

**ADOPTED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R195-05**

Effective February 23, 2006

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

AUTHORITY: §§1 and 2, NRS 360.090 and 363B.060.

A REGULATION relating to the state business tax; repealing certain superseded provisions governing the administration of the tax; and providing other matters properly relating thereto.

**Section 1.** NAC 363B.060 is hereby amended to read as follows:

363B.060 “Health care deduction” means the deduction allowed by ~~[subsection 4 of NRS 363B.110.]~~ *section 28 of chapter 9, Statutes of Nevada 2005, 22nd Special Session, at page 137 (NRS 363B.115).*

**Sec. 2.** NAC 363B.120, 363B.140 and 363B.160 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**363B.120 Interpretation of certain statutory terms. (NRS 360.090, 363B.060, 363B.110)**

For the purposes of NRS 363B.110, the Commission interprets the term:

1. “Claims” to mean claims for those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions

of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

2. “Direct administrative services costs” to mean, if borne directly by a self-insured employer and reasonably allocated to the direct administration of claims:

(a) Payments for medical or office supplies that will be consumed in the course of the provision of medical care or the direct administration of claims;

(b) Payments to third-party administrators or independent contractors for the provision of medical care or the direct administration of claims;

(c) Rent and utility payments for the maintenance of medical or office space used for the provision of medical care or the direct administration of claims;

(d) Payments for the maintenance, repair and upkeep of medical or office space used for the provision of medical care or the direct administration of claims;

(e) Salaries and wages paid to medical, clerical and administrative staff and other personnel employed to provide medical care or directly to administer claims; and

(f) The depreciation of property other than medical or office supplies, as computed pursuant to NAC 363B.170, used for the provision of medical care or the direct administration of claims.

3. “Employees” to mean employees whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363B.110, and their spouses, children and other dependents who qualify for coverage under the terms of the health insurance or health benefit plan provided by that employer.

4. “Health benefit plan” to mean a health benefit plan that covers only those categories of health care expenses that are generally deductible by employees on their individual federal

income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

5. “Any amounts paid by an employer to a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) for participation in an employee welfare benefit plan” to mean any amounts which are:

(a) Paid by an employer to a Taft-Hartley trust which:

(1) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

(2) Qualifies as an employee welfare benefit plan, as that term is defined in 29 U.S.C. § 1002; and

(b) Considered by the Internal Revenue Service to be fully tax deductible pursuant to the provisions of the Internal Revenue Code.

**363B.140 Exemption from certain requirements for submission of information. (NRS 360.090, 363B.060, 363B.110)**

1. An employer is not required to file a copy of a report with the Department in the manner provided in subparagraph (2) of paragraph (a) of subsection 3 of NRS 363B.110 if the Department is able to obtain the information contained in the report pursuant to an agreement with the Division. The Department will notify an employer if the Department is unable to obtain that information pursuant to such an agreement.

2. An employer who is in compliance with NAC 363B.110 shall be deemed to have submitted any proof required by subsection 6 of NRS 363B.110.

3. The provisions of this section do not affect any other provision of law requiring an employer to retain or provide any records requested by the Department.

**363B.160 Health care deduction: Limitations. (NRS 360.090, 363B.060, 363B.110)**

The health care deduction does not:

1. Except as otherwise provided in subsection 6 of NRS 363B.110, allow an employer to deduct any sum for any calendar quarter other than the calendar quarter in which the employer paid that sum.

2. Allow an employer to deduct any sum paid by the employer before October 1, 2003.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R195-05**

The Nevada Tax Commission adopted regulations assigned LCB File No. R195-05 which pertain to chapter 363B of the Nevada Administrative Code on January 9, 2006.

**Notice date:** 12/7/2005  
**Hearing date:** 1/9/2006

**Date of adoption by agency:** 1/9/2006  
**Filing date:** 2/23/2006

**INFORMATIONAL STATEMENT**

**1. A 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.**

Notices of hearing for the adoption and amendment of the proposed regulation were posted at the following locations: Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada; Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed regulation were placed 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 proposed regulation were also made available and placed on file at the Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Suite 1300, Las Vegas, Nevada; Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada; Department of Taxation, 850 Elm Street, No. 2, Elko, Nevada; and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

The hearing was held on January 9, 2006 video conferenced between the Nevada Legislative Building, 401 S. Carson Street, Room 3138, Carson City, Nevada and the Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 4401, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed regulation and testified at the hearing. A copy of the transcript of the hearing, for which a reasonable fee may be charged, may be obtained by calling the Nevada Department of Taxation at (775) 684-2096 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada, 89706.

The proposed regulation was submitted to the Legislative Counsel Bureau, which completed its review and minor revisions on January 5, 2006. Thus, the proposed regulation, for practical

purposes, was discussed at one workshop and has been heard and considered at one public hearing of the Nevada Tax Commission.

**2. The number of persons who:**

**(a) Attended the hearing:** 41

**(b) Testified at the hearing:** 1

**(c) Submitted to the Tax Commission written comments:** No written comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission.

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

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, by direct mail to all county assessors, and by direct mail to the approximately 240 interested businesses and persons on the Department of Taxation's mailing list.

**4. 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 proposed regulation was not changed since no concerns were raised by the public, affected or interested businesses or persons, the Department of Taxation or Tax Commission members, and the Tax Commission believed no changes were necessary.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.**

**(a) Adverse and beneficial effects.**

The proposed regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. There may be some beneficial economic effects to certain taxpayers which are the subject of the adopted regulation. Those anticipated benefits are not quantifiable at this time.

**(b) Immediate and long-term effects.**

Same as #5(a) above.

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

The proposed regulation presents no significant foreseeable or anticipated cost for enforcement. There may be some minor administrative costs for the Department, which are not quantifiable at this time.

**7. 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 regulation is particular to the Department of Taxation practices and procedures and does not appear to overlap or duplicate regulations of other state or local governmental agencies.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are no known federal regulations pertaining to Nevada's modified business tax, which is the subject of the proposed regulation.

**9. 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 regulation does not provide a new fee or increase an existing fee.