

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB FILE NO. R038-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 03/04/2024**

Exhibit 362.1-R

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

CHAPTER 362 - TAXES ON PATENTED MINES AND PROCEEDS OF MINERALS

PROCEEDS OF MINERALS

General Provisions

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~[NAC 362.035 – Deductions: Interpretation of certain statutory terms. [Effective through December 31, 2015.] (NRS 360.090, 362.120) For the purposes of:~~

~~— 1. Paragraph (j) of subsection 3 of NRS 362.120, the Nevada Tax Commission will interpret the term “developmental work” to have the meaning ascribed to it in NAC 362.006.~~

~~— 2. Paragraph (c) of subsection 7 of NRS 362.120, the Nevada Tax Commission will interpret the term “costs of severing the employment of any employees” to:~~

~~— (a) Exclude, without limitation, the costs of:~~

~~— (1) Any wages, salary or production bonuses earned by an employee before the date of termination of his or her employment; and~~

~~— (2) Any pension benefits, vacation leave and sick leave accrued by an employee before the date of termination of his or her employment; and~~

~~— (b) Except as otherwise provided in paragraph (a), include, without limitation, the costs of any:~~

~~— (1) Additional payments based on length of service;~~

~~— (2) Cash bonuses;~~

~~— (3) Stock options;~~

~~— (4) Medical insurance, dental insurance and life insurance;~~

~~— (5) Payments made in lieu of a required period of notice;~~

~~— (6) Negotiated financial sums paid pursuant to an agreement absolving the employer from any further liability to an employee;~~

~~— (7) Voluntary redundancy packages offered by an employer to attract volunteers to leave the employment of the employer; and~~

~~— (8) Assistance in searching for new positions of employment.~~

~~— 3. Paragraph (f) of subsection 7 of NRS 362.120, the Nevada Tax Commission will interpret the term “mineral exploration” to have the meaning ascribed to it in NAC 362.007.~~

~~— (Added to NAC by Tax Comm’n by R058-11, 12-30-2011, eff. 1-1-2012; A by R058-11, 12-30-2011, eff. 1-1-2014)}~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal – Section was only in effect through December 31, 2015.

Exhibit 362.1-R

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
b. The positive or negative economic impact; and
c. Cost savings to the state or agency.

The repeal of this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Exhibit 362.2-R

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

CHAPTER 362 - TAXES ON PATENTED MINES AND PROCEEDS OF MINERALS

PROCEEDS OF MINERALS

General Provisions

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~[NAC 362.050 – Deductions: Operating costs. [Effective through December 31, 2015.] (NRS 360.090, 362.120)~~

~~— 1. In computing the costs enumerated in subsection 3 of NRS 362.120, the following specific items are deductible except as limited by subsection 2 of this section and subsection 6 of NRS 362.120:~~

~~— (a) The cost of renting equipment, if the amount paid as rental is commercially reasonable in the circumstances;~~

~~— (b) The cost of contracting for all or part of the mine’s operations, if the contract price is commercially reasonable in the circumstances and the cost would otherwise be deductible if the service or activity contracted for was provided or performed directly by the operator of the mine;~~

~~— (c) The cost of Nevada-based corporate services, as defined in subsection 8 of NRS 362.120, which a Nevada mine receives under contract from its corporate office or the office of a related corporation, if:~~

~~— (1) The cost is commercially reasonable in the circumstances; and~~

~~— (2) The cost is separately stated in a manner consistent with good accounting practices;~~

~~— (d) The reasonable cost of management provided to a joint venture by a member, if the fees relate directly to the operation of the mine;~~

~~— (e) If the taxpayer has a policy which prohibits the personal use of a vehicle by an employee, the cost of vehicle allowances to the extent that the vehicle is actively engaged in the business of the mine;~~

~~— (f) The cost of transportation services between points of origin and destination within this State provided by a third party or the owner of the mine for employees to get to and from a point of extraction or reduction of the mine, excluding any cost for the repair, maintenance and depreciation of any facilities or equipment under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority; and~~

