

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

LCB File No. R081-26

1. Background

LCB File No. R081-26, establishes requirements related to taxation; revises procedures governing proceedings before the Nevada Tax Commission; requires the electronic filing of certain returns or other documents unless otherwise waived; revises provisions governing communications with the Executive Director of the Department of Taxation; expands the methods by which certain payments are required to be made to the Department; revises provisions governing the issuance of subpoenas by a hearing officer; revises requirements for the issuance and delivery of an advisory opinion by the Executive Director; revises provisions governing the issuance of permits to collect sales and use taxes; imposes certain duties on persons who are required to file certain returns, statements, reports or other documents for certain taxes, fees, assessments, contributions or premiums; revises standards to determine whether the Department is required to pay interest to a taxpayer who overpays certain taxes; revises the procedures by which a taxpayer may dispute the findings of an audit and petition the Department for a redetermination; revises, updates and repeals various provisions which are obsolete, redundant or relate to tax abatements which are no longer available; and provides other matters properly relating thereto.

Existing law authorizes the Nevada Tax Commission to adopt regulations for carrying on the business of the Nevada Tax Commission and the Department of Taxation. (NRS 360.090)

Section 2 of this regulation establishes the method the Commission and the Department will use to calculate any period prescribed or allowed for an action or filing in an administrative proceeding of the Commission or Department for the purpose of determining whether the action or filing occurs by the prescribed deadline.

Existing regulations authorize the hearing officer in certain administrative proceedings conducted by the Department to request a prehearing statement to explain the issues for consideration by the hearing officer and set forth the requirements for such a prehearing statement. (NAC 360.706) **Section 3** of this regulation applies the procedures for prehearing statements to all administrative proceedings of the Department and Commission.

Section 5 of this regulation makes **sections 2 and 3** apply to administrative proceedings of the Commission or Department in the same manner as other regulations governing such proceedings.

Existing regulations establish certain requirements for communications with the Executive Director of the Department. (NAC 360.045) **Section 6** of this regulation eliminates provisions governing informal communications and other communications. **Section 6** also: (1) authorizes all pleadings to be sent by United States mail or by electronic means; and (2) provides that such pleadings are deemed to be filed with the Department

when a true copy of the paper or document, properly addressed and stamped, is deposited in the United States mail or sent by electronic means. **Section 23** of this regulation eliminates a requirement to include in certain appeals filed with the Department information that **section 6** no longer requires to be included in communications to the Commission.

Section 8 of this regulation eliminates existing requirements for: (1) a hearing calendar to be maintained by the Executive Director; (2) current assignments for hearings to be made from the calendar; and (3) a current copy of the hearing calendar to be posted at all offices of the Department. (NAC 360.055) Instead, **section 8**: (1) provides that notices of the meetings of the Commission will be given to the public by posting a notice and an agenda in accordance with the Open Meeting Law (chapter 241 of NRS); and (2) specifies the locations at which meeting notices and agendas will be posted in accordance with the Open Meeting Law, including, without limitation, on the Internet website of the Department and at the Carson City, Reno and Las Vegas offices of the Department at least 3 business days before the meeting.

Existing regulations set forth certain requirements relating to transcripts of any hearings held before the Commission or a hearing officer. (NAC 360.058) **Section 9** of this regulation requires a court reporter who transcribes a hearing held before the Commission or a hearing officer to be certified pursuant to provisions of existing law governing certified court reporters. (chapter 656 of NRS)

Section 10 of this regulation eliminates the prohibition of smoking during all meetings of the Commission and hearings before a hearing officer, a provision made redundant by the Nevada Clean Indoor Air Act. (NRS 202.2483)

Existing regulations provide that hearings will be held at the offices of the Department in Carson City, Nevada, or at such other place in the State as may be designated in the notice of hearing. (NAC 360.095) **Section 11** of this regulation eliminates the reference to Carson City and, instead, provides that hearings will be held at the offices of the Department or at such other place in the State as may be designated in the notice of hearing.

