

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R062-05

Effective October 31, 2005

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

AUTHORITY: §§1-26, NRS 360.092.

A REGULATION relating to taxes; prescribing the manner in which certain taxpayers may review certain tax information and register with, and transfer money to, the Department of Taxation; and providing other matters properly relating thereto.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this regulation.

Sec. 2. *Sections 2 to 26, inclusive, of this regulation apply to online registration, filing and payment by electronic transfer of money for taxes, fees, interest, penalties or other charges provided for in chapters 360, 361, 362, 363A, 363B, 368A, 369, 370, 372, 372A, 374, 377, 377A and 444A of NRS and to any fee provided for in NRS 482.313 or chapter 680B of NRS.*

Sec. 3. *As used in sections 2 to 26, inclusive, of this regulation, the words and terms defined in sections 4 to 19, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Authorized user” means a person who is granted authority by the taxpayer account security administrator to access taxpayer information available on the website of the Department, located at www.nevadatax.nv.gov on the World Wide Web.*

Sec. 5. *“Automated clearinghouse” or “ACH” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and authorizes an electronic transfer of money between banks or bank accounts.*

Sec. 6. *“Automated clearinghouse credit” means an electronic transfer of money cleared through the ACH system that is generated by a person instructing his bank to charge his bank account and deposit the money in the bank account of the State.*

Sec. 7. *“Automated clearinghouse debit” means a transaction in which the Department, through its designated vendor, originates an automated clearinghouse transaction debiting a person’s bank account and crediting the bank account of the State for an amount due.*

Sec. 8. *“Electronic return” means a tax return that is prepared using computer software and transmitted electronically to the Department and includes all the data entered into a return, statement or other document.*

Sec. 9. *“Electronic signature” means a user name attached to, or logically associated with, a record and executed or adopted by a taxpayer with the intent to sign an electronic return, statement or other document.*

Sec. 10. *“Electronic transfer of money” means any transfer of money, other than a transaction initiated by a check, draft or other similar paper instrument, that is initiated through an electronic terminal, computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution or a person holding an account on behalf of another to debit or credit an account.*

Sec. 11. *“Financial institution” has the meaning ascribed to it in 31 U.S.C. § 5312(a)(2)(A) to (F), inclusive.*

Sec. 12. *“Nevadatax access code” means a personal identification number issued to a person by the Department that allows the person to become a website user and to access and file tax information online at www.nevadatax.nv.gov on the World Wide Web.*

Sec. 13. *“Permit” means one or more tax licenses or registrations obtained from the Department by completing and submitting a Nevada Business Registration by mailing or delivering it to the Department or by completing the Nevada Business Registration online at www.nevadatax.nv.gov on the World Wide Web.*

Sec. 14. *“Security access” means the ability of a taxpayer or a taxpayer account security administrator to access the taxpayer’s online account, conduct online transactions, designate authorized users, specify the level of access granted to an authorized user and modify or terminate the access of any authorized user.*

Sec. 15. *“Signature” includes an electronic signature.*

Sec. 16. *“Sole proprietor” includes a business that is treated as a sole proprietor under the Internal Revenue Code.*

Sec. 17. *“Taxpayer account security administrator” means a person appointed and authorized by a taxpayer to administer security access on the Department’s website, located at www.nevadatax.nv.gov on the World Wide Web.*

Sec. 18. *“Transaction fee” means a per item fee that is set forth in the State’s contract with a third party electronic services provider for each online transaction that is conducted with the Department.*

Sec. 19. *“Website user” means a taxpayer who, by way of providing specific information requested by the Department through its website registration process, has obtained a username and password enabling the taxpayer to conduct transactions and access his account information online at www.nevadatax.nv.gov on the World Wide Web.*

Sec. 20. *The Department’s taxpayer service center website, located at www.nevadatax.nv.gov on the World Wide Web, provides taxpayers with the ability to conduct transactions and review tax account information on the Internet.*

Sec. 21. 1. *To register online with the Department, a person must submit a completed Nevada Business Registration and confirm the registration by clicking on the certification button on the Department’s website. By clicking on the certification button, a person represents that:*

(a) The information contained in the online Nevada Business Registration is true and accurate; and

(b) The signatory is duly authorized to act on behalf of the business.

2. *To become a website user of the Department’s website, a taxpayer who has not obtained a permit from the Department must:*

(a) Provide, during the website registration process:

(1) The legal name and the federal employer identification number of the registrant; or

(2) If the registrant is a sole proprietor, the legal name and the social security number of the registrant.

(b) Submit the legal name and electronic mail address of the taxpayer account security administrator;

(c) Submit a completed online Nevada Business Registration; and

(d) Confirm, by clicking on the certification button on the website upon completion of the registration process, that:

(1) The information contained in the online Nevada Business Registration is true and accurate;

(2) The signatory is duly authorized to act on behalf of the business; and

(3) Security access is granted to the taxpayer account security administrator.

