

LCB File No. E001-04

**EMERGENCY REGULATION OF THE
NEVADA TAX COMMISSION**

(Effective for 120 days after February 10, 2004)

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

AUTHORITY: NRS 360.090, 360.291, 233B.033, 233B.0613 and Assembly Bill No. 4 and Senate Bill 8 of the 20th Special Session.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto a new section to consist of section 2 of this Emergency Regulation.

Sec. 2. *For purposes of NRS 360.419:*

1. A person's failure to timely report or pay a tax imposed pursuant to NRS 363A.130, NRS 363B.110 or NRS 368A.200 shall be deemed to result from circumstances beyond his control, and occurring despite the exercise of ordinary care and without intent, if the person remits the tax, and any required return, on or before June 1, 2004.

2. A person's failure to timely report or pay a tax imposed pursuant to NRS 372.185 shall be deemed to result from circumstances beyond his control, and occurring despite the exercise of ordinary care and without intent, if:

(a) Pursuant to NRS 372.220(2), the person was required for the first time to register with the Department of Taxation for the payment of the tax; and

(b) The person remits the tax, and any required return, on or before June 1, 2004.

NEVADA TAX COMMISSION'S STATEMENT OF EMERGENCY

WHEREAS, the Nevada Tax Commission (the "Commission") has convened this public meeting for the purpose of considering the adoption of the foregoing Emergency Regulation, which interprets NRS 360.419 in such a manner as to confer upon the Executive Director of the Nevada Department of Taxation (the "Department") the authority to waive the imposition of penalties and interest in cases where a taxpayer is subject to newly enacted taxes or registration requirements, all as identified in the foregoing Emergency Regulation.

WHEREAS, the Commission finds that an emergency exists insofar as:

1. Numerous taxpayers have communicated to the Department's staff that they are confused about their obligations under the taxes and registration requirements newly enacted by Senate Bill No. 8 and Assembly Bill No. 4 of the 20th Special Session;
2. The Taxpayer's Bill of Rights, codified at NRS 360.291, entitles taxpayers to obtain "specific advice from the department concerning taxes imposed by the state;"
3. The Department's staff has been unable thus far to provide adequate guidance and advice to all taxpayers who have expressed confusion about the new taxes and registration requirements;
4. The Executive Director does not currently possess any written authority to grant waivers of penalty and interest according to the criteria set forth in the foregoing Emergency Regulation;
5. The process for adopting a permanent regulation, as outlined in chapter 233B of the NRS, cannot be completed prior to the due dates for the payment of the taxes referenced in the foregoing Emergency Regulation; and,
6. In order to effectuate the purpose and intent of the Taxpayer's Bill of Rights, the Executive Director must have the authority to provide immediate relief from the imposition of penalties and interest to those taxpayers who meet the criteria set forth in the foregoing Emergency Regulation.

NOW THEREFORE, the Commission hereby adopts the foregoing Emergency Regulation.

February 2, 2004.

FOR THE COMMISSION:

CHARLES E. CHINNOCK
Executive Director
Nevada Department of Taxation

GOVERNOR'S ENDORSEMENT

I, Governor Kenny C. Guinn, endorse the Nevada Tax Commission's foregoing Statement of Emergency.

February _____, 2004.

KENNY C. GUINN
Governor

INFORMATIONAL STATEMENT
EMERGENCY REGULATION
OF THE NEVADA TAX COMMISSION

The following statement is submitted for adopted amendments to Title 32 to the Nevada Administrative Code.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Department of Taxation solicited public comment at the Nevada Tax Commission meeting conducted on January 2, 2004. The meeting was held simultaneously, by way of videoconference, at the Nevada Legislative Building and the Grant Sawyer State Office Building. Members of the public responded as follows: They provided oral presentations at the above scheduled hearing. A summary of the public response may be obtained by calling the Department of Taxation at (775) 687-4896 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada 89706.

2. The number of persons who:

(a) Attended each hearing: 2/2/04 - 55

(b) Testified at each hearing: 2/2/04 - 2

(c) Submitted to the agency written comments: No written comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission by various associations and/or groups, the general public, affected businesses and others.

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.

Notice of hearing for the adoption and amendment of the proposed emergency 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, 3550 Paseo Verde, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed emergency 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 emergency regulation were also made available on the Department's web-site 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, 3550 Paseo Verde, 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.

Comments were solicited from affected and interested businesses and persons by the notices set forth above, by direct mail to all county assessors, and by direct mail to the approximately 250 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 emergency regulation was adopted without change since no written comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission by various associations and/or groups, the general public, affected business or others. The Nevada Tax Commission adopted the emergency regulation as proposed since those affected were satisfied with the language contained therein.

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.**

The emergency regulation merely implements the provisions of Assembly Bill 4 and Senate Bill No. 8 of the 20th Special Session. It has no economic impact independent of the economic impact created by the subject legislation. The emergency regulation provides clarification as to who can obtain the waiver of penalty and interest, when, and under what circumstances. The beneficial effect of the emergency regulation, both immediate and long-term, is that it provides taxpayer's with specific guidance concerning their obligations in filing returns and the payment of tax, if any, in accordance with the provisions of Assembly 4 and Senate Bill 8 of the 20th Special Session. The Department of Taxation foresees no adverse effects.

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

Zero. As noted above, the emergency regulation merely implements new legislation and provides guidance to affected taxpayers. It is the legislation, not the regulation, which creates a financial burden. The cost of enforcing the emergency regulation is negligible. In fact, the Department anticipates that the emergency regulation will make the enforcement of the subject legislation less costly by providing specific educational guidance.

7. A description of any regulations of the state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The emergency regulation implements brand new legislation. It does not duplicate or overlap with any other regulations.

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

Not applicable.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable.