

LCB File No. R181-01

PROPOSED REGULATION OF THE NEVADA TAX COMMISSION

NEVADA ADMINISTRATIVE CODE

CHAPTER 375 - TAX ON TRANSFERS OF REAL PROPERTY

[H] Indicates omitted text – *bold italic* indicates new text

375.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 375.0~~[20]~~***11*** to 375.~~[140]~~***032***, inclusive, have the meanings ascribed to them in those sections.

375.0~~[20]~~***11*** “Assigned,” “granted,” “transferred,” “otherwise conveyed” defined. Assigned,” “granted,” “transferred” and “otherwise conveyed” are synonymous words all meaning the transfer of title to realty from one person to another.

375.0~~[30]~~***12*** “Consideration” defined. “Consideration” means that which is regarded as the equivalent or return given or suffered by one for the act or promise of another. It means the price paid for the real property transferred. The consideration can be in the form of money, or in the form of other things of value, or a combination of both.

375.0~~[40]~~***13*** “Deed of trust,” “trust deed” defined. “Deed of trust” or “trust deed” means an instrument taking the place and serving the uses of a common law mortgage, by which legal title to real property is placed in one or more trustees, to secure the repayment of a sum of money or the performance of other conditions.

375.0~~[50]~~***14*** “Deed with the right of redemption” defined. “Deed with the right of redemption” means a deed which provides for the annulling and revoking of a conditional sale of property for the failure to perform the conditions stipulated.

375.0~~[60]~~***15*** “Easement” defined. “Easement” means a permanent interest in another's land, with a right to enjoy it fully and without obstruction. The term includes the right of ingress and egress to a person's property.

375.0~~[70]~~***16*** “Land” defined. “Land” means not only the soil, but everything attached to it, whether attached by the course of nature, as trees, herbage and water or by the hand of man, as buildings and fences.

375.0~~f80~~**17** “Lease” defined. “Lease” means a conveyance of lands or tenements to a person for life, for a term of years, or at will, in consideration of rent or some other compensation. The person who so conveys such lands or tenements is termed the lessor and the person to whom they are conveyed, the lessee.

375.0~~f90~~**18** “Life estate” defined. “Life estate” means an estate whose duration is limited to the life of the party holding it or of some other person.

375.~~f00~~**019** “Quitclaim deed” defined. “Quitclaim deed” means a deed of conveyance operating by way of release; that is, intended to pass any title, interest or claim which the grantor may have in the premises, but not professing that the title is valid, nor containing any warranty or covenants for title.

375.~~f10~~**020** “Realty” defined. “Realty” means real property, anything which partakes of the nature of real property. The term includes land and tenements.

375.~~f20~~**021** “Right of redemption” defined. “Right of redemption” means the right to disencumber property or to free it from a claim or lien; specifically, the right, granted by statute only, to free property from the encumbrance of a foreclosure or other judicial sale or to recover the title passing thereby, by paying what is due, with interest and other costs.

375.~~f30~~**022** “Tenement” defined. “Tenement” means land, houses and other buildings and means rents, commons and several other rights and interests issuing out of or concerning land.

375.~~f40~~**023** “Transferred” defined. “Transferred” means:

1. The passing of a thing or of property from one person to another or to convey.
2. An act of the parties, or of the law, by which the title to property is conveyed from one living person to another.

375.024 “Affiliate” defined. “Affiliate” means:

- 1. Companies that are related. As a parent and subsidiary, characterized by identity of ownership of capital stock. Two entities that have identical common ownership.**
- 2. If any portion of the underlying ownership, at the first or primary level of ownership is different than the first or primary levels of ownership of the affiliate the exemption 1, as found in NRS 375.090, is not valid.**

375.025 “Agency” defined. “Agency” means:

- 1. A relationship between two persons, by written agreement, where one (the agent) may act on behalf of the other (the principal) and bind the principal by words and actions**
- 2. The agent has the definition ascribed to a legal representative as found in NRS 167.020.**

375.026 “Joint Tenancy” defined. “Joint Tenancy” means:

- 1. Joint tenants have one and the same interest, accruing by one and the same conveyance, commencing at one and the same time, and held by one and the same undivided possession. The primary incident of joint tenancy is survivorship, by which the entire tenancy on the decease of any joint tenant remains to the survivors, and at length to the last survivor.**

375.027 “Tenant in common” defined. “Tenant in common” means:

1. Tenants who hold the same land together by several and distinct titles, but by unity of possession, because none knows his severalty, and therefore they all occupy promiscuously.

375.028 “Fraction” defined. “Fraction” means:

1. Less than the whole. When someone takes a fractional interest they are declaring that their interest is not as a part of the unified ownership.

2. As opposed to “Joint Tenancy” or “Tenants in common” a person who holds a fractional interest in real property has no rights in the other owner’s fractional interest. The exemption found in NRS 375.090 section 4 to remove a joint tenant or tenant in common (without consideration) does not apply to transfers between fractional owners.

375.029 “Governmental Agency” defined. “Governmental Agency” means:

1. A department, division, or administration within the government. Agencies created by statute or code and not supported or funded by taxpayer or general revenues generally do not qualify.

2. Should the statute or code clearly state that the entity not be charged transfer taxes then we would use NRS 375.090 section 3 exemption in a transfer to that entity.

375.030 “Reorganization” defined. “Reorganization” means:

1. In a bankruptcy the transfer of title in real property pursuant to the written plan approved by the bankruptcy court. All monies received are placed under the control of the trustee and distributed to the creditors. If the bankruptcy is lifted for a sale to take place then the amount of the sale is taxable. The sale may be in the form of a trustee’s sale in foreclosure or any other transfer outside the bankruptcy.

2. Tax-free reorganization is possible wherein an entity exchanges property pursuant to a plan of reorganization, solely for stock or other equity interest in a second entity, without recognition of gain or loss. See 375.024 for “Affiliate” definition and possible exemption.

375.031 “Trustor” defined. “Trustor” means:

Either singular or plural the creator(s) of a trust and in a transfer to a trust would be the grantor(s).

375.032 “Declaration of Value” defined. “Declaration of Value” means:

That form which, pursuant to NRS 375.060, accompanies any document which transfers a present interest in real property at the time of recording. The Nevada tax commission prescribes the form. The form shows pertinent information about the transfer and must be signed by at least one of the parties involved as grantor, grantee, or their representative. The signature must be an original signature. The form must contain information concerning possible penalties and interest pursuant to NRS 375.030 and must at least be presented to the parties on the deed. The form must be complete with the following exceptions:

1. If exempt, no values need be declared.

2. Only one parcel number need be listed if multiple parcels, however “see attached” must be written next to the listed number and an attachment containing all the affected parcel numbers must accompany the declaration.

3. The Recorder may refuse to record a document that has an incomplete Declaration of Value as prescribed by NRS 375.060.

375.033 “Audit” defined. “Audit” means:

The formal examination of an individual(s) or organization(s) real property transfer records. For compliance with NRS 375.____ such records may be subpoenaed.

375.150 Examples of methods of determining value or tax base. The following examples are given to illustrate methods of determining value or the tax base on which to compute the tax:

1. A, owner of a residence sold the property for \$250,000. The tax is based on \$250,000, the gross consideration.

2. A, the owner of certain real estate, sold it to B for \$144,000. B paid the amount of \$25,000 in cash, leaving a balance of \$119,000, and gave B a deed to the property. The tax is computed on \$144,000, the amount paid or to be paid.

3. The holder of a trust deed in the amount of \$120,000 foreclosed upon the property securing the trust deed. At the foreclosure sale, because of additional expenses incurred, the trustee bid \$122,500, and a trustee's deed was issued to the beneficiary. The beneficiary then accepted a mortgage in the amount of \$125,000 as consideration for the retransfer of the property to the former owner. The tax on the trustee's deed should be computed on the amount bid for the property plus any costs (in this case \$122,500). The deed from the beneficiary to the former owner of the property is a conveyance of realty sold and the tax should be computed upon the amount paid, namely \$125,000.

4. For a full purchase price of \$500,000, A conveys to B land on which there is an encumbrance of \$410,000 at the time of sale. A signs a contract agreeing to pay off the encumbrance at a later date. The deed of conveyance from A to B is subject to transfer tax on the full purchase price of \$500,000. The fact that the seller retained a contractual obligation on the property does not diminish the amount that B will pay, \$500,000.

5. A, the owner of certain real estate, sold it to B for a consideration of \$240,000. B paid the amount of \$125,000 in cash, leaving a balance due of \$115,000. A accepted bonds of the Home Owners' Loan Corporation for the balance of \$115,000 and gave B a deed to the property. The transfer tax is based on the total purchase of \$240,000, the \$125,000 in cash and the \$115,000 value of the bonds.