3. To become a website user of the Department's website, a taxpayer who has a permit issued by the Department must:

(a) Provide, during the website registration process, the legal name of the registrant and any one of the following:

(1) The registrant's federal employer identification number;

(2) If the registrant is a sole proprietor, the registrant's social security number; or

(3) The permit number assigned to the registrant by the Department;

(b) Provide selected information from a return that was previously filed by the registrant;

(c) Provide the legal name and electronic mail address of the taxpayer account security administrator; and

(d) Confirm, by clicking on the certification button on the website upon completion of the registration process that:

(1) The information contained in the website registration is true and accurate;

(2) The website user is duly authorized to act on behalf of the business and to receive confidential information; and

(3) Security access is granted to the taxpayer account security administrator.

Sec. 22. 1. *To file an electronic return online, a taxpayer, a taxpayer account security administrator or an authorized user must affix the taxpayer's electronic signature to the taxpayer's electronic return. Use of the taxpayer's electronic signature is the taxpayer's declaration that, to the best of the taxpayer's knowledge, information and belief, the electronic return is true, accurate and complete.*

2. A person shall be deemed to have affixed his signature to a tax return or other document filed electronically with the Department by using his nevadatax access code and checking the checkbox on the nevadatax online registration.

Sec. 23. 1. *For each electronic return of taxes, fees, interest, penalties or other charges, a return must be completed and submitted with payment made no later than midnight Pacific Time on the return due date. Online payment may be submitted only by automated clearinghouse credit or automated clearinghouse debit.*

2. If a person submits an electronic return but sends payment through the United States mail, a copy of the printout of the electronic return confirmation page must be submitted with the payment and must be postmarked by the return due date.

3. A zero-return must be submitted in the event that no taxes are due for the reporting period in accordance with statute.

Sec. 24. *A taxpayer account security administrator shall be deemed to have authorized and assumed responsibility for an authorized user accessing the account of the taxpayer and filing an electronic return on behalf of the taxpayer on the Department's website.*

Sec. 25. 1. *An electronic transfer of money must be made by an automated clearinghouse credit or automated clearinghouse debit.*

2. A taxpayer is responsible for paying any fees assessed against the taxpayer by the taxpayer's bank in connection with an electronic transfer of money.

3. The Department is responsible for paying transaction fees assessed by the State's bank in connection with an electronic transfer of money.

Sec. 26. *Unless a different period of time is prescribed by statute, for each electronic return of taxes, fees, interest, penalties or other charges, the taxpayer shall keep records, receipts, invoices and other pertinent papers to substantiate the electronic return for 4 years following the later of the due date of the return or the date the electronic return was filed with the Department.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R062-05**

The Nevada Tax Commission adopted regulations assigned LCB File No. R062-05 which pertain to chapter 360 of the Nevada Administrative Code on September 19, 2005.

Notice date: 8/17/2005
Hearing date: 9/7/2005

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 regulations 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; and Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed regulations 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 regulations 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.

A hearing for the permanent regulation of a previously adopted temporary regulation was held on September 7, 2005, in Room 2135 of the Nevada Legislative Building, 401 S. Carson Street, Carson City, Nevada, and was video-conferenced to Room 4412 of the Legislative Council Bureau, Grant Sawyer Office Building, 555 E. Washington Avenue, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed regulations, only interested persons as set forth in #3 below 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 permanent regulation of a previously adopted temporary 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: 9/7/05

(a) Attended the hearing: 14

(b) Testified at the hearing: 2

(c) Submitted to the Tax Commission written comments: No written comments by the general public 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 and interested persons, 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.

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

Comments from Agency staff were received relative to the permanent adoption of the temporary regulations.

4. If the regulations were adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulations without change.

The adopted regulations were modified at a public workshop prior to adoption, due to issues raised by the Department of Taxation. The Tax Commission believed no changes other than those made were necessary.

5. The estimated economic effect of the adopted regulations on the businesses 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 adopted regulations present no foreseeable or anticipated adverse economic effects to businesses or the public. However, the regulations will have a beneficial impact on those taxpayers that wish to register, and pay taxes online with the Department. That effect cannot be quantified 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 regulations.

The adopted regulations present no significant foreseeable or anticipated cost or decrease in costs for enforcement. However, it appears that there may be some minor additional administrative costs for the Department of Taxation, which cannot be quantified at this time.

7. A description of any regulations of other state or governmental agencies which the adopted regulations overlap or duplicate and a statement explaining why the duplication or overlap is necessary. If the regulations overlap or duplicate a federal regulation, the name of the regulating federal agency.

The adopted regulations are particular to the Department of Taxation practices and procedures, are required by NRS 360.092 and NRS 372.375 [Effective January 1, 2006] and do not appear to overlap or duplicate regulations of other state or local governmental agencies.

8. If the regulations include 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 Department online registration/payment procedures, which are the subject of the adopted regulations.

9. If the regulations provide 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 adopted regulations do not provide a new fee or increase an existing fee.