



STATE OF NEVADA
DEPARTMENT OF TAXATION

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Posted 5/8/24

NOTICE OF WORKSHOPS

Proposed Permanent Regulations LCB File R100-22, R149-22, R152-22, R157-22 and R158-22

Date and Time of Meeting: **May 23, 2024** **9:00 a.m.**

Place of Meeting:

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

This meeting will also be available by zoom. Please use the link below to join the webinar:
<https://us02web.zoom.us/j/88173363195>

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689 278 1000 US or +1 301 715 8592 US (Washington DC) or +1 305 224 1968 US

Webinar ID: **881 7336 3195**

International numbers available: <https://us02web.zoom.us/j/88173363195>

The Department of Taxation will hold workshops to solicit comments from interested parties on the following proposed permanent regulations:

LCB File No. R-100-22, revises provisions governing certain credits which a wholesale dealer of tobacco products, other than cigarettes, may claim against the tax imposed on such tobacco products; eliminates the requirement that a wholesale dealer of tobacco products, other than cigarettes, include on invoices certain information regarding the tax required to be paid on such tobacco products; and provides other matters properly relating thereto.

Existing law imposes a tax upon the receipt, purchase, or sale in this State of tobacco products, other than cigarettes, at a rate of 30 percent of the wholesale price of such other tobacco products. (NRS 370.0318, 370.450) Before Senate Bill No. 81 of the 80th Session of the Nevada Legislature (SB81) became effective on January 1, 2020, a wholesale dealer of other tobacco products was required to pay the tax to the Department of Taxation not later than 20 days after the end of the month in which the wholesale dealer sold or distributed the other tobacco products. (Sections 73.3, 73.7 and 84 of Senate Bill No. 81, chapter 118, Statutes of Nevada 2019, at pages 636-37, 643) SB81 revised the manner in which a wholesale dealer pays the tax on other tobacco products by requiring that the tax be paid to the Department not later than 20 days after the end of the month in which: (1) such tobacco products are first possessed or received by a wholesale dealer who maintains a place of business in this State for sale or disposition in this State; (2) such tobacco products are sold by a wholesale dealer who does not maintain a place of business in this State to a retail dealer or ultimate consumer in this State; or (3) for other tobacco products manufactured, produced, fabricated, assembled, processed, labeled or finished in this State, such tobacco products are sold in this State to a wholesale dealer of other tobacco products, a retail dealer or an ultimate consumer. (NRS 370.450, 370.465)

Existing law authorizes a wholesale dealer of other tobacco products to claim a tax credit in an amount equal to the tax paid to the Department by the wholesale dealer for other tobacco products which: (1) may no longer be sold; or (2) are shipped outside this State for retail sale and consumption outside this State. (NRS 370.490) Existing regulations provide that the Department will allow this tax credit only to the wholesale dealer who originally reported and paid the tax to the Department. If another wholesale dealer who would otherwise be entitled to claim the credit furnishes certain substantiating evidence to the wholesale dealer who originally reported and paid the tax, the wholesale dealer who did not originally report and pay the tax is authorized to obtain payment of an amount equal to the credit from the wholesale dealer who originally reported and paid the tax. (NAC 370.165) Section 1 of this regulation removes the specific regulatory authority for a wholesale dealer who did not originally report and pay the tax to obtain payment of an amount equal to the credit from the wholesale dealer who originally reported and paid the tax.

Existing law requires: (1) a wholesale dealer of other tobacco products to obtain an itemized invoice from each manufacturer or other wholesale dealer from whom other tobacco products are purchased or otherwise acquired; and (2) a retail dealer of other tobacco products to obtain from each wholesale dealer of other tobacco products a separate, itemized invoice of each purchase of other tobacco products from the wholesale dealer. (NRS 370.470) Section 2 of this regulation eliminates the requirement of existing regulations that a wholesale dealer of other tobacco products include in such invoices as part of the total price of such products the amount of the tax required to be paid by the wholesale dealer. (NAC 370.150)

LCB File No. R149-22, revises provisions relating to filing a claim for refund; and provides other matters properly relating thereto.

NAC 360.480(2) provides that a claim for a refund of interest or a penalty that was paid by the Taxpayer related to a tax administered by the Department must be filed within 3 years after the date of payment of the interest or penalty. However, there is no guidance in the tax statutes for when a claim must be filed if the Taxpayer has paid the tax but not the penalty and interest.

To address this situation, the title of NAC 360.480 should be updated as well as make changes to the NAC for further clarification. In addition, the Regulation adds guidance for crediting out of statute money to unclaimed property.

