



NEVADA GAMING COMMISSION

1919 College Parkway, P.O. Box 8003

Carson City, Nevada 89702

(775) 684-7750

JOE LOMBARDO
Governor

NICOLE RUPERT
Executive Secretary

HON. JENNIFER TOGLIATTI (RET.), *Chair*
ROSA SOLIS-RAINEY, *Member*
HON. BRIAN KROLICKI (RET.), *Member*
GEORGE M. MARKANTONIS, *Member*
JUSTICE ABBI SILVER (RET.), *Member*

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice # 2024-76

Issuer: Executive Secretary

DATE: September 20, 2024

TO: ALL LICENSEES AND OTHER INTERESTED PERSONS

SUBJECT: 2024-02R: NOTICE OF HEARING FOR THE ADOPTION, AMENDMENT AND REPEAL OF PERMANENT REGULATIONS OF THE NEVADA GAMING COMMISSION RELATING TO THE ADMINISTRATION OF THE LIVE ENTERTAINMENT TAX (LCB File No. R063-24P).

Pursuant to *Nevada Revised Statutes* (NRS) 368A.140(1), the Nevada Gaming Commission (NGC) will hold a public hearing to consider the adoption, amendment, or repeal of the regulation(s) stated below.

The public hearing will be held on or about the hour of 10:00 a.m. on October 24, 2024, at the following locations:

**Nevada Legislature Office Building
Room 165
7230 Amigo Street
Las Vegas, Nevada 89119**

**and via video conference at the
Nevada Gaming Control Board Office
1919 College Parkway
Carson City, Nevada 89706**

(As a courtesy, these proceedings will be videocast to the Nevada Gaming Control Board offices in Carson City. In the event technical difficulties prevent these proceedings from being videocast, the NGC, at its discretion, may conduct the hearing without the proceedings being video cast.)

2024-02R: POSSIBLE ADOPTION, AMENDMENT, AND REPEAL OF PERMANENT REGULATIONS OF THE NEVADA GAMING COMMISSION RELATING TO THE ADMINISTRATION OF THE LIVE ENTERTAINMENT TAX.

For Possible Action

PURPOSE: To receive comments from all interested persons regarding the adoption, amendment, and repeal of regulations that pertain to Chapter 368A of the *Nevada Administrative Code* (NAC) (Nevada’s Live Entertainment Tax). The NGC will receive testimony from all interested persons and consider and take action on the adoption, amendment, and repeal of proposed permanent regulations of the NAC as identified in **LCB File No. R063-24P**. If no person directly affected by the proposed action appears to request time to make an oral presentation, the NGC may proceed immediately to act upon written submissions.

A. The Need for, and Purpose of, the Proposed Permanent Regulations.

The need and purpose of the proposed permanent regulations identified in LCB File No. R063-24P are to: (1) remove the provision requiring a group I gaming licensee that provides live entertainment to include in its system of internal control a description of the procedures adopted by the licensee to comply with NAC 368A.300 to 368A.540; (2) remove the provision requiring a group I gaming licensee that provides live entertainment to direct its independent accountant to perform certain actions and report the finding resulting therefrom to the Nevada Gaming Control Board; (3) remove the provision requiring the internal auditor of a group I gaming licensee to perform certain acts and report the findings therefrom to the Nevada Gaming Control Board; and (4) provide other matters properly relating thereto.

B. Terms, or Substance of the Proposed Permanent Regulations or Description of the Subjects and Issues Involved.

1. Section 1 of the proposed regulation:

- a. Removes the provision requiring a group I gaming licensee that provides live entertainment to include in its system of internal control a description of the procedures adopted by the licensee to comply with NAC 368A.300 to 368A.540.
- b. Removes the provision requiring a group I gaming licensee that provides live entertainment to direct its independent accountant to perform certain actions and report the finding resulting therefrom to the Nevada Gaming Control Board.
- c. Removes the provision requiring the internal auditor of a group I gaming licensee to perform certain acts and report the findings therefrom to the Nevada Gaming Control Board.
- d. Provide other matters properly relating to the above.

C. How to Obtain the Approved or Revised Text of the Proposed Regulation Prepared by the Legislative Counsel Bureau.

The text of the proposed regulation is attached to this notice (**Attachment A**) and may be obtained online by visiting the State of Nevada Register of Administrative Regulations at:

<https://www.leg.state.nv.us/Register/2024Register/R063-24P.pdf>

D. Estimated Economic Effect of the Proposed Permanent Regulation on the Businesses which it will Regulate and the Public.

