



STATE OF NEVADA
DEPARTMENT OF TAXATION

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Posted 7/15/24

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption

of **LCB File No. R114-24**

Nevada Tax Commission

The Nevada Tax Commission will hold a Public Hearing at **9:00 a.m.** on **Wednesday, August 14, 2024**. 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. R114-24.

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

Legislative Counsel Bureau
401 South Carson Street, Room 2135
Carson City, NV 89701

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

1. Need and purpose of the proposed regulations or amendments

Proposed permanent regulation R114-24 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.

This Regulation provides clarity to taxpayers who are otherwise subject to penalty and interest liabilities for late paid taxes but seek a waiver of such liabilities for late payment of the taxes. The Regulation confirms that the penalty and interest is computed as of the date the late payment of taxes is made. This Regulation further clarifies the scope of penalty and

interest and the applicability of the waiver or reduction to specific reporting periods based on considerations of the taxpayer's history of compliance.

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, 3850 Arrowhead Drive, 2nd Floor, 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. The Department prepared a small business impact questionnaire that was forwarded to the Interested Parties List which is maintained by the Department. No comment was returned by members of the public.

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. No members of the public expressed concern about impacts to small businesses.

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 or the public.

b. Immediate and long-term effects

The proposed permanent regulation does not present any reasonable, foreseeable or anticipated immediate or long-term economic effects on small businesses or the public.

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, 3850 Arrowhead Drive, 2nd Floor, 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.

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 - 3850 Arrowhead Drive, 2nd Floor, Carson City, Nevada 89706.

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 – 401 S. Carson St., Carson City, Nevada and 555 E. Washington Ave. # 4400, Las Vegas, Nevada; The Nevada State Library -100 Stewart Street, Carson City, Nevada; 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/>.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations to participate in this hearing should notify Tina Padovano at 775-684-2096 or tpadovano@tax.state.nv.us at least 3 days before the hearing. 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 hearing, 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.

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R114-24

June 3, 2024

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

AUTHORITY: § 1, NRS 360.090, 360.093, 360.294, 360.417 and 360.419; § 2, NRS 360.090 and 360.419.

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

Legislative Counsel’s Digest:

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 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) **Section 1** of 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) **Section 1:** (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 period for which a payment is required to have been made or a return is required to have been filed; and (3) authorizes the Department to consider certain other information when determining whether to grant such a waiver or reduction.

Existing regulations authorize a taxpayer or the taxpayer’s agent to request a waiver or reduction of the penalty or interest, or both, by submitting to the Department a written statement signed under oath by the taxpayer or the taxpayer’s agent which contains certain information. Existing regulations additionally prohibit the Department from considering such a request until the taxpayer has paid in full the tax or fee upon which the interest or penalty is assessed. (NAC 360.397) **Section 2** of this regulation provides an exception from such a prohibition if the Department has determined that the cost of taking any action for the collection of the tax for which the waiver or reduction is requested would exceed the total accumulated amount of all the unpaid taxes for such a tax and any applicable interest and penalties.

Section 1. NAC 360.396 is hereby amended to read as follows:

360.396 1. The Department shall 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 ~~+~~ *as of the date the payment is made.*

2. ~~The~~ *With respect to any period for which a payment is required to have been made or a return is required to have been filed, the* Department may waive or reduce a penalty or interest, or both, for a late payment *or the late filing of a return* if the late payment *or late filing* is determined by the Department to have been caused by circumstances beyond the control of the taxpayer or the taxpayer's agent , *including, without limitation, the error of an employee of the taxpayer or the taxpayer's agent,* and occurred despite the exercise of ordinary care and without intent.

3. In determining whether to waive or reduce the penalty or interest, or both, for a late payment *or the late filing of a return* pursuant to subsection 2, the Department may consider:

(a) The *taxpayer's* history of compliance and timely payment ~~of the taxpayer;~~ *and filing, subject to the limitations set forth in subsection 4;*

(b) The weight and sufficiency of the evidence supporting the request of the taxpayer to waive or reduce the penalty or interest, or both, for the late payment ~~+~~ *or late filing;*

(c) Any evidence which shows that the late payment *or late filing* was caused by circumstances that were not directly related to the actions of the taxpayer or the taxpayer's agent, including, without limitation:

(1) Fire, earthquake, flood or other acts of God, theft, or the death or serious illness of the taxpayer or the taxpayer's agent or a member of the immediate family of the taxpayer;

(2) An error or the misconduct of an employee of the taxpayer ~~H~~ *or the taxpayer's agent*, including, without limitation, embezzlement; *and*

(3) Erroneous written information provided to the taxpayer or the taxpayer's agent by the Department; and

~~{(4) The misaddressed but timely mailing of the return or payment; and}~~

(d) Any other factor deemed by the Department to be relevant.

4. In considering the taxpayer's history of compliance and timely payment and filing pursuant to paragraph (a) of subsection 3, the Department may consider the taxpayer's history:

(a) Of previous waiver requests, late filings, late payments, returns showing tax due that were filed without payment of the full tax due or any combination of these, subject to the limitations of paragraph (b); and

(b) Only as it relates to:

(1) The type of tax for which a waiver or reduction is requested; and

(2) Except as otherwise provided in this subparagraph, the period set forth in subsection 1 or 3 of NRS 360.355, as applicable, for serving or mailing a notice of determination of a deficiency or, in the case of a taxpayer's failure to make a return or a claim for an additional amount, the period set forth in subsection 2 or 3 of NRS 360.355, as applicable. The limitations of this subparagraph do not apply to cases of fraud or intentional evasion of the provisions of title 32 of NRS or any regulation adopted pursuant thereto.

Sec. 2. NAC 360.397 is hereby amended to read as follows:

360.397 1. Except as otherwise provided in NAC 360.398 and 363C.250, a taxpayer or the taxpayer's agent may request the waiver or reduction of the penalty or interest, or both, by

submitting to the Department a written statement signed under oath by the taxpayer or the taxpayer's agent which sets forth the facts and circumstances surrounding the failure of the taxpayer to make the payment in a timely manner.

2. ~~The~~ *Except as otherwise provided in this subsection, the* Department shall not consider a request made pursuant to subsection 1 until the taxpayer has paid in full the tax or fee upon which the interest or penalty is assessed. *The Department may consider a request made pursuant to subsection 1 before the taxpayer has made such a payment if the Department determines that the cost of taking any action for the collection of the tax for which the waiver or reduction is requested would exceed the total accumulated amount of all the unpaid taxes for the tax for which the waiver or reduction is requested and any applicable interest and penalties.*