LCB File No. R152-22, revises provisions relating to the voluntary disclosure of a taxpayer's failure to file a tax return with the Department of Taxation; authorizes the Executive Director of the Department or a person designated by the Executive Director to extend the time for completion of an application for voluntary disclosure; transfers from the Nevada Tax Commission to the Department the responsibility of determining the sufficiency of such an application and the amount of any tax, penalty or interest owed by the taxpayer; and provides other matters properly relating thereto.

Existing regulations provide that a taxpayer who fails to file a tax return with the Department of Taxation pursuant to various provisions of statute, and who wishes to voluntarily disclose that fact to the Nevada Tax Commission, must file with the Department an application for voluntary disclosure. Any such application must be filed before the Department has initiated an audit or investigation of the taxpayer. (NAC 360.440) **Section 1** of this regulation provides for the "completion" of an application for disclosure through the filing of any required registration and delinquent tax returns for the period being disclosed, the payment of the tax estimated to be owed for that period and the submission of any additional information or material required by the Department. Under specified circumstances, **section 1** also authorizes the Executive Director of the Department or a person designated by the Executive Director to grant an extension of time for the completion of an application. **Section 2** of this regulation makes conforming changes and transfers, from the Commission to the Department, the responsibility for determining whether the tax liability of a taxpayer has been voluntarily disclosed.

Under existing regulations, if the Commission determines that a taxpayer has made a good faith effort to comply with the requirements for voluntary disclosure, the Department is prohibited from assessing the penalty and interest otherwise prescribed by statute on the entire amount of the taxpayer's tax liability. If the Commission determines that the taxpayer's tax liability has not been voluntarily disclosed, the Department is required to assess the prescribed penalty and interest on the entire amount of that liability. A taxpayer who wishes to dispute the assessed penalty or interest must file a petition with the Executive Director for consideration and action by the Commission. (NAC 360.446) **Section 3** of this regulation transfers the various administrative duties imposed by existing regulations from the Commission and the Executive Director to the Department. **Section 3** further clarifies that any action taken by the Department under its authority does not affect the right of a taxpayer to request a waiver or reduction of a penalty or interest, or both, pursuant to regulatory provisions that authorize the Department to grant such a waiver or reduction in extenuating circumstances.

LCB File No. R157-22, revises provisions governing the scheduling of an audit; revises provisions governing the calculation of delinquent taxes due if a taxpayer fails to provide necessary records to an auditor; and provides other matters properly relating thereto.

Existing law requires the Department of Taxation to notify a taxpayer who is the subject of an audit by the Department. (NRS 360.232) Existing regulations require an auditor to attempt to contact a taxpayer who is the subject of an audit first by telephone to schedule an appointment for conducting the audit. (NAC 360.700) **Section 1** of this regulation removes the requirement that an auditor attempt to contact a taxpayer who is the subject of the audit by telephone and, instead, requires the auditor to attempt to contact the taxpayer by one of the preferred methods of contact for the taxpayer that is on file with the Department.

Existing regulations authorize an auditor to determine an amount of delinquent taxes due from records provided by a taxpayer in the event the taxpayer fails to provide all of the records necessary to complete an audit by the estimated completion date or revised estimated completion date of the audit. (NAC 360.700) **Section 1** of this regulation authorizes an auditor to determine or estimate an amount of delinquent taxes due from the records provided.

LCB File No. R158-22, revises provisions relating to the waiver or reduction of a penalty or interest, or both, for the late payment of certain taxes and fees; and provides other matters properly relating thereto.

If a taxpayer fails timely to pay certain taxes and fees, existing law provides for the imposition of a penalty and interest, but also authorizes or requires the Department of Taxation to waive all or part of the penalty or interest, or both, in certain circumstances. (NRS 360.294, 360.417, 360.419). Under existing regulations, the Department is required to waive or reduce a penalty or interest, or both, for a late payment if the total penalty and interest for the late payment is \$15 or less. (NAC 360.396) This regulation clarifies that this amount is to be computed as of the date the payment is made.

Existing regulations also authorize the Department to waive or reduce a penalty or interest, or both, for a late payment if the delinquency is determined to have been caused by circumstances beyond the control of the taxpayer or the taxpayer's agent. (NAC 360.396) This regulation: (1) expands the scope of these provisions to include any penalty or interest resulting from the late filing of a return; (2) limits the applicability of any waiver or reduction to any reporting period for which a payment is required to have been made or a return is required to have been filed; and (3) clarifies that the Department's consideration of the taxpayer's history of compliance and timely payment may include history of previous waivers, delinquencies, late payments or other missed payments within the statute of limitations.

