

Assembly Bill No. 433—Assemblyman Neighbors

CHAPTER.....

AN ACT relating to taxation; providing guidelines for determining the amount of time a person leases or uses certain property for the purpose of determining the amount of tax to be levied on such lease or use; clarifying the exemption from taxation of certain property used for housing and related facilities by persons with low incomes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For purposes of NRS 361.157, 361.159 and 361.227, except as otherwise provided in subsection 2, property is leased or used by a natural person or entity at all times the natural person or entity has possession of, claim to or right to the possession of the property that is independent, durable and exclusive of rights held by others in the property, other than the rights held by the owner.

2. Property is not leased or used by a natural person or entity who possesses or occupies the property solely for the purpose of holding the property for another natural person or entity.

3. As used in this section:

(a) "Durable" means for a determinable period with a reasonable certainty that the use, possession or claim with respect to the property will continue for that period.

(b) "Exclusive" means the enjoyment of a beneficial use of property, together with the ability to exclude from occupancy persons or entities other than the owner who may interfere with that enjoyment.

(c) "Independent" means the ability to exercise authority and exert control over the management or operation of the property pursuant to the terms and provisions of the contract with the owner. A possession or use is independent if the possession or use of the property is sufficiently autonomous under the terms and provisions of the contract with the owner to constitute more than a mere agency.

Sec. 1.5. NRS 361.082 is hereby amended to read as follows:

361.082 1. ~~Real~~ *That portion of real* property and tangible personal property *which is* used for housing and related facilities for persons with low incomes ~~are~~ *is* exempt from taxation if the *portion of* property *qualifies as a low-income unit and* is part of a qualified low-income housing project that is funded in part by federal money appropriated pursuant to 42 U.S.C. §§ 12701 et seq. *for the year in which the exemption applies.*

2. The portion of a qualified low-income housing project that is entitled to the property tax exemption *pursuant to subsection 1* must be determined by dividing the total assessed value of the housing project and the land upon which it is situated into the assessed value of the low-income units and related facilities that are occupied or used exclusively by persons with low incomes.

3. *The Nevada tax commission shall, by regulation, prescribe a form for an application for the exemption described in subsection 1.*

4. As used in this section, the terms “low-income unit” and “qualified low-income housing project” have the meanings ascribed to them in 26 U.S.C. § 42. ~~as it existed on July 1, 1991.~~

Sec. 2. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

(a) Portion of the property leased or used; and

(b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, *in accordance with section 1 of this act,*

can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 ~~and in accordance with section 1 of this act.~~

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground , or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by blind persons under the auspices of the bureau of services to the blind and visually impaired of the rehabilitation division of the department of employment, training and rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all , or a portion of which , is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; or

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 3. NRS 361.159 is hereby amended to read as follows:

361.159 1. Except as otherwise provided in subsection 3, when personal property, or a portion of personal property, which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association or corporation in connection with a business conducted for profit, the leasehold interest, possessory interest, beneficial interest or beneficial use of any such lessee or user of the property is subject to taxation to the extent the:

(a) Portion of the property leased or used; and

(b) Percentage of time during the fiscal year that the property is leased to the lessee or used by the user, *in accordance with section 1 of this act,*

can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 ~~H~~ *and in accordance with section 1 of this act.*

2. Taxes must be assessed to lessees or users of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section do not become a lien against the personal property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and , if unpaid , are recoverable by the county in the proper court of the county.

3. The provisions of this section do not apply to personal property:

(a) Used in vending stands operated by blind persons under the auspices of the bureau of services to the blind and visually impaired of the rehabilitation division of the department of employment, training and rehabilitation.

(b) Owned by a public airport.

Sec. 4. NRS 361.227 is hereby amended to read as follows:

361.227 1. Any person determining the taxable value of real property shall appraise:

(a) The full cash value of:

(1) Vacant land by considering the uses to which it may lawfully be put, any legal or physical restrictions upon those uses, the character of the terrain, and the uses of other land in the vicinity.

(2) Improved land consistently with the use to which the improvements are being put.

(b) Any improvements made on the land by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.

2. The unit of appraisal must be a single parcel unless:

(a) The location of the improvements causes two or more parcels to function as a single parcel;

(b) The parcel is one of a group of contiguous parcels which qualifies for valuation as a subdivision pursuant to the regulations of the Nevada tax commission; or

(c) In the professional judgment of the person determining the taxable value, the parcel is one of a group of parcels which should be valued as a collective unit.

3. The taxable value of a leasehold interest, possessory interest, beneficial interest or beneficial use for the purpose of NRS 361.157 or 361.159 must be determined in the same manner as the taxable value of the property would otherwise be determined if the lessee or user of the property was the owner of the property and it was not exempt from taxation, except that the taxable value so determined must be reduced by a percentage of the taxable value that is equal to the:

(a) Percentage of the property that is not actually leased by the lessee or used by the user during the fiscal year; and

(b) Percentage of time that the property is not actually leased by the lessee or used by the user during the fiscal year ~~HH~~ , *which must be determined in accordance with section 1 of this act.*

4. The taxable value of other taxable personal property, except mobile homes, must be determined by subtracting from the cost of replacement of the property all applicable depreciation and obsolescence. Depreciation of a billboard must be calculated at 1.5 percent of the cost of replacement for each year after the year of acquisition of the billboard, up to a maximum of 50 years.

5. The computed taxable value of any property must not exceed its full cash value. Each person determining the taxable value of property shall reduce it if necessary to comply with this requirement. A person determining whether taxable value exceeds full cash value or whether obsolescence is a factor in valuation may consider:

(a) Comparative sales, based on prices actually paid in market transactions.

(b) A summation of the estimated full cash value of the land and contributory value of the improvements.

(c) Capitalization of the fair economic income expectancy or fair economic rent, or an analysis of the discounted cash flow.

A county assessor is required to make the reduction prescribed in this subsection if the owner calls to his attention the facts warranting it, if he

discovers those facts during physical reappraisal of the property or if he is otherwise aware of those facts.

6. The Nevada tax commission shall , by regulation , establish:

(a) Standards for determining the cost of replacement of improvements of various kinds.

(b) Standards for determining the cost of replacement of personal property of various kinds. The standards must include a separate index of factors for application to the acquisition cost of a billboard to determine its replacement cost.

(c) Schedules of depreciation for personal property based on its estimated life.

(d) Criteria for the valuation of two or more parcels as a subdivision.

7. In determining the cost of replacement of personal property for the purpose of computing taxable value, the cost of all improvements of the personal property, including any additions to or renovations of the personal property , but excluding routine maintenance and repairs, must be added to the cost of acquisition of the personal property.

8. The county assessor shall, upon the request of the owner, furnish within 15 days to the owner a copy of the most recent appraisal of the property.

9. The provisions of this section do not apply to property which is assessed pursuant to NRS 361.320.

Sec. 5. This act becomes effective upon passage and approval.