1. Adverse and Beneficial Effects:

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to the businesses or to the general public beyond the effects, if any, presented by Chapter 368A of the NRS. The proposed permanent regulation removes or reduces certain requirements under the LET. Such removal or reduction will reduce burdens on taxpayers and should have a positive impact. The regulation does not impose a direct and significant economic burden upon small businesses or restrict the formation, operation, or expansion of small businesses beyond the burdens, if any, presented by Chapter 368A of the NRS.

2. Immediate and Long-Term Effects:

There are no anticipated immediate or long-term economic effects on facilities located on the premises of a gaming licensee that provide live entertainment beyond the effects, if any, presented by Chapter 368A of the NRS.

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

The proposed amendments presented in LCB File No. R063-24P only affects group I gaming licensees that offer live entertainment. The staff of the Nevada Gaming Control Board determined which group I gaming licensees qualified as small businesses pursuant to NRS 233B.0608(1). Once that was determined, staff reached out via telephone to each qualifying group I gaming licensee to inquire whether the property offered live entertainment. Based on this inquiry, it was determined that none of the qualifying group I gaming licensees offered live entertainment, thus none would be impacted by the proposed amendments.

Based on the results described above, staff reached the conclusion that the proposed permanent regulations, LCB File No. R063-24P, will not impose a direct and significant economic burden upon any small businesses under the Nevada Gaming Commission's jurisdiction, nor directly restrict the formation, operation, or expansion of said businesses.

F. Estimated Cost to Agency for Enforcement of the Proposed Permanent Regulation.

The enforcement of the proposed permanent regulations will not increase the costs already expended by the agency relating to the administration of the LET.

G. Regulations of Other State or Local Governmental Agencies which the Proposed Permanent Regulation Overlaps or Duplicates and their Necessity.

The Nevada Gaming Commission is the sole agency charged with the administration of the LET for live entertainment events that occur on the premises of a licensed gaming establishment. While the Nevada Tax Commission also has a set of regulations governing its administration of the LET, those regulations only pertain to live entertainment events occurring on the premises of establishments that are not licensed to offer gaming in this State. Because the two agencies administer the LET for different taxpayers, the proposed permanent regulations do not overlap or duplicate any regulations administered by the Nevada Tax Commission.

H. If the Regulation is Required Pursuant to Federal Law, a Citation and Description of the Federal Law.

The proposed permanent regulation is not required pursuant to federal law.

I. If the Regulation Includes Provisions that are More Stringent than a Federal Regulation that Regulates the Same Activity, a Summary of Such Provisions.

The proposed permanent regulation does not include provisions that are more stringent than a federal law.

J. Establishment of New Fees or Existing Fee Increases.

The proposed permanent regulations do not establish new fees or increase existing fees.

The proposed regulation changes will be considered by the NGC in accordance with the provisions of NRS 463.145, which provides that on the date and at the time and place designated, any interested person, or their duly authorized representative, or both, shall be afforded the opportunity to present statements, arguments, or contentions in writing, with or without the opportunity to present the same orally. Persons wishing to comment on the proposed action of the NGC may appear at the above-scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the NGC. **Written submissions must be received by the NGC on or before 10:00 a.m. on October 21, 2024.**

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the following locations for inspection and copying by members of the public during regular business hours:

1. Offices of the Nevada Gaming Control Board:
 - a. 1919 College Parkway, Carson City, Nevada 89706;
 - b. 557 West Silver Street, Suite 207, Elko, Nevada 89801;
 - c. 3650 South Pointe Circle, Suite 203, Laughlin, Nevada 89029;
 - d. 7 State of Nevada Way, Las Vegas, Nevada 89119; and
 - e. 9790 Gateway Drive, Suite 100, Reno, Nevada 89521.
2. State Library and Archives, 100 North Stewart Street, Carson City, NV 89701.

Copies of the notice and the regulation to be adopted are also available on the NGC and Nevada Gaming Control Board's website, "Pending Regulation Activity" page at <https://gaming.nv.gov/regs/pending/regulation-activity/>. Any questions should be directed to the NGC's Senior Research Specialist at (702) 486-2137 or via email at jotorres@gcb.nv.gov.

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>.

Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Pursuant to NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

These items will be heard by the NGC at its October 24, 2024, meeting and may be continued and heard at subsequent meetings of the Nevada Gaming NGC as required to effectuate the above-stated purposes.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Executive Secretary's office in writing at the Nevada Gaming Commission, P.O. Box 8003, Carson City, Nevada 89702-8003, or by calling (775) 684-7750 as soon as possible.

