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September 16, 2024

Ms. Sarah Glazner  
Management Analyst III  
Department of Taxation  
3850 Arrowhead Drive  
Carson City, Nevada 89706

RECEIVED  
SEP 18 2024  
State of Nevada  
Department of Taxation

Re: LCB File No. R114-24

Dear Ms. Glazner,

A regulation adopted by the Nevada Tax Commission has been filed today with the Secretary of State pursuant to NRS 233B.067 or 233B.0675 as appropriate. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Sincerely,

A handwritten signature in black ink, appearing to read "Asher A. Killian".

Asher A. Killian  
Legislative Counsel

Kelsey M. DeLozier  
Deputy Legislative Counsel

James W. Penrose  
Senior Principal Deputy Legislative Counsel

AAK/amh  
Enclosure



SECRETARY OF STATE  
FILING DATA

FILED NV SDS  
2024 SEP 16 AM 9:17

**Form For Filing  
Administrative Regulations**

**Agency:** Department of Taxation

Permanent Regulation  
LCB File No. **R114-24**

FOR EMERGENCY  
REGULATIONS ONLY

Effective date \_\_\_\_\_

Expiration date \_\_\_\_\_

\_\_\_\_\_  
Governor's signature

**Classification:** ADOPTED BY AGENCY

**Brief description of action:** The Nevada Tax Commission adopted LCB File No. **R114-24**, to revise provisions relating to the waiver or reduction of a penalty or interest, or both, for the late payment of certain taxes and fees; and provide other matters properly relating thereto.

**Authority citation other than 233B:** NRS 360.090 and NRS 360.245

**Notice date:** July 15, 2024

**Date of Adoption by Agency:** August 14, 2024

**Hearing date:** August 14, 2024



**APPROVED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R114-24**

Filed September 16, 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 ~~(,)~~ *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.*



**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS - NRS 233B.066**  
**Informational Statement**  
**LCB File No. R114-24**

**1. A clear and concise explanation of the need for the adopted regulation.**

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 is necessary to provide 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. Clarity in the liability avoids unnecessary disputes and hearings on these issues.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by issuing a questionnaire to interested parties regarding any impact on small businesses and sending notice of workshops<sup>1</sup> and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop/Hearing</u>	<u>Number Notified</u>
5/8/24	Workshop	5/23/24	197
7/15/24	Adoption Hearing	8/14/24	203

The mailing list included the interested parties list maintained by the Department. Notices were also posted at the Nevada State Library, Legislative Counsel Bureau and various Department of Taxation locations throughout the State. Comments were also solicited by direct email.

No public responses to the Regulation.

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<sup>1</sup> At the time of Workshop, this Regulation was designated as LCB File No. 158-22.

A copy of the recorded comments, the record of proceedings, and/or the Small Business Impact Statement may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 3850 Arrowhead Dr., 2<sup>nd</sup> Floor, Carson City, Nevada 89706, or by e-mailing the Department at [sglazner@tax.state.nv.us](mailto:sglazner@tax.state.nv.us).

3. **The number of persons (not including Department staff or Commission Members) who:**
- (a) **Attended each hearing:**
  - (b) **Testified at each hearing:**
  - (c) **Submitted written comments:**

Workshop date: May 23, 2024

- (a) Number in attendance: 7
- (b) Number testifying: 0
- (c) Written statements submitted: 0

Adoption Hearing date: August 14, 2024

- (a) Number in attendance: 15
- (b) Number testifying: 0
- (c) Written statements submitted: 0

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

**Testified at Adoption Hearing:**

None

**Provided written public comment for Adoption Hearing:**

None

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

See response to #2 for description of how comments were solicited from affected businesses and an explanation of how interested persons may obtain a copy of the summary.

**Summary of public responses:** No public responses.

**Summary of workshop discussion:** No public comments/responses at workshop.

**Summary of Public Comment at Adoption Hearing: N/A**

A copy of the written and recorded comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 3850 Arrowhead Dr., 2<sup>nd</sup> Floor, Carson City, Nevada 89706, or by e-mailing the Department at [sglazner@tax.state.nv.us](mailto:sglazner@tax.state.nv.us).

**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The Nevada Tax Commission adopted the regulation without changing any part of the proposed regulation. There was no public opposition to the proposed regulation and the language satisfied the intent of the Commission for adoption in its current form.

**7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. This must include adverse, beneficial, immediate and long-term effects.**

**(a) Estimated economic effect on the businesses which they are to regulate.**

The adopted permanent regulation presents no reasonably foreseeable or anticipated adverse or beneficial economic effects on businesses. The regulation does not change the amount of interest or penalties owed to create any economic effect. Rather, it clarifies the scope of liability and the requirements for waiver. Similarly, there is no short-term or long-term effect on businesses.

**(b) Estimated economic effect on the public which they are to regulate.**

The adopted permanent regulation presents no reasonably foreseeable or anticipated adverse or beneficial economic effects to the public. The regulation does not change the amount of interest or penalties owed and does not change the anticipated amount of waivers. Rather, it only clarifies the requirements for waiver. There are no short-term or long-term effects on the public.

**8. The estimated cost to the agency for enforcement of the proposed regulation:**

Enforcement of the adopted regulation presents no significant foreseeable or anticipated cost or decrease in costs.

**9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

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

- 10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

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

- 11. If the 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 adopted permanent regulation does not include new fees or increase an existing fee.