

**ADOPTED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R047-01**

Effective December 17, 2002

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

AUTHORITY: §§1-9, NRS 360.090, 361.068, 361.186; §§10-17, NRS 374.291, 374.2911, 374.725.

**Section 1.** Chapter 361 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, “fine art for public display” has the meaning ascribed to it in paragraph (b) of subsection 5 of NRS 361.068.*

**Sec. 3.** *For the purposes of NRS 361.186, the department shall interpret:*

*1. “Direct costs of owning and exhibiting the fine art” to:*

*(a) Except as otherwise provided in paragraph (a) of subsection 6 of NRS 361.186, include, without limitation:*

*(1) Interest payments at a rate that does not exceed the rate set forth in NRS 99.040 made by the taxpayer, or a subsidiary or affiliated entity of the taxpayer, on secured or unsecured indebtedness used to acquire the work of fine art during the fiscal year for which the taxpayer is claiming an exemption for the work of fine art if the taxpayer complies with the provisions of section 4 of this regulation.*

*(2) Insurance payments for the work of fine art, including, without limitation, insurance which provides a guaranty on the authenticity of the work of fine art.*

*(3) Costs related to the repair, maintenance and conservation of the work of fine art, including, without limitation, cleaning and framing.*

*(4) Costs related to the moving and storage of the work of fine art in the immediate area of the facility in which the work of fine art is displayed.*

*(5) Salaries and employee benefits for persons employed to work in the facility in which the work of fine art is displayed, including, without limitation, gallery managers, curators, security personnel, reservations agents and admissions personnel.*

*(6) Costs related to the operation and maintenance of the facility in which the work of fine art is displayed, including, without limitation, environmental control systems, lighting and security systems that are specific to such a facility.*

*(7) Rent or other lease obligations for the facility in which the work of fine art is displayed.*

*(8) Personal property taxes assessed for the work of art, except penalties or interest assessed on such taxes.*

*(9) Real and personal property taxes assessed for the facility in which the work of fine art is displayed, except penalties or interest assessed on such taxes.*

*(10) Allowable depreciation pursuant to subsection 4 of NRS 361.227 for furniture or fixtures in the facility in which the work of fine art is displayed.*

*(11) Allowable depreciation pursuant to paragraph (b) of subsection 1 of NRS 361.227 for real property on which the facility in which the work of fine art is displayed is located and improvements to such a facility.*

*(12) Communication devices that are used exclusively for informing visitors to the facility about the work of fine art.*

*(13) Costs for uniforms that persons who are employed by the facility in which the work of fine art is displayed are required to wear, including, without limitation, costs of laundering the uniforms.*

*(14) Costs associated with cleaning the facility in which the work of fine art is displayed.*

*(15) Commissions paid to credit card companies for the use of credit cards to pay admission fees.*

*(16) Advertising costs to notify the public of the display of the work of fine art.*

*(b) Not include any rent pursuant to an agreement for the lease or loan of a work of fine art for public display.*

*2. "Fees collected for exhibiting the fine art" to include, without limitation, fees paid by visitors to the facility for the rental of communication devices that inform them about the work of fine art.*

*3. "Resident" to mean a person who lives in this state and possesses a valid driver's license or other identification issued by this state.*

**Sec. 4. 1.** *For a work of fine art that was acquired with a portion of the proceeds of a secured or unsecured indebtedness, the amount of the interest on the total indebtedness that the taxpayer may claim as interest payments made on the art indebtedness pursuant to subparagraph (1) of paragraph (a) of subsection 1 of section 3 of this regulation must be calculated for the fiscal year for which the taxpayer is claiming an exemption for the work of fine art by applying the applicable rate or rates of interest to the amount of the art indebtedness. The interest payments must be recalculated each time that:*

*(a) A payment is made towards the principal of the total indebtedness;*

*(b) A draw is made against the principal of the total indebtedness; or*

(c) *The principal of the total indebtedness is increased or decreased in any other manner.*

2. *For the purposes of the calculations required by subsection 1:*

(a) *If the principal of the total indebtedness is reduced by a principal payment or in some other manner, the principal of the art indebtedness must be reduced as follows:*

*Total amount of the art*

*indebtedness before*

*Amount of principal*

*payment or other reduction X*

*payment made or other =*

*Reduction in the*

*Total amount of the principal*

*reduction of the principal*

*principal on the art*

*of the indebtedness before*

*of the total amount of*

*indebtedness*

*payment or other reduction*

*the indebtedness*

(b) *The amount of the interest payments for the art indebtedness must be determined as follows, after reducing the total amount of the art indebtedness by any reduction in principal calculated pursuant to paragraph (a), reducing the total amount of the principal of the indebtedness by the principal payment or other reduction and increasing the total amount of the principal of the indebtedness by the amount of any increase in the total amount of the principal of the indebtedness:*

