



STATE OF NEVADA
DEPARTMENT OF TAXATION

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Posted 9/1/22

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of

LCB File No. R173-22

Nevada Tax Commission

The Nevada Tax Commission will hold a Public Hearing at **9:00 a.m. on Monday, October 3, 2022**. The purpose of the hearing is to receive comments from all interested parties regarding the adoption of the regulation that pertains to LCB File No. R173-22.

You may attend this meeting at either of the following physical locations:

Nevada Department of Taxation
700 E. Warm Springs Road, 1st Floor
Las Vegas, Nevada 89119

Nevada Department of Taxation
4600 Kietzke Lane, Suite L235
Reno, NV 89502

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Need and purpose of the proposed regulations or amendments

The need and purpose of the proposed permanent regulation (R173-22) establishes procedures for the filing of petitions with the Director of the Department of Taxation for declaratory orders as to the applicability of certain statutory provisions, regulations or administrative decisions; establishes procedures for the disposition of such petitions; and provides other matters properly relating thereto.

Existing law requires the Nevada Tax Commission to prescribe regulations for carrying on the business of the Commission and the Department of Taxation. (NRS 360.090) Existing law also

requires each agency of the Executive Department of State Government to provide by regulation for the filing and prompt disposition of petitions for declaratory orders as to the applicability of any statutory provision, agency regulation or decision of the agency. (NRS 233B.120) This regulation establishes such procedures with respect to statutory provisions, regulations and administrative decisions of the Department or the Commission.

2. How to obtain the approved or revised text of regulations prepared by LCB

You may obtain a copy of the proposed permanent regulation by writing to the Nevada Department of Taxation, 1550 College Parkway, Ste 115, Carson City, Nevada 89706; or by calling the office at (775) 684-2059. The proposed permanent regulation is also available for review and download on the Department of Taxation website at <https://tax.nv.gov/> or on the Nevada Legislature website at <https://www.leg.state.nv.us/>.

3. Methods used in determining the impact on a small business

The agency used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes, which includes its own analysis by considering the extent of the regulatory provisions contained in LCB File No. R173-22. The Department prepared a small business impact questionnaire that was forwarded to the Interested Parties List which is maintained by the Department.

The Department will continue to accept input on the impact of the proposed permanent regulation on small businesses through the regulatory process. No respondents indicated that this regulation would have a direct and significant economic burden upon a small business.

The Department held a workshop for concerned members of the public to state their concerns and submit correspondence regarding the regulation.

4. Estimated economic effect of regulation on businesses and the public

a. Adverse and beneficial effects

The proposed permanent regulation does not present any reasonable, foreseeable or anticipated adverse economic effects on small businesses.

b. Immediate and long-term effects

Same as above

5. Cost for enforcement of the regulations

The proposed permanent regulation does not present any significant, foreseeable or anticipated cost or decrease in costs for enforcement.

6. Overlap or duplication of other state or local governmental agencies

The proposed permanent regulation does not overlap or duplicate any regulation of other state or local governmental entities.

7. Regulation required by federal law

Not Applicable

8. More stringent than federal regulations

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. New or increases in existing fees

The proposed permanent regulation does not include new fees or increase an existing fee.

Persons wishing to comment on the proposed action of the Nevada Tax Commission may appear at the above scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Tax Commission, 1550 E. College Parkway, Suite 115, Carson City, Nevada 89706. Written submissions must be received at least two weeks prior to the above scheduled public hearing.

Under NRS 233B.064(2), when adopting any regulation, the Agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporation, and its reason for overruling the consideration urged against its adoption.



Yvonne Nevarez-Goodson, Chief Deputy Executive Director
September 1, 2022

Members of the public who are disabled and require accommodations or assistance at the meeting are requested to notify the Department of Taxation in writing or by calling 775-684-2096 no later than five working days prior to the meeting.

A copy of the Notice and the proposed permanent regulation to be adopted and/or amended is on file and has been posted at the following location: The Department of Taxation - 1550 College Parkway, Ste 115, Carson City, Nevada.

Members of the public may inspect these documents during regular business hours at the above location. Additional copies of the notice and proposed permanent regulation to be adopted and/or amended are available at the below locations.