A copy of the regulations referenced above can be found on the Department's website at https://tax.nv.gov/Boards/Public_Meetings/ and at the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>.

All interested parties will have the opportunity to present their ideas. Please submit all suggestions in writing at least one week prior to the Workshop so the suggestions can be disseminated at the meeting. Written comments may be accepted at any time. Please email any comments to Sarah Glazner at sglazner@tax.state.nv.us so they may be posted to the Departments website. All public input will be considered in preparing a proposed regulation to be presented to the Nevada Tax Commission for adoption.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations to participate in this workshop should notify Tina Padovano at 775-684-2096 or tpadovano@tax.state.nv.us

at least 3 days before the workshop. In order to comply with the security procedures of the Department, you will be required to show identification and sign a visitor's log prior to entering the meeting room.

If you need an accommodation in order to communicate during the workshop, the Department will provide one at no cost to you. Arrangements for an interpreter should be made as soon as possible, but no later than 14 days before the scheduled meeting. Please contact Tina Padovano at 775-684-2096 at least 14 days in advance to request an interpreter in your preferred language. You may also submit your request to tpadovano@tax.state.nv.us.

Si necesita una ayuda para comunicarse durante la audiencia, el Departamento se lo proporcionará sin costo alguno. Los trámites para conseguir un intérprete deben hacerse lo antes posible, pero a más tardar 14 días antes de la cita programada. Por favor, póngase en contacto con Tina Padovano al 775-684-2096 con al menos 14 días de anticipación para solicitar un intérprete en su idioma de preferencia. También puede solicitarlo a través de tpadovano@tax.state.nv.us.

Notice has been posted at the following location: The Department of Taxation – 3850 Arrowhead Drive, Carson City.

Notice has been EMAILED/MAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno; Department of Taxation - 700 E. Warm Springs Rd, Ste 200, Las Vegas; The Legislative Building - Capitol Complex, Carson City; The Nevada State Library -100 Stewart Street, Carson City; 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/>.

If you have any questions, please feel free to call Sarah Glazner at 775-684-2059.

Nevada Tax Commission
Proposed Regulations
R100-22, R149-22, R152-22, R157-22 and R158-22
Regulatory Workshops

Agenda

Conducted by:

NEVADA DEPARTMENT OF TAXATION

Date and Time of Meeting: ***March 23, 2024*** ***9:00 a.m.***

Place of Meeting:

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

This meeting will also be available by zoom. Please use the link below to join the webinar:
<https://us02web.zoom.us/j/88173363195>

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253 205 0468 US or + 1 253 215 8782 or + 1 346 248 7799 US (Houston) or +1 309 205
3325 US or +1 312 626 6799 US (Chicago) or +1 360 209 5623 US or +1 386 347 5053
US or +1 507 473 4847 US or +1 564 217 2000 US or +1 646 558 8656 US (New York)
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Webinar ID: **881 7336 3195**

International numbers available: <https://us02web.zoom.us/j/kc9DDnnMDW>

- I. ****Public Comment** – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes. Please email any comments to Tina Padovano at tpadovano@tax.state.nv.us so they may be posted to the Departments website.

To provide public comment by telephone, please dial:

+1 669 444 9171 US or +1 669 900 9128 US (San Jose) or +1 719 359 4580 US +1 253 205 0468 US or + 1 253 215 8782 or +1 346 248 7799 US (Houston) or +1 309 205 3325 US or +1 312 626 6799 US (Chicago) or +1 360 209 5623 US or +1 386 347 5053 US or +1 507 473 4847 US or +1 564 217 2000 US or +1 646 558 8656 US (New York) or +1 646 931 3860 US or +1 689 278 1000 US or +1 301 715 8592 US (Washington DC) or +1 305 224 1968 US