*Total amount of the*

*Interest*

*=*

*Amount of interest accrued*

*art indebtedness X*

*accrued on the*

*on the art indebtedness*

*Total amount of the*

*total amount of the*

*principal of the indebtedness*

*indebtedness*

3. *If a taxpayer, or a subsidiary or affiliated entity of the taxpayer, incurs interest expenses on indebtedness, a portion of the proceeds of which were used to acquire a work of fine art, the burden for appropriately allocating the principal payments and interest expenses for the work of fine art between the taxpayer and the subsidiary or affiliated entity of the taxpayer and between the work of fine art and the other items acquired with the proceeds of the indebtedness is on the taxpayer who is claiming an exemption for the work of fine art pursuant to paragraph (j) of subsection 1 of NRS 361.068.*

4. *If, for the purposes of claiming an exemption pursuant to paragraph (j) of subsection 1 of NRS 361.068, a taxpayer acquires a work of fine art using the proceeds of an indebtedness, the taxpayer must incur the indebtedness for the work of fine art within 120 days after the acquisition of the work of fine art unless the department agrees to an extension of time.*

5. *To qualify or remain eligible for an exemption pursuant to paragraph (j) of subsection 1 of NRS 361.068, a taxpayer who wishes to refinance the outstanding amount of the indebtedness incurred to purchase the work of fine art must be able to trace the new debt directly to the repayment of the prior debt.*

6. *As used in this section, “art indebtedness” means the amount of the principal of the total indebtedness attributable to the acquisition of the work of fine art.*

**Sec. 5.** *If an exhibition does not consist solely of fine art for public display owned by the taxpayer, the department will apportion the direct costs of owning and exhibiting the fine art based on the percentage that the value of the fine art for public display owned by the taxpayer bears to the value of all the works of art included in the exhibition.*

*Sec. 6. For a taxpayer to receive a credit for a donation to a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, such a museum must be operated by an organization that:*

*1. Qualifies for exemption from taxation pursuant to section 501(c)(3) of the Internal Revenue Code; and*

*2. The net earnings of which do not inure to the benefit of any private shareholder or other person.*

*Sec. 7. The affidavit that a taxpayer who is claiming an exemption pursuant to paragraph (j) of subsection 1 of NRS 361.068 must file pursuant to paragraph (a) of subsection 3 of NRS 361.068 with the county assessor on or before June 15 of each year in which the taxpayer claims the exemption must:*

*1. Be notarized;*

*2. Be in a form prescribed by the department; and*

*3. Contain:*

*(a) A statement that the work of fine art will meet the criteria set forth in paragraph (b) of subsection 5 of NRS 361.068 during the following fiscal year;*

*(b) A description of the work of fine art for which the taxpayer is claiming an exemption;*

*(c) The purchase price or appraisal value of the work of fine art;*

*(d) The fiscal year for which the exemption is sought; and*

*(e) A statement in substantially the following form:*

*“I, \_\_\_\_\_, state under oath and pursuant to the conditions set forth in NRS 361.185 and 361.265, that the attached claim for the property tax exemption is made in good*

*faith and to the best of my knowledge and belief is a true, correct and complete statement that said property meets the requirements of NRS 361.068. Further, I authorize the Nevada tax commission or its designee to inspect the fine art for public display for which I am claiming an exemption and any supporting documents, or otherwise verify the validity of my claim.”*

**Sec. 8.** *To determine the value of a work of fine art for public display for the purposes of sub-subparagraph (II) of subparagraph (1) of paragraph (b) of subsection 5 of NRS 361.068, the department shall consider:*

*1. For an arm’s-length transaction, documentation of the sale, including, without limitation, the purchase price, the name of the seller or the seller’s agent, the date of the sale and any other documentation that the county assessor required.*

*2. For any other transaction, a written appraisal which has been completed by an independent and qualified appraiser of fine art not more than 3 years before the date on which the affidavit for an exemption required pursuant to paragraph (a) of subsection 3 of NRS 361.068 is filed and any additional documentation that the county assessor required.*

**Sec. 9.** *Upon receiving a request for a poster pursuant to paragraph (b) of subsection 3 of NRS 361.068, the taxpayer shall select which poster to provide to the school or parent.*

**Sec. 10.** Chapter 374 of NAC is hereby amended by adding thereto the provisions set forth as sections 11 to 17, inclusive, of this regulation.

