services for a purchaser and the property being constructed is located wholly in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.*

2. *Except as otherwise provided in subsection 3, if a business entity provides construction contracting services for property that will be located both within and outside of this State and there is no separation of costs per location, the amount of the gross revenue from those services that is situated to this State is equal to the amount of the gross revenue from those services multiplied:*

(a) If the services are provided for standardized buildings, by a fraction, the numerator of which is the number of properties anticipated to be built in this State and the denominator of which is the number of properties to be built both within and outside of this State.

(b) If the services are not provided for standardized buildings, by a fraction, the numerator of which is the square footage of properties anticipated to be built in this State and the denominator of which is the square footage of properties anticipated to be built both within and outside of this State.

3. If a business entity provides construction contracting services for property that will be located both within and outside of this State and there is no separation of costs per location, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided.

Sec. 37. 1. If a business entity provides contract manufacturing services, the gross revenue from those services is situated to this State if the property manufactured is delivered or shipped to a purchaser in this State, regardless of the F.O.B. point or any other condition of sale. If the purchaser of the property does not provide a location where the property manufactured is to be delivered or shipped, the gross revenue is situated to this State if the contract manufacturing services are provided in this State.

2. As used in this section, “contract manufacturing services” includes, without limitation, the performance of manufacturing services on a piece of property that the contract manufacturer does not own.

Sec. 38. 1. *If a business entity provides data processing services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.*

2. *If a business entity provides data processing services for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.*

3. *At the election of a business entity that provides data processing services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from data processing services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.*

4. *As used in this section, “principal place of business” means the location where the business unit purchasing the data processing services 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:*

(a) *The branch, division or other business unit where the purchaser primarily receives the benefit of the data processing services;*

(b) *The primary location of the management operations of the business unit of the purchaser; and*

(c) *The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.*

Sec. 39. 1. The remuneration, other than wages, received by a director of a corporation for the performance of his or her duties are situated to the state in which the headquarters of the corporation are located.

2. As used in this section, "remuneration" includes, without limitation, money, stock and the fair market value of property or services.

Sec. 40. The gross revenue from the leasing of an employee to another person is situated to this State if the place where the employee primarily works is located in this State.

Sec. 41. 1. If a business entity provides engineering services for a purchaser and the property for which those services are provided is located wholly in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.

2. Except as otherwise provided in subsection 3, if engineering services are provided for property that will be located both within and outside of this State, the amount of the gross revenue from those services that is situated to this State is equal to the amount of the gross revenue from those services multiplied by a fraction, the numerator of which is the number of properties located in this State and the denominator of which is the number of properties located both within and outside of this State.

3. If engineering services are provided for property that will be located both within and outside of this State, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided.

Sec. 42. 1. If an entertainer receives remuneration, including, without limitation, money, property or services, for participating in, or appearing at, an event held in this State, the gross revenue received by the entertainer is situated to this State.

2. If an entertainer is paid for endorsing a person, place or thing in this State, the gross revenue received by the entertainer is situated to this State based on the number of known events held in this State compared to all known events held both within and outside of this State. If no event locations are known, the gross revenue is situated to the residence of the entertainer.

3. If an entertainer's services relate to various locations both within and outside of this State, the gross revenue may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the entertainer as they existed at the time the service was provided or within a reasonable time thereafter.

Sec. 43. *1. If entertainment services are to be provided wholly in this State, the gross revenue from those services is situated to this State, regardless of where the services are purchased.*

2. If entertainment services are to be provided both within and outside of this State and originate from, and terminate at, a location in this State, the gross revenue from those services are situated to this State, regardless of where the services are purchased.

3. The gross revenue from the sale of passes that can be used for admission to locations both within and outside of this State is situated to this State if the admission is to be primarily used at locations in this State. The location of the primary use of an admission is presumed to be the closest facility to the location of the purchaser at the time of purchase.

4. If entertainment services relate to various locations both within and outside of this State, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the

business entity as they existed at the time the service was provided or within a reasonable time thereafter.

Sec. 44. 1. *If a business entity provides extermination services in this State, the gross revenue from those services is situated to this State.*

2. If a business entity provides extermination services outside of this State, none of the gross revenue from those services is situated to this State.