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- II. Workshop to solicit comments from interested parties regarding the proposed permanent regulation of the Nevada Tax Commission, LCB File No. R100-22, which revises provisions governing certain credits which a wholesale dealer of tobacco products, other than cigarettes, may claim against the tax imposed on such tobacco products; eliminates the requirement that a wholesale dealer of tobacco products, other than cigarettes, include on invoices certain information regarding the tax required to be paid on such tobacco products; and provides other matters properly relating thereto.
- III. Workshop to solicit comments from interested parties regarding the proposed permanent regulation of the Nevada Tax Commission, LCB File No. R149-22, which revises provisions relating to filing a claim for refund; and provides other matters properly relating thereto.
- IV. Workshop to solicit comments from interested parties regarding the proposed permanent regulation of the Nevada Tax Commission, LCB File No. R152-22, which revises provisions relating to the voluntary disclosure of a taxpayer's failure to file a tax return with the Department of Taxation; authorizes the Executive Director of the Department or a person designated by the Executive Director to extend the time for completion of an application for voluntary disclosure; transfers from the Nevada Tax Commission to the Department the responsibility of determining the sufficiency of such an application and the amount of any tax, penalty or interest owed by the taxpayer; and provides other matters properly relating thereto.
- V. Workshop to solicit comments from interested parties regarding the proposed permanent regulation of the Nevada Tax Commission, LCB File No. R157-22, which revises provisions governing the scheduling of an audit; revises provisions governing the calculation of delinquent taxes due if a taxpayer fails to provide necessary records to an auditor; and provides other matters properly relating thereto.
- VI. Workshop to solicit comments from interested parties regarding the proposed permanent regulation of the Nevada Tax Commission, LCB File No. R158-22, which revises

provisions relating to the waiver or reduction of a penalty or interest, or both, for the late payment of certain taxes and fees; and provides other matters properly relating thereto.

A copy of the regulations referenced above can be found on the Department's website at https://tax.nv.gov/Boards/Public_Meetings/ and at the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>.

- VII. **Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.

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- VIII. Adjourn

Note: Items on this agenda may be taken in a different order than listed.
Items may be combined for consideration by the Department of Taxation.
Items may be pulled or removed from the agenda at any time.

**This item is to receive public comment on any issue and any discussion of those issues, provided that comment will be limited to areas relevant to and within the authority of the Nevada Department of Taxation. No action will be taken on any items raised in the public comment period. Public Comment may not be limited based on viewpoint.

Please contact Sarah Glazner at 775-684-2059 or sglazner@tax.state.nv.us for any support materials. The support materials will be available at <https://tax.nv.gov/> and made available during the meeting located at the Nevada Department of Taxation, 4600 Kietzke Lane, Ste L235, Reno.

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**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608 and NRS 233B.0609**

LCB File No. R157-22

1. Background

LCB File No. R157-22, revises provisions governing the scheduling of an audit; revises provisions governing the calculation of delinquent taxes due if a taxpayer fails to provide necessary records to an auditor; and provides other matters properly relating thereto.

Existing law requires the Department of Taxation to notify a taxpayer who is the subject of an audit by the Department. (NRS 360.232) Existing regulations require an auditor to attempt to contact a taxpayer who is the subject of an audit first by telephone to schedule an appointment for conducting the audit. (NAC 360.700) **Section 1** of this regulation removes the requirement that an auditor attempt to contact a taxpayer who is the subject of the audit by telephone and, instead, requires the auditor to attempt to contact the taxpayer by one of the preferred methods of contact for the taxpayer that is on file with the Department.

Existing regulations authorize an auditor to determine an amount of delinquent taxes due from records provided by a taxpayer in the event the taxpayer fails to provide all of the records necessary to complete an audit by the estimated completion date or revised estimated completion date of the audit. (NAC 360.700) **Section 1** of this regulation authorizes an auditor to determine or estimate an amount of delinquent taxes due from the records provided.

2. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R157-22. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department to 187 members of its interested parties list.
- Mailed to 10 Rural Businesses
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content responses are summarized below:

- One response was received for LCB Draft of Proposed Regulation – File No. R157-22 and had no impact.

Anyone interested in obtaining a copy of the completed small business impact questionnaire used for this summary, can contact:

Sarah Glazner
Nevada Department of Taxation
3850 Arrowhead Drive, 2nd Floor
Carson City, NV 89706
sglazner@tax.state.nv.us
Phone: (775) 684-2059
Fax: (775) 684-2020

3. The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small businesses.

One response was received for LCB Draft of Proposed Regulation R157-22 for the questionnaire regarding the impact of the regulation on small businesses. The questionnaire showed no impact. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes.

4. The estimated economic effect of the proposed regulation on small businesses which it is to regulate:

Direct and indirect adverse effects

The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect adverse economic effect on small businesses.

Direct and indirect beneficial effects

The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect beneficial economic effect on small businesses.

5. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The proposed regulation presents no reasonable, foreseeable or anticipated adverse impact to small businesses; therefore, no efforts were required to reduce the impact on small businesses.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The proposed regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

7. If the proposed 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 permanent regulation does not include new fees or increase an existing fee.

8. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

The Department has determined that there will be no adverse impacts to small businesses based on its analysis of the proposed regulations and lack of public comment.

I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared, and the information contained herein is accurate.



