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September 16, 2024

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



Re: LCB File No. R157-22

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

Jessica F. Dummer
Senior Principal Deputy Legislative Counsel

AAK/amh
Enclosure

SECRETARY OF STATE
FILING DATA

FILED NV SOS
2024 SEP 16 AM 9:23

**Form For Filing
Administrative Regulations**

Agency: Department of Taxation

Permanent Regulation
LCB File No. **R157-22**

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. **R157-22**, to revise provisions governing the scheduling of an audit; revise provisions governing the calculation of delinquent taxes due if a taxpayer fails to provide necessary records to an auditor; and provide other matters properly relating thereto.

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

Notice date: May 24, 2024

Date of Adoption by Agency: June 25, 2024

Hearing date: June 25, 2024

APPROVED REGULATION OF THE

NEVADA TAX COMMISSION

LCB File No. R157-22

Filed on September 16, 2024

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

AUTHORITY: § 1, 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) 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) 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.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS - NRS 233B.066
Informational Statement
LCB File No. R157-22

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

Proposed permanent regulation (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 and contact a taxpayer who is the subject of an audit by the Department. first by telephone to schedule an appointment for conducting the audit. This regulation 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. This regulation further authorizes an auditor to determine or estimate an amount of delinquent taxes due based upon the records provided.

This Regulation is necessary to adapt to modern technologies for the Department and business entities for notification and other communication and to signify the importance for taxpayers to provide the necessary documentation and records for audit or be subject to an estimated amount of taxes due based upon the records provided. This is current audit procedure and confirms/clarifies for the taxpayer the duty to provide records.

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 the public and small businesses and sending notice of workshops and hearings for public meetings to provide public comment 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
5/24/24	Adoption Hearing	6/25/24	201

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

Summary of public comment at workshop:

1. Yolanda King, Nevada Taxpayers Association:

The Nevada Taxpayers Association, representing Nevada businesses, requested an amendment to include language stating that if a taxpayer's primary or secondary preferred contact method is not email, the Department must send courtesy copies of all correspondence via email if an email address is known.

2. Ron Voigt

Mr. Voigt commented that he would prefer to continue to have taxpayers subject to audit to continue to be notified by telephone during an audit, in addition to any written communications.

Mr. Voigt also questioned why the regulation was including language to provide for estimated audits when statute already provided that authority.

Summary of public comment at adoption hearing:

Ms. King confirmed her understanding to changing the first contact with the taxpayer to the taxpayer's preference as indicated in the Department's system of record and acknowledged the Department's willingness to implement internal protocols to continue to remain in contact with taxpayers during an audit via email as well as the contact method provided in the Department's records. Ms. King continued to request that the email contact be required by regulation.

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., 2nd Floor, Carson City, Nevada 89706, or by e-mailing the Department at 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: 2
- (c) Written statements submitted: 1

Adoption Hearing date: June 25, 2024

- (a) Number in attendance: 13
- (b) Number testifying: 1
- (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 workshop and Testified at Adoption Hearing:

Name: **Yolanda King**

Telephone number: **702-457-8442**

Business address: **2303 East Sahara Avenue, Suite 102, Las Vegas, NV 89104-4138**

Electronic mail address: yolanda@nevadataxpayers.org

Name of entity or organization represented: **Nevada Taxpayers Association**

Name: **Ron Voigt**

Telephone number: **702-321-9245**

Business address: **9769 Trail Rider Dr. Las Vegas, NV 89117**

Electronic mail address: ronvoigt2001@yahoo.com

Name of entity or organization represented: **AAA Team Sales Tax, LLC**

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.**

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 the public and small businesses and sending notice of workshops and hearings for public meetings to provide public comment by electronic or regular mail. See same response as Section 2.

Summary of public responses:

See above in Section 2.

Summary of Public Comment at Adoption Hearing: Please see above.

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., 2nd Floor, Carson City, Nevada 89706, or by e-mailing the Department at 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 making any changes to the proposed version. The Department addressed the Nevada Taxpayers Association's concerns by establishing internal protocols to ensure taxpayers receive courtesy emails for audit-related correspondence. Additionally, as the Department modernizes its tax system, taxpayers using the new system will have their point of contact designated through the

programmed system. The Commission did not see the need to specify email addresses in the regulation if the taxpayer otherwise had the opportunity to state the preferred method of contact through the regulation. Accordingly, the Commission adopted the regulation in its current form. The Taxpayers Association accepted this feedback. There was otherwise no opposition to the regulation.

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 beneficial, short-term or long-term economic effects 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, beneficial, short-term or long-term economic effects to 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.