Existing law authorizes the Department to issue subpoenas for witnesses to appear and testify on any subject material to its responsibilities or for the production of books and papers. (NRS 360.240) **Section 12** of this regulation revises provisions governing the issuance of subpoenas to specifically authorize a hearing officer to order the production of certain records if such records are located in this State.

Existing law requires certain state agencies to provide by regulation for the filing and prompt disposition of petitions for advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency. (NRS 233B.120) Existing regulations require an advisory opinion to: (1) be issued by the Executive Director within 45 days after the filing of the petition therefor unless the Executive Director in writing orders an extension of time up to a maximum of 60 days after filing; and (2) be delivered to the petitioner in person or by certified mail. (NAC 360.200) **Section 13** of this regulation: (1) extends the time for the Executive Director to issue an advisory opinion to not later than 60 days after the filing of the petition; (2) increases the period of time of an

extension of time for the issuance of an advisory opinion to not more than an additional 60 days; and (3) authorizes the delivery of an advisory opinion to the petitioner by electronic means if the petitioner has agreed in writing to accept delivery of the advisory opinion by electronic means.

Existing law requires a person conducting business in this State as a seller of tangible personal property to register with, or obtain a permit from, the Department of Taxation to collect sales and use tax in this State. (NRS 360.5971) Senate Bill No. 441 (S.B. 441) of the 2021 Session of the Nevada Legislature consolidated into one provision multiple provisions of law governing such registrations and permits. (Chapter 342, Statutes of Nevada 2021, at page 2007) **Section 14** of this regulation updates a reference to those provisions of law in an existing regulation that requires the application of an unemancipated manner for a permit from the Department to include a statement from the parent or legal guardian of the minor acknowledging the responsibility of the parent or legal guardian to report and remit sales and use taxes to the Department if the minor fails to do so.

Existing law requires the Nevada Tax Commission to adopt regulations providing for the electronic submission of returns to the Department and the payment of taxes, fees, interest and penalties to the Department through the use of credit cards, debit cards and electronic transfers of money. (NRS 360.092) Existing regulations establish the procedures and requirements for the electronic submission of a tax return to the Department and the electronic transfer of money for the payment of taxes, fees, interest and penalties to the Department. (NRS 360.550-360.598)

Section 4 of this regulation: (1) requires a taxpayer or a tax preparer or other tax professional to file tax returns and certain other documents by electronic means, to the extent that the Department has a system for filing documents that accepts electronic filing of those returns and documents; and (2) authorizes a taxpayer or a tax preparer or other tax professional to request a waiver of the requirement to electronically file such a return or other document upon establishing certain facts to the satisfaction of the Department. **Sections 17 and 18** of this regulation make the provisions of existing regulations governing the electronic submission of tax returns and the electronic transfer of money to the Department apply to the tax returns and documents required by section 4 to be filed electronically with the Department. **Section 7** of this regulation adds electronic funds transfers, credit cards and debit cards to the methods by which fees and remittances are authorized to be paid to the Department. (NAC 360.050) **Section 19** of this regulation revises provisions setting forth the requirements to complete online Nevada Business Registration to conform to the online tax system of the Department. **Sections 20 and 21** of this regulation add credit cards as a method by which an electronic transfer of money may be made to pay taxes, fees, interest and penalties to the Department. (NAC 360.594, 360.596)

Existing regulations impose certain duties on a person who is required to file a return pursuant to provisions of law governing sales and use taxes and who fails to do so within the time prescribed by specific statute, regulation or rule, or who files an incorrect, false or fraudulent return. (NAC 360.435) **Section 15** of this regulation imposes the same duties on a person who is required to file a return, statement, report or other document for

other taxes, fees, assessments, contributions and premiums required to be collected by the Department.