3. If extermination services relate to various locations both within and outside of this State, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.

Sec. 45. 1. *If a business entity provides facilities management services at a facility located wholly in this State, the gross revenue from those services is situated to this State.*

2. Except as otherwise provided in subsection 3, if the fee for facilities management services is not charged on a per-location basis and the services are provided both within and outside of this State, the amount of the gross revenue from those services that is situated to this State is equal to the amount of the gross revenue from those services multiplied:

(a) If the services are provided for standardized buildings, by a fraction, the numerator of which is the number of facilities for which the services are provided which are located in this State and the denominator of which is the total number of all facilities for which the services are provided.

(b) If the services are not performed for standardized buildings, by a fraction, the numerator of which is the square footage of facilities for which the services are provided

which are located in this State and the denominator of which is the total square footage of all facilities for which the services are provided.

3. If the fee for facilities management services is not charged on a per-location basis and the services are provided both within and outside of this State, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.

4. As used in this section, “facilities management services” includes, without limitation, landscaping services.

Sec. 46. 1. *If a business entity provides financial services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.*

2. Except as otherwise provided in subsection 3, if a business entity provides financial services for a purchaser that is located both within and outside of this State, the amount of the gross revenue from those services that is situated to this State is equal to the gross revenue from those services multiplied by a fraction, the numerator of which is the number of locations of the purchaser in this State and the denominator of which is the number of locations of the purchaser both within and outside of this State.

3. If a business entity provides financial services for a purchaser that is located both within and outside of this State, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.

Sec. 47. 1. *If a business entity provides in this State all funeral services with respect to a deceased person, the gross revenue from those services is situated to this State.*

2. *If a business entity provides in this State only a portion of funeral services with respect to a deceased person but the burial or cremation of the deceased person takes place in this State, the gross revenue from all funeral services is situated to this State.*

3. *As used in this section, “funeral services” includes, without limitation, making arrangements for viewings, embalming, burying, interring, cremating, arranging transportation of the deceased person and all other services associated with providing funeral services with respect to a deceased person.*

Sec. 48. *The gross revenue from dealing, operating, carrying on, conducting, maintaining or exposing for play in this State any game, as defined in NRS 463.0152, is situated to this State.*

Sec. 49. 1. *If a business entity provides healthcare services in this State, the gross revenue from those services is situated to this State.*

2. *If a business entity provides healthcare services both within and outside of this State, the gross revenue from the service may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.*

Sec. 50. *If a writer or artist is a business entity and delivers the product of his or her writing or artistic services in tangible or electronic form, the gross revenue is situated to this State if the purchaser receives the product in this State. If such a writer or artist does not know*

the location at which the purchaser receives the product, the gross revenue is situated to this State if the address to which the writer or artist sends the invoice is located in this State.

Sec. 51. 1. *If a business entity provides Internet or web hosting services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the web host is located.*

2. If a business entity provides Internet or web hosting services for a purchaser located only outside of this State, the gross revenue from those services is situated outside this State regardless of whether the web host is located in this State.

3. At the election of a business entity that provides Internet or web hosting services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from Internet or web hosting services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.

4. As used in this section, "principal place of business" means the location where the business unit purchasing the Internet or web hosting services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the Internet or web hosting services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 52. 1. *If a business entity provides investigative services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.*

2. *If a business entity provides investigative services for a purchaser with operations located both within and outside of this State, the gross revenue is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.*

3. *If a business entity provides investigative services that relate to specific operations of the purchaser that are located both within and outside of this State, the gross revenue may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.*

Sec. 53. 1. *If a business entity provides legal services that relate to a matter within this State, the gross revenue from those services is situated to this State, regardless of where the services are performed. If the legal services provided for the purchaser relate to locations both within and outside of this State, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.*

2. *Except as otherwise provided in this subsection, if a business entity provides legal services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided. If the legal services*

provided for the purchaser relate to a matter in another state, the gross revenue from those services are not situated to this State.

3. At the election of a business entity that provides legal services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from legal services may be situated according to the purchaser's principal place of business or, if the purchaser is a natural person not engaging in a business, to the residence of the purchaser.

