

LCB File No. T018-01

**ADOPTED TEMPORARY REGULATION OF THE
NEVADA TAX COMMISSION**

(Effective February 12, 2001)

January 29, 2001

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

AUTHORITY: NRS 360.090, NRS 360.530 AND NRS 360.535.

Adding new sections to Chapter 360 of the Nevada Administrative Code as follows:

**CLAIMS OF OWNERSHIP INTEREST IN PROPERTY
TRANSMITTED TO OR SEIZED BY DEPARTMENT**

1. A person who does not owe any tax to the department who is claiming an ownership interest in property seized by or transmitted to the department may file a written claim of ownership with the department. The written claim must be received by the department at least 3 days prior to the date set for the sale of the property. The written claim shall be executed under oath by the person claiming an ownership interest or his/her agent and shall contain all of the following:

- (a) The name of the person and an address in this state where service by mail may be made on the person.*
- (b) A description of the property in which an interest is claimed.*
- (c) A description of the interest claimed, including a statement of the facts upon which the claim is based.*
- (d) An estimate of the market value of the interest claimed.*
- (e) A copy of any writing upon which the claim is based shall be attached to the claim.*

2. Whenever a written claim of ownership is filed with the department, a hearing officer shall conduct an administrative hearing, in order to determine title/ownership to the property in question, within 15 days of receipt of the written claim, unless continued by the hearing officer for good cause. Notice of the place, date and hour of such hearing must be given to all persons claiming an interest in the property, including the taxpayer from whom the property was seized, at least 10 days prior to the hearing date. The notice must specify that the hearing is for the purpose of determining title to the property in question.

3. Except as may otherwise be set forth herein, hearings shall be conducted in accordance with the applicable rules provided in NAC 360.056, 360.095, 360.100, 360.120, 360.125, 360.135, 360.145, 360.150, and 360.155.

(a) The person filing a written claim under oath claiming an interest in the property has the burden of proof at the administrative hearing regarding his ownership of the property in question. The hearing officer shall determine how evidence will be received at the administrative hearing.

(b) After the administrative hearing, the hearing officer shall prepare findings of fact, conclusions of law and his final decision on the issues presented in the hearing. The hearing officer shall serve a copy of his findings of fact, conclusions of law and decision upon all the parties of record and members of the commission within 20 days after the date of the hearing.

4. A party may, within 30 days after service of the copy of the findings of fact, conclusions of law and decision of the hearing officer, file a notice of appeal with the commission. Except as may otherwise be set forth herein, appeals of the hearing officer's decision shall be conducted in accordance with the applicable rules provided in NAC 360.175, 360.176, and 360.185.

5. No sale of the property may be conducted until a final decision has been issued.

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

AUTHORITY: NRS 360.2915(2)

Adding new sections to Chapter 360 of the Nevada Administrative Code as follows:

1. Pursuant to NRS 360.2915(2), the department may enter into a written agreement with a taxpayer, which allows the taxpayer to pay taxes, interest, and penalties due in installments if, as of the date the taxpayer offers to enter into the agreement, the following apply:

(a) The department determines that the taxpayer is financially unable to pay the liability in full when due and the taxpayer submits any information that the department may require to make this determination; and

(b) The taxpayer agrees to comply with the provisions of the Nevada tax law and the related administrative provisions for the period the agreement is in effect.

2. All installment payment agreements shall be in writing, and shall require the signature of a personal guaranty by an individual.

3. *The department, subject to the approval of the director or his designee, may enter into a written agreement to accept payment of a taxpayer's tax liability in installments over a period not to exceed 12 months if the aggregate amount of liability, determined without regard to interest, penalties, additions to tax, and additional amounts does not exceed a set amount, to be determined by the commission on an annual basis.*

4. *The director may, upon good cause shown, allow a taxpayer to pay the tax liability in installments over a period longer than 12 months, if the aggregate amount of liability, determined without regard to interest, penalties, additions to tax and additional amounts, does not exceed the amount set annually by the commission. Such agreements must be secured by acceptable security as set forth in this section, in addition to the personal guaranty. For purposes of this subsection, the director will interpret the term "good cause" to mean compelling reasons, or circumstances which would prevent a taxpayer, under the circumstances presented, from paying the tax liability in a period less than 12 months.*

5. *All written agreements where the liability exceeds the amount set annually by the commission must have approval by the commission. Additionally, any written agreement that allows a taxpayer to pay the tax liability in installments over a period longer than 12 months that are not secured must have approval by the commission.*

6. *The provisions of this regulation are not applicable to confirmed bankruptcy payment agreements.*

7. *The commission retains authority to review decisions to approve or deny all installment payment agreements, and any decision by the department to deny an installment payment agreement may be appealed to the commission pursuant to NRS 360.245.*

8. *All securities used to secure installment payment agreement must be verified as valid before an agreement can be finalized. The department may accept as security the following:*

(a) Cash;

(b) Time certificates or certificates of deposit that are issued or confirmed by a bank, savings bank or savings and loan association situated in this state;

(c) Passbook savings accounts located in a bank, savings bank or savings and loan association situated in this state;

(d) Surety bonds executed by an insurance company, pursuant to NRS 100.065;

(e) Bearer bonds of the United States, except savings bonds;

(f) Liens upon real property created by a recorded instrument vesting the lien in the State of Nevada;

(g) Irrevocable letters of credit which are issued or confirmed by a bank, savings bank or savings and loan association situated in the State of Nevada upon the conditions prescribed by the department; or

(h) A perfected, first priority security interest that designates the State of Nevada as the secured party and is created pursuant to the provisions of NRS 104.9101 to 104.9507, inclusive, in personal property that is located in this state.

9. *If the department has entered into an installment payment agreement with a taxpayer, the department generally may not terminate the agreement upon the taxpayer's noncompliance with the terms of the agreement unless both of the following occur: (a) the department provides the taxpayer with a notice of termination no later than 10 days before the date of termination; and (b) the notice includes an explanation of the reason why the department intends to terminate the agreement.*

10. Prior notice of termination of an installment payment agreement is not required if either of the following occurs:

(a) The department determines that collection of the tax to which an agreement relates is in jeopardy, as provided for in NRS 360.412; or

(b) There is a mutual consent to terminate, alter, or modify the agreement between the department and the taxpayer.

11. If the installment payment agreement is terminated, the total amount of tax, interest, and penalties covered by the agreement are immediately due and payable on the effective termination date.

12. If the installment payment agreement is terminated because of a determination by the department that the collection of the tax to which an agreement relates is in jeopardy, the department shall serve notice of the jeopardy determination and termination of the installment payment agreement to the taxpayer. The total amount of tax, interest, and penalties covered by the agreement must be paid within 10 days after the service of the notice of determination and termination unless an appeal is filed within that period. If no appeal is filed within that 10 days, the determination and termination become final, and the department make take all necessary action authorized by law to collect the obligation. If an appeal is filed, the taxpayer must provide such security as the department deems necessary, pursuant to NRS 360.416.

13. The decision of the department to terminate the installment payment agreement is final unless the taxpayer files a notice of appeal. The appeal must be received within 10 days of a termination due to a jeopardy determination. Otherwise, the appeal must be received by the department within 30 days of the effective date of the termination.

14. A hearing officer shall hear the appeal, in accordance with the same procedures for hearings on petitions for redetermination.

15. Nothing in this section should be construed to limit or abrogate the right to make installment payments pursuant to NRS 361.483. This section does not apply to the acceptance by county treasurers of partial payments of property taxes due and payable for any quarterly, annual or other installment due pursuant to NRS 361.483.