6. Two corporations that have some of the same owners swap property worth \$450,000 each. Each transfer is taxable on the \$450,000 value. They are each receiving something of value in exchange for the property they are transferring.

7. two wholly owned subsidiaries of a large corporation wish to transfer a parcel worth \$1,000,000 between them. Since they have identical common ownership it is possible to qualify for exemption 1 if it meets the plan of reorganization test.

8. In order to qualify for a refinance a married couple adds the parents of the husband to title, with all as joint tenants. The value of the property is \$145,000. Since joint tenants each have a right to the whole and the fact that the daughter-in-law is not exempt in the transfer to her husband's parents the transfer would be 100% taxable.

9. A couple buys a home from the Veteran's Administration for \$97,142.36. The sale is taxable after October 1, 2001. The tax would be calculated on the purchase amount.

10. A trust distributes land after the Trustor dies. The distribution is done in 25% fractional interests. 75% of the interests are to the Trustor's children and not their spouses. The last 25% is to a child and that child's spouse. After October 1, 2001 the transfer(s) would be 25% taxable as the in-law from the last transfer is not exempt.

11. A University Foundation receives property valued at \$1,000,000. The transfer qualifies for exemption 15. They sell the property in a quick sale for \$750,000. The sale is taxable on the \$750,000. Despite the fact that the sale is a bargain sale it is still an arm's length transaction.

12. A Corporation owns property valued at \$180,000. To refinance the property they transfer to one of the shareholders as a lender requirement. The transfer is taxable and the amount would be based on the \$180,000 value.

13. A Corporation owns property valued at \$180,000, with no encumbrances. As part of the liquidation it is distributed to the shareholders equally in percentages equal to their ownership in the company. To receive their title the owners must redeem their stock. This would qualify as a nontaxable transfer. If any step is missing, the transfer would be taxable.

14. A owns property worth \$50,000. B owns property worth \$75,000. A & B form a limited liability company and are the only two members. They transfer their property into the LLC. The transfer does not qualify for an exemption as each deed and property must be weighed by its own merits. The transfer by A would be valued at \$50,000 and the transfer by B would be valued at \$75,000.

15. A and B are both on title as joint tenants to two identical pieces of property worth \$50,000 each. A wishes to own one parcel entirely in his name and B wishes to own the other entirely in his name. The transfer is not without consideration as they are giving up the rights in the other parcel for ownership in the remaining parcel. Each transfer is based on the \$50,000 value. If they were on title in fractional 50% interests then each transfer would have a \$25,000 value (50% of the \$50,000).

16. A customer wishes to record a purchase agreement. The agreement spells out the purchase price and property description. It also names the buyer and seller. There is also a contingency clause that the transaction will not be completed until the seller is able to obtain a zoning change. This is not a taxable document as the buyer does not receive a present interest.

17. A customer wishes to record a contract for deed. The agreement spells out the purchase price legal description and the buyer and seller. The terms reveal that the buyer receives custody of the property and a deed will be delivered to the buyer when he fulfills his contractual obligations. This is a taxable transaction. If a memorandum of this contract is recorded, it is also taxable.

18. A and B are both on title as joint tenants to a 10 acre parcel worth \$150,000. They desire to partition the property with each receiving a 5-acre parcel entirely in their own name. Using the value per acre of \$15,000 each 5-acre parcel is taxable at \$75,000. If they had owned the 10 acre parcel in fractional 50% interests the partition would not be taxable as they each had a \$75,000 interest in the whole and did not give up any of that value. Should there have been fractional ownership and one takes a share greater than that fraction then whoever takes a greater share would be taxed on the value of the extra taken.

19. A partnership owns real property worth \$100,000. There is a mortgage on the property and they desire to refinance. A lender requires that the property be titled in one of the partner's name. This is taxable based on the \$100,000 value. After the refinance is complete it is again taxable on the transfer back to the partnership since the grantor is not the 100% owner of the partnership. The value would be the \$100,000.

20. Owner A and Owner B have adjoining lots. Owner A agrees to buy part of B's lot for \$1,500,000 but to expedite the mapping requirements B transfers 100% of his property retaining a contractual obligation from A that after all mapping and lot line adjustments are done they will transfer back to B the property outside the purchased area. As this would be a transfer without stated consideration the transfer of that excess area would be taxable based on the estimated fair market value. The transfer to expedite mapping relies on the integrity of the transfer that the property is solely A's.