4. As used in this section, "principal place of business" means the location where the business unit purchasing the legal services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the legal services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 54. Except as otherwise provided in this section, if a business entity provides linen, uniform supply or dry cleaning services at a location in this State, the gross revenue from those services is situated to this State. If a business entity provides linen, uniform supply or dry cleaning services for an item that is delivered to or picked up at a location outside of this State, the gross revenue from the service is situated outside of this State.

Sec. 55. The amount of the gross revenue from the sale of subscriptions and advertising by a business entity that publishes a magazine or newspaper which is situated to this State is

equal to the gross revenue from those sales multiplied by a fraction, the numerator of which is the circulation of the magazine or newspaper in this State and the denominator of which is the total of the circulation of the magazine or newspaper both within and outside of this State.

Sec. 56. 1. *If a business entity provides management consulting services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.*

2. If a business entity provides management consulting services for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.

3. At the election of a business entity that provides management consulting services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from management consulting services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.

4. As used in this section, “principal place of business” means the location where the business unit purchasing the management consulting services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the management consulting services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 57. 1. If a business entity provides market research services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.

2. If a business entity provides market research services for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.

3. At the election of a business entity that provides market research services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from market research services may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.

4. As used in this section, “principal place of business” means the location where the business unit purchasing the market research services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the market research services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 58. *1. If a business entity sells a membership that allows a person to enter, or participate in an activity at, a location which is located only in this State, the gross revenue from the sale of the membership is situated to this State, regardless of where the membership is purchased.*

2. If a business entity sells a membership that allows a person to enter, or participate in an activity at, multiple locations both within and outside of this State, the gross revenue from the sale is situated to this State if the membership is to be primarily used at locations in this State. The location of the primary use of a membership is presumed to be the location closest to the purchaser's location at time of purchase.

3. At the election of a business entity that sells memberships, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from the sale of a membership may be situated according to the principal place of business of the purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.

4. As used in this section, "principal place of business" means the location where the business unit purchasing the membership 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:

(a) The branch, division or other business unit where the purchaser primarily uses the membership;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 59. If a business entity provides money order or wire transfer services and the money order or wire transfer is delivered to, or picked up at, a location in this State, the gross revenue from the fees for such services is situated to this State, regardless of where the money order or wire transfer service originates.

Sec. 60. 1. If a business entity provides the service of moving property from one location to another and both the origin and the final destination of the property being moved is a location in this State, the gross revenue from those services is situated to this State. If, while providing moving services, a business entity charges fees for the incidental storage of property, the gross revenue from those fees is not situated to this State if:

(a) The property is not stored in this State; and

(b) The fee for the storage is separately billed from the moving services.

2. If a business entity provides packing or unpacking services, the gross revenue from those services is situated to the location where such services are provided.

3. If a business entity provides storage services, the gross revenue from those services is situated to this State if the location of the stored property is in this State.

4. If moving services, packing or unpacking services or storage services relate to various locations both within and outside of this State, the gross revenues may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business

records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.

Sec. 61. 1. *If a business entity provides payroll services for a purchaser whose employees are located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are performed.*

2. If a business entity provides payroll services for a purchaser whose employees are located both within and outside of this State and the payroll services are provided for employees located in this State and at least one other state, the amount of the gross revenue from those services which is situated to this State is equal to the total gross revenue from those services multiplied by a fraction, the numerator of which is the number of employees located in this State for which payroll services are performed and the denominator of which is the total number of employees located both within and outside of this State for which payroll services are performed.

Sec. 62. 1. *If a business entity promotes an event that will be held in this State, the gross revenue from the promotion services are situated to this State, regardless of where the promotion services are performed.*

2. If a business entity promotes a group of events that will be held both within and outside of this State, the amount of the gross revenue from the promotion services that is situated to this State is equal to the total gross revenue from the promotion services multiplied by a fraction, the numerator of which is the number of known events held in this State for which promotion services are performed and the denominator of which is the number of all known events held both within and outside of this State for which promotion services are performed. If no event locations are known, the gross revenue from the promotion services may be situated

using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.

