

**ADOPTED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R099-05**

Effective October 31, 2005

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

AUTHORITY: §1, NRS 360.090 and 360.419.

A REGULATION relating to taxation; revising the circumstances under which penalties and interest may be waived or reduced for the late payment of certain taxes and fees; and providing other matters properly relating thereto.

**Section 1.** NAC 360.407 is hereby amended to read as follows:

360.407 1. Except as otherwise provided in this section and for the purposes of NRS 360.419:

(a) A person's failure to make a timely return or payment of a tax imposed pursuant to NRS 363A.130, 363B.110 or 368A.200 shall be deemed to be the result of circumstances beyond his control and occurring despite the exercise of ordinary care and without intent if the person files any required return and remits the tax on or before December 31, ~~[2004.]~~ **2005.**

(b) A person's failure to make a timely return or payment of a tax imposed pursuant to NRS 372.185 shall be deemed to be the result of circumstances beyond his control and occurring despite the exercise of ordinary care and without intent if:

(1) Pursuant to subsection 2 of NRS 372.220, the person is required for the first time to register with the Department; and

(2) The person files any required return and remits the tax on or before December 31, ~~[2004.]~~ **2005.**

2. Except as otherwise provided in this section and for the purposes of ~~subsection 5 of NRS 360.780,~~ *section 5 of chapter 9, Statutes of Nevada 2005, 22nd Special Session*, a person shall be deemed to have submitted the annual fee required to be paid pursuant to that section in a timely manner if the person files any required return and remits the fee on or before December 31, ~~2004,~~ *2005*.

3. The provisions of this section:

(a) Apply only to taxes and fees that are due and payable before January 1, ~~2005,~~ *2006*.

(b) Do not apply:

(1) If the Department determines that the failure to make a timely return or payment of a tax or fee imposed pursuant to the provisions of NRS ~~360.780,~~ 363A.130, 363B.110, 368A.200 or 372.185 *or section 5 of chapter 9, Statutes of Nevada 2005, 22nd Special Session* is due to negligence, an intentional disregard of any of those provisions, fraud or an intent to evade the payment of the tax or fee.

(2) To a taxpayer who has entered into a settlement agreement with the Department that has been approved by the Commission.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R099-05**

The Nevada Tax Commission adopted regulations assigned LCB File No. R099-05 which pertain to chapter 360 of the Nevada Administrative Code on September 19, 2005.

**Notice date:** 8/16/2005  
**Hearing date:** 9/19/2005

**Date of adoption by agency:** 9/19/2005  
**Filing date:** 10/31/2005

**INFORMATIONAL STATEMENT**

**1. A 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.**

Notices of hearing for the adoption and amendment of the proposed regulation were posted at the following locations: Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada; Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed regulation were placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation were also made available and placed on file at the Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Suite 1300, Las Vegas, Nevada; Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada; Department of Taxation, 850 Elm Street, No. 2, Elko, Nevada; and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

The hearing was held on September 19, 2005 video conferenced between the Nevada Legislative Building, 401 S. Carson Street, Room 3138, Carson City, Nevada and the Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 4401, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed regulation and testified at the hearing. A copy of the transcript of the hearing, for which a reasonable fee may be charged, may be obtained by calling the Nevada Department of Taxation at (775) 684-2096 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada, 89706.

The proposed regulation was submitted to the Legislative Counsel Bureau, which completed its review and minor revisions on August 18, 2005. Thus, the proposed regulation, for practical

purposes, was discussed at one workshop and has been heard and considered at one public hearing of the Nevada Tax Commission.

**2. The number of persons who:**

**(a) Attended the hearing:** 39

**(b) Testified at the hearing:** 1

**(c) Submitted to the Tax Commission written comments:** No written comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission.

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

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, by direct mail to all county assessors, and by direct mail to the approximately 240 interested businesses and persons on the Department of Taxation's mailing list.

**4. 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 proposed regulation was not changed since no concerns were raised by the public, affected or interested businesses or persons, the Department of Taxation or Tax Commission members, and the Tax Commission believed no changes were necessary.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.**

**(a) Adverse and beneficial effects.**

The proposed regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. There may be some beneficial economic effects to certain taxpayers which are the subject of the adopted regulation. Those anticipated benefits are not quantifiable at this time.

**(b) Immediate and long-term effects.**

Same as #5(a) above.

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

The proposed regulation presents no significant foreseeable or anticipated cost for enforcement. There may be some minor administrative costs for the Department, which are not quantifiable at this time.

**7. 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 proposed regulation is particular to the Department of Taxation practices and procedures and does not appear to overlap or duplicate regulations of other state or local governmental agencies.

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

There are no known federal regulations pertaining to penalty and/or interest waivers on certain state taxes, which is the subject of the proposed regulation.

**9. 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 proposed regulation does not provide a new fee or increase an existing fee.