21. A owns real property and he wants to transfer that property to his trust without consideration, A is the trustor of the trust. The transfer is exempt under NRS 375.090, section 8 a. The explanation of the exemption on section 4 b of the declaration of value states, "A is the trustor of the trust and the transfer is without consideration".

22. It is assumed that the facts are the same as in example 21, except that the grantor, B, on the deed is the legal representative of the trustor, A, of the trust. The transfer is exempt under NRS 375.090, section 8 b. Section 4 a on the declaration of value shows an exemption 8 b. Section 4 b on the declaration states, "B is the legal representative for A who is the trustor of the trust and the transfer is without consideration."

23. Real property is owned by A as trustee of the A Family Trust, A is also trustor of that trust. A desires to transfer the real property to his son, C. If without consideration the transfer would comply with NRS 375.090 section 8 c. Section 4 b on the declaration of value would state "C is the son of A who is the trustor of the trust.

375.160 Examples of taxable transactions. The following are examples of transfers or conveyances subject to the tax:

1. A conveyance of realty in exchange for other property and the conveyance of the other property, if it is realty.
2. A conveyance of realty in consideration of life maintenance. The tax is computed on the value of the realty conveyed.
3. Deeds given by persons such as masters in chancery, sheriffs and clerks of court for realty sold under foreclosure or execution. The tax is computed on the amount bid for the property plus the costs if paid by the purchaser, whether the purchaser is the mortgagee, judgment creditor or any other person.
4. A conveyance of realty by a judgment or decree in a condemnation proceeding under the power of eminent domain or a conveyance of property under threat of imminence of the proceeding.
5. conveyances to or by building and loan associations except that the tax does not apply to a conveyance of realty to a building and loan association for the purpose of securing a loan thereon, nor to the reconveyance of the realty to its owner as part of the loan transaction.
6. A conveyance of realty to a corporation in exchange for shares of its capital stock.

7. A conveyance of realty by a corporation in liquidation or in dissolution to its shareholders subject to the debts of the corporation except that if there are no corporate debts and the conveyance is made solely for the cancellation and retirement of the capital stock, the tax does not apply.

8. Deeds to standing timber, *patented* mines, *and water rights*.

375.170 Examples of transactions to which the tax does not apply. In addition to the exemptions provided by NRS 375.090, the following are examples of transfers or conveyances which are not subject to the tax:

1. The reconveyance of realty, conveyed to secure a debt, upon payment of the debt.

2. A deed to or by a trustee, not pursuant to a sale. *This must be done for the benefit of creditors. A transfer by the trustee to anyone other than the debtor would be subject to the tax.*

3. A deed to confirm title already vested in the grantee, such as a quitclaim deed to correct a flaw in title.

4. A deed given by an executor in accordance with the terms of the will except that, if, by reason of a consideration passing between the devisees, one of them takes a greater share in the realty than that to which he is entitled under the will, the deed given by the executor to convey the greater share is subject to a tax computed upon the amount of the consideration.

5. A deed from an agent to his principal conveying real estate purchased for and with funds of the principal. *A valid agency agreement must exist. Claims by grantors who obtained a purchase loan in their name that they were merely agents are not valid for the exemption. All funds must come from the principal with no funds being supplied by the agent.*

6. An option for the purchase of real property or a contract for the sale of real property, if the contract does not vest legal title. *Legal title shall be the passing of a present interest as defined in NRS 375.010 section 2. This exemption is for options and contingent agreements that the buyer receives no interest whatsoever until a future event occurs.*

7. Partition deeds, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying a greater share computed upon the consideration for the excess. *To qualify for this exemption title must be held in the fractional interests they are receiving from the property as a whole. If held as joint tenants or tenants in common then the tax would be 100% applicable based on the value of the property.*

8. Ordinary leases of real property for any term of years. *Should the lease be for life, at will, or in perpetuity the transfer would be taxable.*

~~[9. A deed executed by a debtor conveying property to a trustee for the benefit of his creditors except that when the trustee conveys the property to a creditor or sells it to any other person, the conveyance executed by him is taxable.]~~

~~[10]~~ 9. Conveyance to a receiver of realty included in the receivership assets, and reconveyance of the realty upon the termination of the receivership.