Sec. 63. *The gross revenue from the sale of advertising via television or radio broadcast or on the Internet, including, without limitation, revenue from the sale of commercials and pay-per-click advertisements, must be situated to this State by multiplying the gross revenue from the sale of such advertising by a fraction, the numerator of which is the number of persons in the audience of the television or radio station, or the number of the subscribers of the Internet provider, located in this State, and the denominator of which is the total number of persons in the audience of the television or radio station, or the total number of the subscribers of the Internet provider, located both within and outside of this State.*

Sec. 64. *The gross revenue earned by a real estate broker, as defined in NRS 645.030, for services provided with respect to real property located in this State is situated to this State, regardless of where the services were performed.*

Sec. 65. *If a business entity provides repairs, maintenance or installation of personal property and the personal property is:*

1. Dropped off and picked up at the location of the business entity in this State, the gross revenue from the repair, maintenance or installation is situated to this State.

2. Shipped to the location of the business entity in this State from outside of this State but is then picked up at the location in this State, the gross revenue from the repair, maintenance or installation is situated to this State.

3. *Dropped off or shipped to the location of the business entity in this State but is then shipped outside of this State, the gross revenue from the repair, maintenance or installation is situated outside of this State.*

Sec. 66. 1. *If a business entity provides security services and the services are performed in this State, the gross revenue from those services is situated to this State.*

2. *If a business entity provides security services and the services are performed outside of this State, the gross revenue from those services is situated outside of this State.*

3. *If security services provided by a business entity relate to various locations both within and outside of this State, the gross revenue may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business entity's business records as they existed at the time the service was provided or within a reasonable time thereafter.*

Sec. 67. 1. *If a business entity provides tax preparation services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are provided.*

2. *If a business entity provides tax preparation services for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services provided are related to specific operations of the purchaser that are located in this State.*

3. *At the election of a business entity that provides tax preparation services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from tax preparation services may be situated according to the principal place of business of the*

purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.

4. As used in this section, “principal place of business” means the location where the business unit purchasing the tax preparation services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the tax preparation services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 68. 1. *If a business entity provides technical assistance services for a purchaser located only in this State, the gross revenue from those services is situated to this State regardless of where the services are provided.*

2. If a business entity provides technical assistance services for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services performed are related to specific operations of the purchaser that are located in this State.

3. At the election of a business entity that provides technical assistance services, and as long as it is applied in a reasonable, consistent and uniform manner, the gross revenue from technical assistance services may be situated according to the principal place of business of the

purchaser or, if the purchaser is a natural person who is not engaging in a business, to the residence of the purchaser.

4. As used in this section, “principal place of business” means the location where the business unit purchasing the technical assistance services 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:

(a) The branch, division or other business unit where the purchaser primarily receives the benefit of the technical assistance services;

(b) The primary location of the management operations of the business unit of the purchaser; and

(c) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

Sec. 69. 1. *Except as otherwise provided in this section, the gross revenue from the sale of telecommunication service or mobile telecommunication service is situated to this State if the primary place of the customer’s use of the service is in this State.*

2. The gross revenue from the sale of telecommunication service sold on an individual call-by-call basis is situated to this State if:

(a) The call both originates and terminates in this State; or

(b) The call either originates or terminates in this State and the service address is located in this State.

3. The gross revenue from the sale of post-paid telecommunication service is situated to this State if the origination point of the telecommunication signal is located in this State, as first identified by the service provider’s telecommunication system or, if the

telecommunication system used to transport the telecommunication signal is not the seller's system, as identified by information received by the seller of the telecommunication service from its service provider.

4. The gross revenue from the sale of prepaid telecommunication service or prepaid mobile telecommunication service is situated to this State if the purchaser obtains the prepaid card or similar means of conveyance at a location in this State. The gross revenue from recharging prepaid telecommunication service or mobile telecommunication service is situated to this State if the purchaser's billing information indicates a location in this State.

5. The gross revenue from the sale of private communication services is situated to this State as follows:

(a) The gross revenue from the sale of each channel termination point located within this State is situated to this State.

(b) The gross revenue from the sale of the total channel mileage between each termination point located within this State is situated to this State.