**Sec. 11.** *As used in sections 11 to 17, inclusive, of this regulation, unless the context otherwise requires, “fine art for public display” has the meaning ascribed to it in paragraph (a) of subsection 4 of NRS 374.291.*

**Sec. 12.** *For the purposes of NRS 374.2911, the department shall interpret:*

*1. “Direct costs of owning and exhibiting the fine art” to:*

*(a) Except as otherwise provided in paragraph (a) of subsection 5 of NRS 374.2911, include, without limitation:*

*(1) Interest payments at a rate that does not exceed the rate set forth in NRS 99.040 made by the taxpayer, or a subsidiary or affiliated entity of the taxpayer, on secured or unsecured indebtedness used to acquire the work of fine art during the fiscal year for which the taxpayer is claiming an exemption for the work of fine art if the taxpayer complies with the provisions of section 13 of this regulation.*

*(2) Insurance payments for the work of fine art, including, without limitation, insurance which provides a guaranty on the authenticity of the work of fine art.*

*(3) Costs related to the repair, maintenance and conservation of the work of fine art, including, without limitation, cleaning and framing.*

*(4) Costs related to the moving and storage of the work of fine art in the immediate area of the facility in which the work of fine art is displayed.*

*(5) Salaries and employee benefits for persons employed to work in the facility in which the work of fine art is displayed, including, without limitation, gallery managers, curators, security personnel, reservations agents and admissions personnel.*

*(6) Costs related to the operation and maintenance of the facility in which the work of fine art is displayed, including, without limitation, environmental control systems, lighting and security systems that are specific to such a facility.*

*(7) Rent or other lease obligations for the facility in which the work of fine art is displayed.*



*(8) Personal property taxes assessed for the work of fine art, except penalties or interest assessed on such taxes.*

*(9) Real and personal property taxes assessed for the facility in which the work of fine art is displayed, except penalties or interest assessed on such taxes.*

*(10) Allowable depreciation pursuant to subsection 4 of NRS 361.227 for furniture or fixtures in the facility in which the work of fine art is displayed.*

*(11) Allowable depreciation pursuant to paragraph (b) of subsection 1 of NRS 361.227 for real property on which the facility in which the work of fine art is displayed is located and improvements to such a facility.*

*(12) Communication devices that are used exclusively for informing visitors to the facility about the work of fine art.*

*(13) Costs for uniforms that persons who are employed by the facility in which the work of fine art is displayed are required to wear, including, without limitation, costs of laundering the uniforms.*

*(14) Costs associated with cleaning the facility in which the work of fine art is displayed.*

*(15) Commissions paid to credit card companies for the use of credit cards to pay admission fees.*

*(16) Advertising costs to notify the public of the display of the work of fine art.*

*(b) Not include any rent pursuant to an agreement for the lease or loan of a work of fine art for public display.*

*2. "Fees collected for exhibiting the fine art" to include, without limitation, fees paid by visitors to the facility for the rental of communication devices that inform them about the work of fine art.*

3. “Resident” to mean a person who lives in this state and possesses a valid driver’s license or other identification issued by this state.

**Sec. 13. 1.** For a work of fine art that was acquired with a portion of the proceeds of a secured or unsecured indebtedness, the amount of the interest on the total indebtedness that the taxpayer may claim as interest payments made on the art indebtedness pursuant to subparagraph (1) of paragraph (a) of subsection 1 of section 12 of this regulation must be calculated for the fiscal year for which the taxpayer is claiming an exemption for the work of fine art by applying the applicable rate or rates of interest to the amount of the art indebtedness. The interest payments must be recalculated each time that:

- (a) A payment is made towards the principal of the total indebtedness;
- (b) A draw is made against the principal of the total indebtedness; or
- (c) The principal of the total indebtedness is increased or decreased in any other manner.

2. For the purposes of the calculations required by subsection 1:

(a) If the principal of the total indebtedness is reduced by a principal payment or in some other manner, the principal of the art indebtedness must be reduced as follows:

$$\begin{array}{l} \text{Total amount of the art} \\ \text{indebtedness before} \\ \text{payment or other reduction} \end{array} \times \begin{array}{l} \text{Amount of principal} \\ \text{payment made or other} \\ \text{reduction of the principal} \\ \text{of the total amount of} \\ \text{the indebtedness} \end{array} = \begin{array}{l} \text{Reduction in the} \\ \text{principal on the art} \\ \text{indebtedness} \end{array}$$

*(b) The amount of the interest payments for the art indebtedness must be determined as follows, after reducing the total amount of the art indebtedness by any reduction in principal calculated pursuant to paragraph (a), reducing the total amount of the principal of the indebtedness by the principal payment or other reduction and increasing the total amount of the principal of the indebtedness by the amount of any increase in the total amount of the principal of the indebtedness:*

$$\begin{array}{rcl}
 \text{Total amount of the} & & \text{Interest} & = & \text{Amount of interest accrued} \\
 \text{art indebtedness} & \times & \text{accrued on the} & & \text{on the art indebtedness} \\
 \text{Total amount of the} & & \text{total amount of the} & & \\
 \text{principal of the indebtedness} & & \text{indebtedness} & & 
 \end{array}$$