~~[11]~~ 10. A deed conveying real estate situated in a foreign country.

~~[12]~~ 11. Transfer of real estate in a statutory merger consolidation from a constituent corporation to the continuing or new corporation.

375.180 Declarations of value; claims for refund.

1. If a deed evidencing a transfer of title of real property is offered for recording to a county recorder by any person, the county recorder shall require a declaration of value to be made on a form prescribed by the Nevada tax commission, and signed under penalty of perjury. *See 375.032 for complete definition.*

2. If the value of the property is stated incorrectly on the declaration of value or the amount of tax is computed incorrectly, the person who pays an amount of tax which exceeds the amount due may make a claim for a refund of the amount of tax which he overpaid by completing a ~~Form 2~~ *a refund request form*, which may be obtained from the office of the ~~Nevada tax commission~~ *county recorder*. The form must be signed under penalty of perjury by the person entitled to the refund or his *legal* representative and submitted to the county recorder of the county in which the tax is paid.

375.190 Audit of records, files; liability for payment of additional tax.

1. The records and files of escrow holders and other persons recording deeds must be made available to representatives of the county recorder. ~~If a deed has gone through escrow or if an escrow holder has recorded the deed, the escrow holder is liable for payment of any additional tax required. In every other case, the person whose signature appears on the declaration of value on Form 1* or the grantee is liable for payment of any additional tax required.~~ *Should additional tax be determined to be due it is the responsibility of the grantor and grantee jointly and severally.*

375.200 Property which is located in more than one county.

1. If the property transferred is located in more than one county and the value has not been determined by the buyer and the seller as to each county, the value must be established by applying the ratio of the assessed valuation in each county to the total assessed valuation of all the property.

2. A person seeking a refund of the real property transfer tax for property located in more than one county must submit a request for refund ~~on Form 2*~~ *on the prescribed form* to the county recorder in each county in which the property is located. Refunds must be made pursuant to the same distribution formula under which the tax was initially paid.

Appeals and Hearing Officer duties

NAC 375.210 Admission of evidence; depositions; affidavits.

1. The hearing will not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted, except where precluded by law, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs, even though the evidence might be subject to objection in civil actions.

2. Hearsay evidence, as that term is used in civil actions, may be admitted for the purpose of supplementing or explaining other evidence, but it is not sufficient to support findings of fact unless it would be admissible over objection in civil actions.

3. The rules of privilege will be applied as they are applied in civil actions.

4. Irrelevant, cumulative and unduly repetitious evidence is not admissible, nor is incompetent evidence, as that term is used in civil trials, with the exception of hearsay evidence as above provided.

5. The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, even though the evidence would otherwise be subject to objection.

6. The hearing officer or any party to any proceeding may cause the depositions of witnesses to be taken in the manner prescribed by law and the rules of the court for depositions in civil actions.

7. The affidavit of any person may be admitted in evidence if all the parties stipulate and consent to its admission.

NAC 375.211 Official notice. The hearing officer may take official notice of the following matters:

1. Any petition for a hearing on any matter pertaining to an appeal of an assessment of real property transfer tax.

2. Matters of common knowledge and technical or scientific facts of established character.

3. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference if proper and definite reference to the document is made by the party offering it and it is published and generally circulated so that all of the parties of interest at the hearing have an opportunity to examine it and present rebuttal evidence.

4. Matters which may be judicially noticed by the courts of the state.

NAC 375.212 Briefs.

1. In any hearing, the hearing officer may order briefs filed within such time as he allows.

2. Briefs must be filed with the hearing officer and be accompanied by an acknowledgment of or an affidavit showing service on all other parties of record.

NAC 375.213 Duties of hearing officer after hearing.

1. After the hearing of a contested case, the hearing officer shall prepare findings of fact, conclusions of law and his final decision on the issues presented in the hearing.

2. The hearing officer shall serve a copy of his findings of fact, conclusions of law and decision upon all the parties of record within 60 days after the date of the hearing.

Appeals

NAC 375.214 Appeal of decision of hearing officer may only be appealed to the district court of that county.

1. The staff, petitioner or a designated representative 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 district court of that county.

2. Within 30 days after filing a notice of appeal, the appellant shall file with the recorder a:

(a) Brief setting forth the points relied upon in his appeal and authorities in support thereof; and

(b) Designation of the parts of the record before the hearing officer that he deems relevant to his appeal.