~~— (g) The cost of compensation for employees. As used in this paragraph, “compensation” means wages, salaries, paid vacation leave, paid sick leave, performance-related bonuses, contributions to and administrative costs of qualified pension and retirement plans, 401k and similar deferred benefit plans, Medicare contributions, social security payments, state and federal unemployment compensation contributions or payments, and postemployment training expenses for training conducted in compliance with the Mine Safety and Health Administration and the Division of Industrial Relations of the Department of Business and Industry or their successor organizations.~~

~~— 2. In computing the costs enumerated in subsection 3 of NRS 362.120, the following specific items are not deductible:~~

~~— (a) Cost or expenses which are capitalized;~~

~~— (b) Gifts, grants and donations;~~

~~— (c) Costs of public relations and influencing or seeking to influence governmental activities;~~

Exhibit 362.2-R

- ~~—(d) Costs of developmental work related to ore bodies outside the geographic area described in the plan for the mine filed with the Division of Minerals of the Commission on Mineral Resources pursuant to NRS 519A.210;~~
- ~~—(e) Any tax that an operator of a mine is required to pay to the Federal Government, this State or any other state, or a political subdivision thereof;~~
- ~~—(f) Costs associated with providing health clubs for employees;~~
- ~~—(g) Costs incurred for preemployment activities, including, without limitation, reimbursement for expenses for moving and relocation;~~
- ~~—(h) Except as otherwise provided in paragraph (g) of subsection 1 of this section and paragraph (g) of subsection 3 of NRS 362.120, costs associated with union trust funds;~~
- ~~—(i) Costs associated with providing day care facilities for the children of employees;~~
- ~~—(j) General liability insurance;~~
- ~~—(k) Excess policies of general liability insurance;~~
- ~~—(l) Fire insurance on any machinery, equipment, apparatus, works, plants or facilities; and~~
- ~~—(m) Expenses described in subsection 7 of NRS 362.120.~~
- ~~—3. The taxes described in paragraph (e) of subsection 2 of this section and paragraph (g) of subsection 7 of NRS 362.120 do not include any contributions or payments described in paragraph (g) of subsection 3 of NRS 362.120.~~
- ~~—4. If a cost is partially deductible and partially nondeductible, the deductible portion must be allowed. In determining the portion of such costs which is allowable as a deduction, a reasonable allocation must be made based upon available information. For the purposes of paragraph (b) of subsection 1, there is a rebuttable presumption that not less than 20 percent of the cost of contracting for all or part of a mine's operations is attributable to the cost of services and activities that would not be deductible if provided or performed directly by the operator of the mine.~~
- ~~—[Tax Comm'n, Mine Proceeds Reg. Nos. 1-7, 9-14, 19, 20 & 25, eff. 6-28-65; A and renumbered as Reg. No. 2, 1-22-79]—(NAC A 5-3-84; R048-01, 11-1-2001; R161-05, 2-23-2006; R058-11, 12-30-2011, eff. 1-1-2012; R058-11, 12-30-2011, eff. 1-1-2014)]~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal – Section was only in effect through December 31, 2015.

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:

a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

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- 4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**
 - a. The adverse and beneficial effects;**
 - b. The positive or negative economic impact; and**
 - c. Cost savings to the state or agency.**

The repeal of this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

CHAPTER 362 - TAXES ON PATENTED MINES AND PROCEEDS OF MINERALS

Deductions for Reclamation Costs

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~[NAC 362.310 Allowable deduction. [Effective through December 31, 2015.] (NRS 360.090, 362.120) — A taxpayer may claim a deduction pursuant to paragraph (k) of subsection 3 of NRS 362.120 for any money paid during the reporting period for reclamation performed by the taxpayer. — (Added to NAC by Tax Comm'n by R161-05, eff. 2-23-2006; A by R058-11, 12-30-2011, eff. 1-1-2012; R058-11, 12-30-2011, eff. 1-1-2014)]~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal – Section was only in effect through December 31, 2015.

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:

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