(c) Fifty percent of the gross revenue from the sale of service segments for a channel between two customer channel termination points, one of which is located in this State, and which segments are separately charged, is situated to this State.

(d) The amount of the gross revenue situated to this State from the sale of service segments for a channel located in this State and in more than one other states or jurisdictions, and which segments are not separately billed, equal to the gross revenue from the sale multiplied by a fraction, the numerator of which is the number of customer channel termination points located in this State and the denominator of which is the total number of customer channel termination points located both within and outside of this State.

6. *The amount of the gross revenue from the sale of billing services and ancillary services for telecommunication service which is situated to this State is equal to a fraction, the numerator of which is the number of customers of the purchaser of those services who are located in this State and the denominator of which is the total number of customers of the purchaser of those services who are located both within and outside of this State. If the location of the customers of the purchaser of the billing or ancillary services is not known, the gross revenue may be situated to the state in which the purchaser of the services is located.*

7. *The gross revenue from the sale of access fees, including, without limitation, the carrier access charge paid by an interexchange carrier to connect to a local exchange network in this State, is situated to this State as follows:*

(a) The gross revenue from access fees attributable to intrastate telecommunication service that both originates and terminates in this State is situated to this State.

(b) Fifty percent of the gross revenue from access fees attributable to interstate telecommunication service is situated to this State if the interstate call either originates or terminates in this State.

(c) The gross revenue from interstate end user access line charges, including, without limitation, the surcharge approved by the Federal Communications Commission and levied pursuant to the 47 C.F.R. Part 69, is sourced to this State if the customer's service address is in this State.

8. *As used in this section, "primary place of the customer's use" means the street address of the location where the customer's use of the telecommunication service primarily occurs, which must be the customer's residential street address or the primary business street address of the customer. In the case of mobile telecommunication 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.

Sec. 70. 1. *Except as otherwise provided in subsection 3, if a business entity provides testing services at a testing laboratory located in this State, the gross revenue from the sale of the testing services is situated to this State.*

2. *Except as otherwise provided in subsection 3, if a business entity provides testing services at a testing laboratory outside of this State, the gross revenue from the sale of those service is situated outside of this State.*

3. *If a business entity provides testing services and the testing services relate to various locations both within and outside of this State, the gross revenue from those services may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.*

Sec. 71. *The gross revenue of a business entity that provides towing services is situated to this State if the towing services originate from a location in this State and the destination of the towing services is a location in this State.*

Sec. 72. 1. *Except as otherwise provided in subsection 2, the gross revenue of a business entity from transportation services is situated to this State if the transportation services originate from a location in this State and the final destination of the transportation services, as determined by the bill of lading, proof of delivery or other document containing both the origin and final destination of the transportation services, is a location in this State.*

2. *The gross revenue of a business entity from air transportation services or transportation services provided pursuant to chapter 706 of NRS is situated to this State if the*

transportation services originate from a location in this State and the destination at which the passenger or property being transported finally exits the vehicle or aircraft is in this State.

3. The gross revenue from the performance of logistics services that relate to:

(a) Inventory management or warehousing operations, is situated to the location of the inventory or warehouse.

(b) Purchasing operations, is situated to the location where the purchaser of the logistics services benefits from such services. In determining the location of such a purchaser, the following measures, if known, shall be considered in sequential order:

(1) The branch, division or other business unit where the purchaser primarily receives the benefit of the logistics services;

(2) The primary location of the management operations of the business unit of the purchaser; and

(3) The billing address of the purchaser, if the billing address is provided in good faith, is a site where the purchaser has actual operations and is not merely a post office box.

4. The gross receipts from logistics services that relate to multiple types of logistics operations may be situated using any reasonable, consistent and uniform method of apportionment that is supported by the business records of the business entity as they existed at the time the service was provided or within a reasonable time thereafter.

5. As used in this section, “logistics services” includes, without limitation, purchasing, inventory management, warehousing, shipping and customer returns but does not include transportation or brokerage services.

Sec. 73. 1. If a business entity provides travel arrangement services for a purchaser located only in this State, the gross revenue from those services is situated to this State, regardless of where the services are performed or the location of the travel destination.