3. An appeal from the decision of the hearing officer to the district court must be based upon one or more of the grounds set forth in subsection 3 of NRS 233B.135.

4. The filing of a notice of appeal does not excuse compliance with the decision of the hearing officer nor suspend the effectiveness of a decision unless otherwise ordered by the hearing officer.

NAC 375.215 Refund following unsuccessful appeal by recorder. If a person prevails after any final appeal by the department to the court, the recorder will issue a refund.

Waivers or reductions in tax, penalty or interest

NAC 375.220 Waiver or reduction of penalty or interest for delinquent payment.

1. The recorder may waive or reduce the penalty or interest for a delinquent payment of tax that was imposed pursuant to NRS 375.--- if it finds that the proximate cause of the delinquent payment was:

(a) Circumstances completely beyond the control of the taxpayer that was required to make the payment,

(b) Justifiable negligence or inadvertence, and that the taxpayer making the payment has no history of habitually delinquent payments; or

(c) For good cause shown.

2. Any application for waiver or reduction of the penalty or interest for a delinquent payment must be filed in writing with the recorder within 60 days after the date the tax is paid setting forth the circumstances which caused the delinquent payment.

3. In determining whether or not the circumstances which caused the delinquent payment in any particular case were completely beyond the control of the taxpayer required to make the payment, the recorder will consider only evidence which shows that the delinquent payment was proximately caused by fire, earthquake, flood or other acts of God, theft, or similar causes not directly related to the actions of the taxpayer that was required to make the payment, whether intentional or negligent.

4. If the recorder finds that a delinquent payment was caused by circumstances completely beyond the control of the taxpayer required to make the payment, or their legal representative, and that the tax was paid as soon as reasonably possible thereafter, the penalty imposed for the delinquent payment will be reduced to a total of not more than 1 percent of the tax or the amount of the tax and the interest will be reduced at a rate equal to the reduction in penalty.

5. If the recorder finds that the cause of the delinquent payment was justifiable negligence or inadvertence, that the taxpayer making the delinquent payment has not submitted more than one other delinquent payment in the preceding 12 months and that the payment was made as soon as reasonably possible thereafter:

(a) The penalty for the delinquent payment will be:

(1) Not more than 2 percent of the tax or the amount of the tax if the payment is not more than 2 days late.

(2) Not more than 4 percent of the tax or the amount of the tax if the payment is not more than 5 days late.

(3) Not more than 6 percent of the tax or the amount of the tax if the payment is not more than 10 days late.

(4) Not more than 8 percent of the tax or the amount of the tax if the payment is not more than 15 days late.

(5) Not more than 10 percent of the tax or the amount of the tax if the payment is more than 15 days late.

(b) The interest on the delinquent payment will be reduced by an amount equal to the rate of reduction of the penalty applied by the department pursuant to paragraph (a).

If the total penalty and interest after any reduction equals \$5 or less, the penalty and interest will be waived.

6. In determining whether the proximate cause of the delinquent payment was for good cause shown, the recorder will require the taxpayer to submit, without limitation, evidence that:

(a) The assessment of penalties and interest constitutes an extreme financial hardship;

(b) The assessment of interest and penalties is equal to or greater than two-thirds of the amount of the tax which is due; or

(c) The assessment of penalties and interest is extremely unfair or inequitable under the circumstances.

7. The recorder will not consider an application to waive or reduce penalties or interest, or both, imposed on a taxpayer if the assessment of tax is accompanied by the assessment of a penalty based upon negligence, fraud or intent to evade the tax which has become final.

8. For the purposes of this section, "extreme financial hardship" means that the person who owes the tax has the present ability to pay the tax, but payment of the penalties and interest will render the person insolvent and unable to continue in business.

Claims for refund

NAC 375.240 Procedure; submission of documents in support of claim; claim in contested case.

1. NAC 375.180 to 375.200, inclusive, does not afford a person claiming a refund a right to a hearing.

2. A claim for a refund must be accompanied by:

(a) A statement setting forth the amount of the claim;

(b) A statement setting forth all grounds upon which the claim is based;

(c) All evidence the claimant relied upon in determining the claim, including affidavits of any witnesses; and

(d) Any other information and documentation requested by the recorder.

3. If a person files a claim for a refund in a contested case, all contested issues involved in the case shall be deemed to have been raised in the claim.