



STATE OF NEVADA
DEPARTMENT OF TAXATION

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Posted 2/3/22

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of

LCB File No. R074-20

Nevada Tax Commission

The Nevada Tax Commission will hold a Public Hearing at **9:00 a.m.** on **Monday, March 7, 2022** at the Nevada Department of Taxation 1550, College Pkwy. Ste 115, Carson City. The purpose of the hearing is to receive comments from all interested parties regarding the adoption of the regulation that pertains to LCB File No. R074-20.

You may participate by using Zoom, by telephone or in person. Please connect by Zoom or by telephone between 8:15 a.m. and 8:45 a.m. on the date of the meeting.

To participate using Zoom:

Go to: <https://zoom.us/>

Press Join a Meeting.

When prompted to provide the Meeting ID, please enter: **849 2461 5430#**

To dial in by telephone, dial: US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799

When prompted to provide a Meeting ID, please enter: **849 2461 5430#**

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

1. Need and purpose of the proposed regulations or amendments

The need and purpose of the proposed permanent regulation (R074-20) is to establish requirements for the administration of transferrable tax credits issued to sponsors of certain low-income housing projects, and providing other matters properly relating thereto.

2. How to obtain the approved or revised text of regulations prepared by LCB

You may obtain a copy of the proposed permanent regulation by writing to the Nevada Department of Taxation, 1550 College Parkway, Ste 115, Carson City, Nevada 89706; or by calling the office at (775) 684-2059. The proposed permanent regulation is also available for review and download on the Department of Taxation website at <https://tax.nv.gov/> or on the Nevada Legislature website at <https://www.leg.state.nv.us/>.

3. Methods used in determining the impact on a small business

The agency used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes, which includes its own analysis by considering the extent of the regulatory provisions contained in LCB File No. R074-20. The Department prepared a small business impact questionnaire that was forwarded to the Interested Parties List which is maintained by the Department.

The Department will continue to accept input on the impact of the proposed permanent regulation on small businesses through the regulatory process. No respondents indicated that this regulation would have a direct and significant economic burden upon a small business.

The Department held a workshop for concerned members of the public to state their concerns and submit correspondence regarding the regulation.

4. Estimated economic effect of regulation on businesses and the public

a. Adverse and beneficial effects

The proposed permanent regulation does not present any reasonable, foreseeable or anticipated adverse economic effects on small businesses.

b. Immediate and long-term effects

Same as above

5. Cost for enforcement of the regulations

The proposed permanent regulation does not present any significant, foreseeable or anticipated cost or decrease in costs for enforcement.

6. Overlap or duplication of other state or local governmental agencies

The proposed permanent regulation does not overlap or duplicate any regulation of other state or local governmental entities.

7. Regulation required by federal law

Not Applicable

8. More stringent than federal regulations

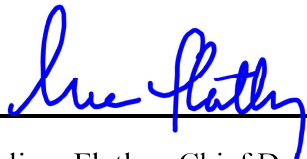
The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. New or increases in existing fees

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

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

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



Melissa Flatley, Chief Deputy Executive Director
February 2, 2022

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

A copy of the Notice and the proposed permanent regulation to be adopted and/or amended is on file and has been posted at the following location: The Department of Taxation - 1550 College Parkway, Ste 115, Carson City, Nevada.

Members of the public may inspect these documents during regular business hours at the above location. Additional copies of the notice and proposed permanent regulation to be adopted and/or amended are available at the below locations.

The text of the proposed permanent regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

Notice has been EMAILED/MAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno, Nevada; Department of Taxation - 700 E. Warm Springs Rd, Ste 200, Las Vegas, Nevada; The Legislative Building - Capitol Complex,

Carson City, Nevada; The Nevada State Library -100 Stewart Street, Carson City, Nevada; The County Public Library's, Interested Parties Group, and the Mailing List maintained by the Department. Notice of this meeting was posted on the Department of Taxation website at <https://tax.nv.gov/>, on the Legislative website at <https://www.leg.state.nv.us/>, and the Nevada Public Notice Website at <https://notice.nv.gov/>.

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R074-20

February 2, 2021

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

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

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

Legislative Counsel’s Digest:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The name of the person who will be managing the transferable tax credits;

3. The type of tax to which the transferable tax credits will be applied;

4. The dollar amount of the transferable tax credits; and

5. The date that the transferable tax credits may begin to be utilized.

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

(a) Each type of tax to which the transferable tax credits will be applied; and

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

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

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

(a) A transferee has used transferable tax credits; and

(b) The project sponsor who obtained the transferable tax credits used by the transferee:

(1) Submitted a false statement or made a false representation when applying for the transferable tax credits; or

(2) Failed to comply with the requirements of NRS 360.860 to 360.870, inclusive.

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

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