2. If a business entity provides travel arrangement services for a purchaser with operations located both within and outside of this State, the gross revenue from those services is situated to this State if the services performed are related to a specific employee whose post of duty is in this State.

Sec. 74. If a business entity provides veterinarian services in this State, the gross revenue from those services is situated to this State.

Sec. 75. If a business entity provides waste management services in this State, the gross revenue from those services is situated to this State.

Sec. 76. 1. The gross revenue from the lease or sublease, or rental or subrental, of tangible personal property must be situated to the location where the lease or sublease, or rental or subrental, is deemed to take place pursuant to NRS 360B.365, 360B.370 or 360B.375.

2. The gross revenue from the sale, lease or sublease, or rental or subrental of real property must be situated to the location of the real property.

Sec. 77. The gross revenue received by a business entity engaging in a business in this State, from business interruption insurance proceeds for lost revenue is situated to the location of the business entity.

Sec. 78. 1. For the purpose of determining the rate used to calculate the amount of commerce tax required to be paid by a business entity pursuant to sections 24 to 49, inclusive,

of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2889 (NRS 363C.310 to 363C.560, inclusive), the business category of the business entity is:

(a) The NAICS code designated by the business entity pursuant to subsection 2; or

(b) If the NAICS code designated by the business entity is changed pursuant to subsection 3 or 4, the NAICS code of the business entity as determined pursuant to subsection 3 or 4.

2. In the initial Nevada Commerce Tax Return filed with the Department pursuant to subsection 2 of section 20 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2884 (NRS 363C.200):

(a) Except as otherwise provided in paragraph (b), the business entity must designate:

(1) The NAICS code of the business in which the business entity is engaged; and

(2) The tax rate set forth in sections 24 to 48, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2889 (NRS 363C.310 to 363C.550, inclusive), for the NAICS code designated by the business entity pursuant to subparagraph (1) or, if the tax rate for that NAICS code is not set forth in those sections, the tax rate for the unclassified business category set forth in section 49 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2894 (NRS 363C.560).

(b) If the business entity is engaging in a business categorized in more than one NAICS code, the business entity must designate:

(1) The NAICS code of the business with the greatest percentage of the business entity's Nevada gross revenue for the taxable year for which the initial return is filed or, at the election of the business entity, the NAICS code of the business with the greatest average percentage of the business entity's Nevada gross revenue for the 3 fiscal years immediately preceding the filing of the initial return; and

(2) The tax rate set forth in sections 24 to 48, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2889 (NRS 363C.310 to 363C.550, inclusive), for the NAICS code designated by the business entity pursuant to subparagraph (1) or, if the tax rate for that NAICS code is not set forth in those sections, the tax rate for the unclassified business category set forth in section 49 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2894 (NRS 363C.560).

3. A business entity that wishes to change the NAICS code designated for the business entity pursuant to subsection 1 must submit to the Department, on or before the date on which the Nevada Commerce Tax Return for the taxable year, a written request to change its designated NAICS code on a form prescribed by the Department. A request submitted pursuant to this subsection must:

(a) State the current NAICS code designated for the business entity, the proposed NAICS code for the business entity, the taxable year to which the proposed NAICS code will apply and the reason for the requested change; and

(b) Be accompanied by documentation indicating that the current NAICS code designated for the business entity is erroneous or inaccurate.

4. Within 60 days after receipt of a request and the information required by subsection 3, the Department shall determine and notify the business entity of:

(a) The NAICS code of the business entity;

(b) The tax rate for the NAICS code of the business entity as set forth in sections 24 to 49, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2889 (NRS 363C.310 to 363C.560, inclusive); and

(c) The period to which the NAICS code and tax rate will apply.

↪ *If the Department does not make such a determination within the period prescribed by this subsection, the request is deemed to be approved by the Department.*

5. If, based on fraudulent or incorrect information, the Department approves a change to the NAICS code of a business entity, the Department is not estopped from assessing a deficiency in the payment of the commerce tax and imposing the applicable penalty and interest for such deficiency.