This notice of hearing has been posted at the following locations:

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|----|-----------------------------|-----------------------------------|-----------------------|
| 1. | Nevada Gaming Control Board | 1919 College Parkway | Carson City, NV 89706 |
| 2. | Nevada Gaming Control Board | 557 West Silver Street, Suite 207 | Elko, NV 89801 |
| 3. | Nevada Gaming Control Board | 3650 South Pointe Circle | Laughlin, NV 89029 |
| 4. | Nevada Gaming Control Board | 7 State of Nevada Way | Las Vegas, NV 89119 |
| 5. | Nevada Gaming Control Board | 9790 Gateway Drive, Suite 100 | Reno, NV 89521 |
| 6. | State Library and Archives | 100 North Stewart Street | Carson City, NV 89701 |

ATTACHMENT A

**PROPOSED REGULATION OF THE
NEVADA GAMING COMMISSION**

LCB File No. R063-24

June 25, 2024

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

AUTHORITY: § 1, NRS 368A.140.

A REGULATION relating to taxation; eliminating certain requirements relating to the internal control procedures of a taxpayer who provides live entertainment at a gaming establishment; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Nevada Gaming Control Board to collect the tax imposed on live entertainment from taxpayers who are licensed gaming establishments. Existing law further requires the Nevada Gaming Commission to adopt regulations that are necessary to carry out the provisions relating to the collection of that tax. (NRS 368A.140)

Existing regulations require a taxpayer identified as a group I licensee to: (1) include in its system of internal control a description of the procedures adopted by the licensee to comply with the provisions relating to the live entertainment tax ; and (2) comply with its system of internal control and with any minimum standards for internal control adopted by the Chair of the Board. To determine compliance with the requirements for entertainment, existing regulations require a group I licensee to: (1) direct its independent accountant to perform certain tasks and to prepare a report for submission the Board; and (2) have its internal auditor perform certain tasks and submit to the Board certain reports that summarize instances of noncompliance. (NAC 368A.510; Nev. Gaming Comm’n Regs § 6.090) This regulation eliminates such requirements.

Section 1. NAC 368A.510 is hereby amended to read as follows:

368A.510 1. Each:

(a) Group I licensee that provides live entertainment shall ~~⋈~~

~~—(1) Include in its system of internal control, submitted pursuant to Regulation 6.090 of the Nevada Gaming Commission, a description of the procedures adopted by the licensee to comply with NAC 368A.300 to 368A.540, inclusive; and~~

~~— (2) Comply~~ **comply** with ~~[that system of internal control and]~~ any minimum standards for internal control for entertainment adopted by the Chair pursuant to Regulation 6.090 of the Nevada Gaming Commission.

(b) Group II licensee that provides live entertainment and each taxpayer that holds a restricted license shall comply with any procedures for internal control for entertainment adopted by the Chair pursuant to Regulation 6.100 of the Nevada Gaming Commission.

↳ Except as otherwise approved in writing by the Chair, a taxpayer shall not carry out any procedures for internal control that deviate from any standards or procedures for internal control for entertainment adopted and published by the Chair.

2. ~~[Each group I licensee that provides live entertainment shall direct its independent accountant to perform observations, examinations of documents and inquiries of employees, using any applicable guidelines, checklists and other criteria established by the Chair, to determine compliance with the requirements for entertainment. The independent accountant shall report his or her findings as part of the report required by subsection 9 of Regulation 6.090 of the Nevada Gaming Commission.~~

~~— 3. The internal auditor of each group I licensee that provides live entertainment shall:~~

~~— (a) Using any applicable guidelines, checklists and other criteria established by the Chair, perform observations, examinations of documents and inquiries of employees to determine compliance with the requirements for entertainment.~~

~~— (b) Submit to the Board within 120 days after the last day of the first 6 months of the business year of the licensee a report by the internal auditor summarizing all instances of noncompliance with the requirements for entertainment during the first 6 months of the business year of the licensee and any applicable responses by the management of the licensee, including~~

~~any work required to be performed during the reporting period and any additional procedures that were performed.~~

~~—(c) Submit to the Board within 150 days after the end of the business year of the licensee a report by the internal auditor summarizing all instances of noncompliance with the requirements for entertainment during the final 6 months of the business year of the licensee and any applicable responses by the management of the licensee, including any work required to be performed during the reporting period and any additional procedures that were performed.~~

~~—4.] As used in this section [:~~

~~—(a) “Group], “group I licensee” and “group II licensee” have the meanings ascribed to those terms in Regulation 6.010 of the Nevada Gaming Commission.~~

~~[(b) “Requirements for entertainment” means the provisions of chapter 368A of NRS, NAC 368A.300 to 368A.540, inclusive, and any minimum standards for internal control for entertainment adopted by the Chair.]~~