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April 4, 2023

Sarah Glazner
Nevada Department of Taxation
1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
sglazner@tax.state.nv.us

Dear Ms. Glazner:

We are in receipt of the Nevada Tax Commission Notice of the April 7, 2023 workshop regarding the Governor's Executive Order 2023-003. The Order requires that the NTC undertake a comprehensive review of its regulations and report to the Governor on how those regulations can be streamlined, clarified, reduced or otherwise improved.

We respectfully submit the following sections of NAC for your review, followed by our suggestion of a proposed amendment.

NAC 360.045 Communications. (NRS 360.090)

1. All pleadings, including, but not limited to, complaints, petitions, answers, briefs, motions, affidavits and applications, should be addressed to the Director and not to individual members of the Commission or its staff. All pleadings are deemed to be officially received by the Department when a true copy of the paper or document, properly addressed and stamped, is deposited in the United States mail.
2. Informal communications may be made with individual members of the staff and these communications and documents are deemed to be officially received by the Department when they are properly addressed and stamped and deposited in the United States mail.
3. Informal communications from the Department or Commission must be signed by the responsible staff member or Commissioner.
4. Each communication must be limited to one subject, contain the name and address of the person originating the communication and the appropriate permit or account number, if any, pertaining to the subject of the communication.

[Tax Comm'n, Practice Rule No. 17, eff. 11-15-77; A 12-20-79; No. 19, eff. 11-15-77]

PROPOSED AMENDMENT: Subsection (1) should be modified to allow electronic submissions upon stipulation or upon acknowledgment of receipt by the Department.

NAC 360.050 Fees and remittances. (NRS 360.090)

1. Fees and remittances to the Department must be by money order, bank draft or check payable to the Department.
2. Remittances in currency or coin are wholly at the risk of the remitter and the Department assumes no responsibility for loss thereof.
3. Postage stamps will not be accepted as remittances.

[Tax Comm'n, Practice Rule No. 20, eff. 11-15-77]

PROPOSED AMENDMENT: This section should be amended to allow electronic funds transfers.

NAC 360.055 Hearing calendar; notice of meetings of Commission. (NRS 360.090)

1. A hearing calendar will be maintained by the Director and current assignments for hearings will be made from the calendar. A current copy of the hearing calendar will be posted at all of the offices of the Department.
2. Notice of the meetings of the Commission will be given to the public by posting a notice and an agenda at the Carson City, Reno, Las Vegas and Elko offices of the Department at least 3 working days before the meeting.

[Tax Comm'n, Practice Rule No. 21, eff. 11-15-77]

PROPOSED AMENDMENT: The hearing calendar should be posted on the Department's website, and it should include all hearings before ALJ's as well as the Commission.

NAC 360.170 Duties of hearing officer after hearing. (NRS 360.090, 360.370)

1. After the hearing of a contested case, the hearing officer shall prepare findings of fact, conclusions of law and his or her final decision on the issues presented in the hearing.
2. The hearing officer shall serve a copy of his or her findings of fact, conclusions of law and decision upon all the parties of record and members of the Commission within 60 days after the date of the hearing.

[Tax Comm'n, Practice Rule Nos. 45-47, eff. 11-15-77]—(NAC A 6-20-90; 1-12-96)

PROPOSED AMENDMENT: If subsection (2) is not complied with, the taxpayer should prevail on their position.

NAC 360.175 Appeal of decision of hearing officer. (NRS 360.090, 360.245)

1. The staff, petitioner or a designated representative may, within 30 days after service of the copy of the findings of fact, conclusions of law and decision of the hearing officer, file a notice of appeal with the Commission.
2. Within 30 days after filing a notice of appeal, the appellant shall file with the Commission a:
 - (a) Brief setting forth the points relied upon in his or her appeal and authorities in support thereof; and
 - (b) Designation of the parts of the record before the hearing officer that he or she deems relevant to his or her appeal.
3. An appeal from the decision of the hearing officer to the Commission must be based upon one or more of the grounds set forth in subsection 3 of NRS 233B.135.
4. The filing of a notice of appeal does not excuse compliance with the decision of the hearing officer nor suspend the effectiveness of a decision unless otherwise ordered by the hearing officer.
5. After receipt of a notice of appeal, filed in compliance with subsection 1, and the documentation required by subsection 2, the Department will schedule a time for oral argument before the Commission at its next meeting. The oral argument will be limited to a period of time not to exceed 20 minutes unless extended by the Commission. The Commission will not review evidence which was not submitted to the hearing officer unless it determines that good cause exists for a failure to submit the evidence to the hearing officer.
6. The Commission will modify, reverse or affirm the decision of the hearing officer or remand the case to the hearing officer. The Director shall issue a final written decision on behalf of the Commission.

[Tax Comm'n, Practice Rule Nos. 56-59, eff. 11-15-77]—(NAC A 11-20-87; 1-12-96; R078-97, 11-14-97)

PROPOSED AMENDMENT: Any final decision of the Commission should be posted on the Department's website with any confidential information redacted.

NAC 360.185 Rehearing or reconsideration of decisions of Commission. (NRS 360.090)

1. The Commission may issue an order granting a rehearing or reconsideration of all or part of any matter on its own motion or on a petition by an aggrieved party. A motion or petition for rehearing or reconsideration will not be granted if the motion is made or the petition is filed more than 15 days after service of the Commission's final decision on the matter or if a petition on the matter has been filed in the district court. The Commission will serve an order granting or denying a rehearing or reconsideration on all parties of record at least 5 days before the expiration of the time for filing a petition for judicial review pursuant to NRS 233B.130. The right of a person to file a petition in the district court is not affected by the person's failure to have petitioned for the Commission's rehearing or reconsideration.
2. No oral argument concerning a motion or petition for rehearing or reconsideration will be permitted.
3. Except as otherwise provided in subsection 4, if the Commission has not taken action on a motion or petition for rehearing or reconsideration within the 15-day period allowed for making such a motion or filing such a petition, the motion or petition shall be deemed denied.

4. If a motion or petition for rehearing or reconsideration is made or filed within the 15-day period but the Commission is not scheduled to meet within that period, the Director may, upon a showing of good cause, stay enforcement of the Commission's original decision until the Commission can grant or deny the motion or petition.

5. A stay of enforcement may be ordered upon the condition that the petitioner comply with specific terms which are reasonably related to the original findings and decision.

6. If the Commission issues an order granting a rehearing or reconsideration, the subsequent decision by the Commission:

(a) Will be based on all pertinent parts of the record and such additional evidence and argument as it may permit.

(b) Is the final decision of the Commission for the purposes of judicial review

[Tax Comm'n, Practice Rule No. 61, eff. 10-16-80]—(NAC A by R179-99, eff. 5-16-2000)

PROPOSED AMENDMENT: New subsection (7) addressing and interpreting NRS 360.395(1)(b). First, the Department should not be allowed to require waiver of a right to judicial review as a condition of a payment plan, as such an action nullifies NRS 360.395(1)(b). Second, the regulation should interpret NRS 360.395(1)(b) to allow a taxpayer to seek judicial review without a payment plan but upon acknowledgment of their obligation to pay if judicial review is unsuccessful in certain cases where judicial review would be helpful, such as issues of first impression for a Nevada court.

We will appreciate you including this letter in the materials to be considered at the workshop on April 7, 2023. Thank you.

Sincerely,



Cindy Creighton, President
Nevada Taxpayers Association