Sec. 79. 1. In addition to the grounds for a waiver or reduction of the penalty and interest for a late payment of the commerce tax set forth in NAC 360.396, the Department may waive or reduce a penalty or interest, or both, for a late payment of the commerce tax if the Nevada Commerce Tax Return was timely filed pursuant to subsection 2 of section 20 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2884 (NRS 363C.200), and the Department determines that the late payment was made because, in calculating the Nevada gross revenue of the taxpayer, the taxpayer or the taxpayer's agent relied on:

(a) The commerce tax calculations of the taxpayer for the taxable year immediately preceding the taxable year for which the commerce tax was paid; or

(b) Federal income tax calculations of the taxpayer for the most recent federal tax year of the taxpayer.

2. In determining whether to waive or reduce the penalty or interest, or both, for a late payment pursuant to subsection 1, the Department may consider whether the Nevada gross revenue reported on the taxpayer's Nevada Commerce Tax Return is the same as, or similar to, the:

(a) Nevada gross revenue reported on the Nevada Commerce Tax Return of the taxpayer for the taxable year immediately preceding the taxable year for which the commerce tax was paid; or

(b) The revenue reported on the federal income tax return of the taxpayer for the most recent taxable year of the taxpayer.

3. A taxpayer or the taxpayer's agent may request the waiver or reduction of the penalty or interest, or both, pursuant to subsection 1 by submitting to the Department the federal income tax return or Nevada Commerce Tax Return on which the taxpayer or taxpayer's agent relied and a written statement signed under oath by the taxpayer or the taxpayer's agent which establishes that the taxpayer qualifies for the relief requested.

4. The Department shall not consider a request made pursuant to subsection 3 until the taxpayer has paid in full the commerce tax upon which the interest or penalty is assessed.

5. If an overpayment of the commerce tax was made because, in calculating the Nevada gross revenue of the taxpayer, the taxpayer or the taxpayer's agent relied on the information described in paragraph (a) or (b) of subsection 1, the overpayment must be deemed to be made intentionally or by reason of carelessness for the purposes of section 53 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2895 (NRS 363C.620), and the Department must not allow any interest on the overpayment.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R123-15

1. A clear and concise explanation of the need for the adopted regulation.

The need for this regulation is to implement the tax provisions contained in SB 483 which were enacted in the 2015 legislative session. Specifically, relating to establishing provisions for the administration, calculation and payment of the commerce tax imposed on the Nevada gross revenue of certain entities engaged in business in this state. As well as adopting provisions for the administration of the calculation of the credit against the payroll tax imposed on certain business for the payment of the commerce tax by a business.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>
06/19/2015	Workshop	07/07/2015	116
08/21/2015	Workshop	09/09/2015	158
09/10/2015	Workshop	09/25/2015	163
11/17/2015	Workshop	12/07/2015	200
01/26/2016	Workshop	02/23/2016	209
03/01/2016	Workshop	03/18/2016	210
03/09/2016	Adoption Hearing	04/11/2016	210

The mailing list included the interested parties list maintained by the Department. Notices were also posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct email to other interested parties lists maintained by the Department.

See response to #5 for a summary of the public responses to the Regulation

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2030 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at croberts@tax.state.nv.us

3. **The number of persons who:**
 - (a) **Attended each hearing:** 110 people attended the adoption hearing.
 - (b) **Testified at each hearing:** 4 people testified at the adoption hearing.
 - (c) **Submitted written comments:** None of the attendees that attended the adoption hearing submitted written comments.

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Testified at the adoption hearing:

Paul Enos

Telephone number: 775-673-6111

Business address: 8745 Technology Way, Suite E, Reno, NV 89521

Electronic mail address: pje@nevadatrucking.com

Name of entity or organization represented: Nevada Trucking Association

Erin Barnett

Telephone number: 702-873-1400

Business address: 2300 West Sahara Avenue Suite 200, Las Vegas, NV 89102

Name of entity or organization represented: NAIOP Southern Nevada

Keith Lee

Telephone number: 775-829-1400

Electronic mail address: kiethl.pag@gmail.com

Name of entity or organization represented: Southwest Airlines

Tyre Gray

Telephone number: 702-692-8000

Electronic mail address: tgray@sclaw.com

Business address: 300 S Fourth Street, Suite 1400, Las Vegas, NV 89101

Name of entity or organization represented: Las Vegas Metro Chamber

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

See response to #2 for description of how comments were solicited from affected businesses and an explanation on how interested persons may obtain a copy of the summary.