Existing law requires interest to be paid to a taxpayer who receives a refund of an overpayment of certain taxes unless the Department determines that the overpayment was made intentionally or by reason of carelessness. (NRS 360.2935, 360.2937, 363A.170, 363B.160, 363C.620, 368A.270, 372.665, 372A.320, 372B.200, 374.670) Existing regulations establish the standards to be used by the Department in determining whether an overpayment of such taxes was made intentionally or by reason of carelessness. (NAC 360.485) **Section 16** of this regulation revises the standards to determine whether an overpayment was made by reason of carelessness. Specifically, **section 16** removes the seeking of advice on complex tax matters from certain professionals who have knowledge of, or experience in, tax matters as a factor indicating that the taxpayer made reasonable and prudent efforts to avoid the overpayment.

Section 22 of this regulation revises the procedure by which a taxpayer may dispute the findings of an audit and petition the Department for a redetermination by: (1) providing for an appeal to the Commission if the Executive Director of the Department denies a request to extend the deadline for filing a petition for redetermination; (2) requiring the Department to issue a notice that sets forth the results of the redetermination; and (3) authorizing the taxpayer to request a hearing before a hearing officer within a certain period after receiving the notice of the results of the redetermination.

Section 24 of this regulation repeals: (1) definitions of terms that are unnecessary because the term is defined by existing law; (2) provisions related to petitions for redetermination that are reenacted in **section 22**; (3) provisions governing contracts between the Department and a private debt collector for the collection of debt owed to the Department because such debt collection is assigned to the State Controller pursuant to NRS 353C.200; (4) obsolete provisions governing tax abatements for new or expanding business; and (6) provisions governing tax abatements for certain energy-efficient structures which have expired pursuant to subsection 5 of section 15 of chapter 539, Statutes of Nevada 2007, at page 3387.

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 R081-26. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department 210 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content responses are summarized below:

- Two responses were received for LCB Draft of Proposed Regulation - File No. R081-26, summarized as follows:
 - Response One - The respondent commented their support of the adoption of R081-26 as proposed and acknowledged there is no negative impact.

- Response Two – The respondent listed 0 employees currently employed by their business on the Small Business Impact Questionnaire and provided the following summarized response which did not include adverse and beneficial effects or direct and indirect effects:
 - **1. NAC 360.485 – Overpayment of Tax** - Respondent claimed that nearly all tax overpayments stem from incorrect guidance by Department auditors, who are not CPAs or attorneys and therefore not qualified to judge financial records or taxability beyond following statutes and court rulings. Respondent opposed the removal of the expert-witness provision, stressing that taxpayers need qualified professionals to challenge flawed audits.
 - **2. NAC 360.706(2)** - Respondent stated that the proposed language appears inconsistent with current practice, where non-response to a redetermination automatically sends a case to the ALJ.
 - **3. NAC 360.706(4)** - Respondent stated that removing subsection (b) may be acceptable if the Executive Director applies fairness and common sense consistent with the Taxpayers’ Bill of Rights and recent Nevada Supreme Court decisions.
 - **4. NAC 360.706(9)** - Respondent stated that the proposed deletions could work if fairness, justice, and common sense guide the Department’s decisions.

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

Kari Skalsky
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 3850 Arrowhead Drive
 Carson City, NV 89706
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 Phone: (775) 684-2041

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

Two responses were received for LCB Draft of Proposed Regulation R081-26 for the questionnaire regarding the impact of the regulation on small businesses. One response included support of the adoption of R081-26 as proposed and acknowledged there is no negative impact. The other response is summarized above. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses.

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

Adverse and Beneficial Effects

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

Direct and Indirect Effects

The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect 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 Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R081-26. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department 210 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

Two responses were received for LCB Draft of Proposed Regulation R081-26 for the questionnaire regarding the impact of the regulation on small businesses. One response included support of the adoption of R081-26 as proposed and acknowledged there is no negative impact whereas the other response (summarized in #2 above) did not establish an adverse and beneficial effect or a direct and indirect effect. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an 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.

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
August 26, 2026