*3. If a taxpayer, or a subsidiary or affiliated entity of the taxpayer, incurs interest expenses on indebtedness, a portion of the proceeds of which were used to acquire a work of fine art, the burden for appropriately allocating the principal payments and interest expenses for the work of fine art between the taxpayer and the subsidiary or affiliated entity of the taxpayer and between the work of fine art and the other items acquired with the proceeds of the indebtedness is on the taxpayer who is claiming an exemption for the work of fine art pursuant to NRS 374.291.*

*4. If, for the purposes of claiming an exemption pursuant to NRS 374.291, a taxpayer acquires a work of fine art using the proceeds of an indebtedness, the taxpayer must incur the indebtedness for the work of fine art within 120 days after the acquisition of the work of fine art unless the department agrees to an extension of time.*

5. *To qualify or remain eligible for an exemption pursuant to NRS 374.291, a taxpayer who wishes to refinance the outstanding amount of the indebtedness incurred to purchase the work of fine art must be able to trace the new debt directly to the repayment of the prior debt.*

6. *As used in this section, “art indebtedness” means the amount of the principal of the total indebtedness attributable to the acquisition of the work of fine art.*

**Sec. 14.** *If an exhibition does not consist solely of fine art for public display owned by the taxpayer, the department will apportion the direct costs of owning and exhibiting the fine art based on the percentage that the value of the fine art for public display owned by a taxpayer bears to the value of all the works of art included in the exhibition.*

**Sec. 15.** *For a taxpayer to receive a credit for a donation to a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, such a museum must be operated by an organization that:*

1. *Qualifies for exemption from taxation pursuant to section 501(c)(3) of the Internal Revenue Code; and*

2. *The net earnings of which do not inure to the benefit of any private shareholder or other person.*

**Sec. 16.** *To determine the value of a work of fine art for public display for the purposes of sub-subparagraph (II) of subparagraph (1) of paragraph (a) of subsection 4 of NRS 374.291, the department shall consider:*

1. *For an arm’s-length transaction, documentation of the sale, including, without limitation, the purchase price, the name of the seller or seller’s agent, the date of the sale and any other documentation that the taxpayer provides.*

*2. For any other transaction, a written appraisal which has been completed by an independent and qualified appraiser of fine art not more than 3 years before the date on which an exemption pursuant to NRS 374.291 is filed and any additional documentation that the taxpayer provides.*

**Sec. 17.** *Upon receiving a request for a poster pursuant to subsection 3 of NRS 374.291, the taxpayer shall select which poster to provide to the school or parent.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R047-01**

The Nevada Tax Commission adopted regulations assigned LCB File No. R047-01 which pertain to chapters 361 and 374 of the Nevada Administrative Code on November 8, 2002.

**Notice date:** 10/4/2002

**Date of adoption by agency:** 11/8/2002

**Hearing date:** 11/4/2002 & 11/8/2002

**Filing date:** 12/17/2002

**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.

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, 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 November 4, 2002 at the Grant Sawyer Office Building, LCB Room 4401, 555E. Washington Avenue, Las Vegas, Nevada and continued to November 8, 2002 via teleconference at the Department of Taxation's Reno District Office, 4600 Kietzke Lane, Building O, Suite 263, Conference Room, Reno, 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 (702) 687-4896 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 July 31, 2001. Thus, the proposed regulation, for practical purposes, was discussed at two workshops and has been heard and considered at two public hearings of the Nevada Tax Commission.

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

**(a) Attended the hearing: 38**

**(b) Testified at the hearing: 3**

**(c) Submitted to the Tax Commission written comments:** Written comments by Lionel, Sawyer & Collins was submitted to, and received by, the Department of Taxation which was forwarded to 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 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.**

Section 3, paragraph 1(a) 1 and Section 11, paragraph 1(a) 1 of the proposed regulation was modified prior to adoption, due to issues raised by the Department of Taxation and by affected or interested businesses and persons. In addition, this was in response to the objection filed with the Department of Taxation by the Legislative Committee to Review Regulations dated January 22, 2002 with respect to interest deductions. The Nevada Tax Commission has amended the regulation in accordance with the Legislative Committee's directive. Minor clarification amendments were also made to section 3, paragraph 1(b) and 3; section 7, paragraph 1; section 11, paragraph 1(b) and 3; and section 14, paragraph 1. The remaining sections of the proposed regulation were 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 other than those made 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 owners of works of fine art given the implementation of Senate Bill 521 of the 1999 Legislative Session. 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 initial 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 state sales/use tax procedures, which are 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.