Summary of public responses:

The following general responses were received by email and mail.

1. One taxpayer requested to minimize the filing requirement for entities that are exempt from the Commerce tax.
2. Four taxpayers requested that the Department create a simple Commerce tax Return for businesses with less than 4 million in Nevada gross revenue.
3. Ten taxpayers requested that the filing requirement for the Commerce tax match the federal filing date.
4. Two taxpayers requested that exempt entities not register with the Nevada Secretary should not have to register for the Commerce tax.
5. Seven taxpayers requested that the Department clarify the definition of “Nevada Gross Revenue”.
6. Ten requests were made to allow for affiliated groups to be allowed to take the MBT credit.
7. One taxpayer informed the Department that federal law prohibits the taxation of air commerce or air transportation.
8. Three taxpayers requested clarification of complimentary goods, to include goods or services provided at no charge, or exchanged for loyalty program points, credits, coupon, vouchers or certificates.
9. Two taxpayers requested to include other documents besides the bill of lading as proof of delivery.
10. Two taxpayers requested to clarify origin and destination.
11. Six taxpayers requested clarification for pass through revenue.
12. Eleven taxpayer requests were submitted seeking clarification of the applicability of the commerce tax to a Trust and that the definition of “business entity” should exclude trusts.
13. Two taxpayers inquired about the time frame for which the Department would respond to a taxpayer that is requesting to change their NAICS code.
14. One taxpayer requested to change the term of “taxable entity to business entity”.
15. Nine taxpayers requested the Department to define “Business Entity”.
16. Three taxpayers requested clarification as how to apply the “Recovery Charge”
17. Two taxpayers requested to clarify the healthcare uncompensated cost and the taxability from government-funded programs such as Medicaid and Medicare.
18. Two taxpayers submitted recommendations on how to account for uncompensated care.
19. Four taxpayers requested clarification of “Passive Entity”.
20. Eight taxpayers requested the Department to clarify that a Real Estate Broker services gross receipts earned by a real estate broker as defined in NRS 645.030 on property located in Nevada that is situated to Nevada, regardless of where the broker services were performed.
21. One taxpayer requested to clarify if a business sells a building, and buys another building, is Commerce tax due on the sale of the building sold.

22. One taxpayer requested to clarify the definition of “Revenue” and if venture capital investment in research and development activities should be included as revenue.
23. One taxpayer wanted clarification of revenue when a wholesaler moves product to a retailer and title never transfers.
24. Three taxpayers submitted comments that when calculating the Commerce tax liability using GAAP this creates a conflict when the business is told to use the same accounting method for federal income tax purposes.
25. One taxpayer requested the Department to clarify “pass through entity”
26. One taxpayer submitted a request to clarify “Interest Income” and the situs of the income.

The information above is a collection of the public comment, both written and oral which was collected throughout the workshop process. A copy of the written correspondence that was submitted can be found on the Department’s website.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted with changes. The changes were presented at the Adoption Hearing as identified in the document entitled “Department Revision to LCB Draft of Revised Proposed Regulation R123-15”.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

(a) Estimated economic effect on the businesses which they are to regulate.

The proposed permanent regulations present no reasonably foreseeable or anticipated adverse economic effects on businesses. The benefits of these regulations are that the industry along with the Department will be provided more clarity for Senate Bill 483.

(b) Estimated economic effect on the public which they are to regulate.

The proposed permanent regulations present no reasonably foreseeable or anticipated adverse economic effects to public. The benefits of these regulations are that the public along with the Department will be provided more clarity for Senate Bill 483.

8. The estimated cost to the agency for enforcement of the proposed regulation:

The proposed permanent regulations present no significant foreseeable or anticipated cost or decrease in costs for enforcement other than the costs to implement the statutory provisions of the commerce tax.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulations do not overlap or duplicate any regulation of other state or local governmental entities.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

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

11. If the 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 regulations do not include new or increases in existing fees.