The text of the proposed permanent regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

Notice has been EMAILED/MAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno, Nevada; Department of Taxation - 700 E. Warm Springs Rd, Ste 200, Las Vegas, Nevada; The Legislative Building - Capitol Complex, Carson City, Nevada; The Nevada State Library -100 Stewart Street, Carson City, Nevada; The County Public Library's, Interested Parties Group, and the Mailing List maintained by the Department. Notice of this meeting was posted on the Department of Taxation website at <https://tax.nv.gov/>, on the Legislative website at <https://www.leg.state.nv.us/>, and the Nevada Public Notice Website at <https://notice.nv.gov/>.

REVISED PROPOSED
REGULATION OF THE NEVADA
TAX COMMISSION
LCB File No. R173-22

July 22, 2022

EXPLANATION – Matter in (1) *blue bold italics* is original language in LCB’s proposed regulation; (2) variations of green bold underlining is language proposed to be added to LCB’s proposed regulation; (3) ~~red strikethrough~~ is deleted language in LCB’s proposed regulation; and (4) ~~purple double strikethrough~~ is language proposed to be deleted in LCB’s proposed regulation.

AUTHORITY: §1, NRS 233B.120 and 360.090.

A REGULATION relating to taxation; establishing procedures for the filing of petitions with the Director of the Department of Taxation for declaratory orders as to the applicability of certain statutory provisions, regulations and administrative decisions; establishing procedures for the disposition of such petitions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Nevada Tax Commission to prescribe regulations for carrying on the business of the Commission and the Department of Taxation. (NRS 360.090) Existing law also requires each agency of the Executive Department of State Government to provide by regulation for the filing and prompt disposition of petitions for declaratory orders as to the applicability of any statutory provision, agency regulation or decision of the agency. (NRS 233B.120) This regulation establishes such procedures with respect to statutory provisions, regulations and administrative decisions of the Department or the Commission.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, a person may file a petition with the Director requesting a declaratory order concerning the applicability of any statutory provision, regulation or decision of the Department or Commission.

2. A petition for a declaratory order must include:

(a) The name and address of the petitioner;

(b) *The reason for requesting the declaratory order;*

(c) *A statement of the facts that support the petition for a declaratory order; ~~and~~*

(d) *A clear and concise statement of the question or matter to be decided; and*

(e) If the petition concerns a decision of the Department or Commission, a copy of that decision.

3. *A person may not file a petition for a declaratory order concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.*

4. *If the Department determines the petition is a request for a declaratory order, the Department will submit the petition to the hearing officer.* *The hearing officer may refuse to review a petition for a declaratory order if the petition does not include the information required by subsection 2~~=~~ or is in violation of Section 3.*

5. *The hearing officer may:*

(a) *Conduct a hearing to determine issues of fact or to hear arguments relating to a petition for a declaratory order and may enter reasonable orders that govern the conduct of the hearing.*

(b) *Request that the petitioner provide additional information or arguments relating to the petition.*

(c) *Issue a declaratory order based on the contents of the petition and any material submitted with the petition.*

(d) *Consider, and base his or her decision on, facts set forth in a sworn affidavit or accompanied by comparable indicia of reliability.*

(e) *Consider any other information that he or she determines is relevant to the question or matter to be decided.*

(f) Enter any reasonable order to assist the review of the petition.

6. The Department will maintain a record of each declaratory order that is indexed by subject matter and will mail a copy of the declaratory order to the petitioner within 90 days after:

(a) The petition is filed;

(b) A hearing is conducted concerning the petition; or

(c) Any additional information or written argument is received by the hearing officer,

↳ whichever occurs later.

7. A declaratory order is appealable to the Commission in the same manner as any other appealable decision= pursuant to NRS 360.245 and NAC 360.172, et seq. .

8. Any petition for a declaratory order and related materials, briefing to an administrative law judge, exhibits, hearing transcripts and resulting declaratory orders are confidential until disclosed in accordance with an appeal to the Commission.

9. If the Department subsequently finds that the petitioner provided inaccurate information with its petition, the petitioner cannot rely on the declaratory order as a bar to subsequent regulatory action by the Department or for a waiver as provided by NRS 360.294.

10. The binding effect of the declaratory order does not prevent the Department from adopting a different interpretation or pursuing a different policy in a subsequent proceeding, including through another declaratory order or in an enforcement proceeding or other adjudication.