Shellie Hughes, Executive Director
May 7, 2024

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R157-22

August 18, 2022

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

AUTHORITY: § 1, NRS 360.090; § 2, NRS 360.090 and 360.232.

A REGULATION relating to taxation; revising provisions governing the scheduling of an audit; revising provisions governing the calculation of delinquent taxes due if a taxpayer fails to provide necessary records to an auditor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Department of Taxation to notify a taxpayer who is the subject of an audit by the Department. (NRS 360.232) Existing regulations require an auditor to attempt to contact a taxpayer who is the subject of an audit first by telephone to schedule an appointment for conducting the audit. (NAC 360.700) **Section 1** of this regulation removes the requirement that an auditor attempt to contact a taxpayer who is the subject of the audit by telephone and, instead, requires the auditor to attempt to contact the taxpayer by one of the preferred methods of contact for the taxpayer that is on file with the Department.

Existing regulations authorize an auditor to determine an amount of delinquent taxes due from records provided by a taxpayer in the event the taxpayer fails to provide all of the records necessary to complete an audit by the estimated completion date or revised estimated completion date of the audit. (NAC 360.700) **Section 1** of this regulation authorizes an auditor to determine or estimate an amount of delinquent taxes due from the records provided.

Section 1. NAC 360.700 is hereby amended to read as follows:

360.700 1. As soon as practicable after selection of an account for audit, the auditor assigned to the audit shall attempt to contact the taxpayer ~~by telephone~~ to schedule an appointment that is convenient for the taxpayer and the auditor for the purpose of performing the audit. *The auditor shall first attempt to contact the taxpayer using the primary preferred*

method of contact for the taxpayer that is on file with the Department. If the auditor is unable to contact the taxpayer ~~{by telephone,}~~ *using the primary preferred method of contact, the auditor shall attempt to contact the taxpayer using the secondary preferred method of contact for the taxpayer that is on file with the Department. If the auditor is unable to contact the taxpayer using the primary or secondary preferred method of contact,* the auditor shall send a letter to the taxpayer requesting the taxpayer to contact the auditor to schedule an appointment for the purpose of performing the audit.

2. In scheduling an audit, the auditor and the taxpayer must discuss:

- (a) A date on which to commence the audit;
- (b) An estimate of the date by which the audit will be completed;
- (c) The first and last months of the audit period;
- (d) The nature of the business being audited and the availability of records;
- (e) The hours during which the records will be available for review by the auditor;
- (f) The contact person with whom the auditor is to work in conducting the audit and

reviewing the results of the audit; and

(g) The criteria set forth in subsection 4 for changing the period that the audit will cover and extending the commencement date or estimated completion date, or both, of the audit.

3. After contacting the taxpayer pursuant to subsection 1, the auditor shall send a letter to the taxpayer which includes:

- (a) The date, time and location of the first appointment for the audit;
- (b) The first and last months of the audit period;
- (c) The records that the taxpayer must make available for the audit;
- (d) The estimated completion date of the audit;

(e) A copy of the Taxpayers' Bill of Rights;

(f) A copy of each statute that authorizes the Department to perform an audit and issue a deficiency determination, if necessary, and the process for appealing such a determination; and

(g) The name and telephone number of the auditor and the supervisor of the auditor.

4. The criteria to be used by the Department in determining whether to change the period that the audit will cover and to extend the commencement date or estimated completion date, or both, of the audit include, without limitation:

(a) The time required by the taxpayer to gather records necessary for the audit; and

(b) Circumstances determined by the Department to be beyond the control of the taxpayer or the Department.

5. A taxpayer may request an extension of the commencement date or estimated completion date, or both, of the audit. Such a request must be submitted in writing to the auditor and must set forth the reason for the request. The auditor shall, on good cause shown, grant a reasonable extension and shall notify the taxpayer in writing of the revised commencement date or the revised estimated completion date, or both, of the audit. If an extension is granted, the statute of limitations for the finding of a deficiency will not be tolled during the period of the extension and a waiver of the statute of limitations must be obtained from the taxpayer or the audit period must be adjusted to account for the extension.

6. If a taxpayer fails to provide the records necessary to complete an audit by the estimated completion date or revised estimated completion date, the auditor may:

(a) Determine *or estimate* an amount of delinquent taxes due from the records provided;

(b) If the taxpayer has not provided any records, estimate an amount of delinquent taxes due based on information regarding the taxpayer that the Department has in its possession, including, without limitation, any returns filed by the taxpayer; or

(c) Request the Department to issue a subpoena for the production of records by the taxpayer.