

**ADOPTED REGULATION OF
THE NEVADA TAX COMMISSION**

LCB File No. R112-07

Effective December 4, 2007

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

AUTHORITY: §§1 and 2, NRS 360.090.

A REGULATION relating to taxation; providing for the late filing with the Nevada Tax Commission of a notice of appeal of a decision of the Department of Taxation; and providing other matters properly relating thereto.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section or required to carry out a specific statute, regulation or court order, the Commission will not consider any notice of appeal filed more than 30 calendar days after service upon the taxpayer of the decision that is the subject of the notice of appeal.

2. The Director may, within 45 calendar days after a notice of appeal is otherwise due, grant an extension of time for the filing of the notice of appeal if:

(a) A request for the extension, accompanied by any supporting documentation, is made in writing to the Department; and

(b) The Director finds that the failure to file the notice of appeal in a timely manner:

(1) Occurred despite the exercise of ordinary care and without the intent of the taxpayer; and

(2) Is the result of circumstances beyond the control of the taxpayer. Such circumstances may include, without limitation, a natural disaster or other disaster beyond the control of the taxpayer, or the death or hospitalization of the person responsible for filing the notice of appeal.

3. A notice of appeal filed with the Department in accordance with an extension of time granted by the Director pursuant to this section shall be deemed to be timely filed.

4. A taxpayer may appeal a decision of the Director denying a request for an extension of time for the filing of a notice of appeal by filing an appeal of that decision with the Commission within 30 calendar days after service of the decision on the taxpayer.

5. As used in this section, “notice of appeal” means notice of an appeal by a taxpayer of a decision of the Director or of any other officer or employee of the Department.

Sec. 2. NAC 360.043 is hereby amended to read as follows:

360.043 1. *The provisions of* NAC 360.043 to 360.200, inclusive ~~[]~~, *and section 1 of this regulation:*

(a) ~~[Governs]~~ *Govern* the practice and procedure in contested cases before the Commission and Department.

(b) ~~[Governs]~~ *Govern* all practice and procedure before the Commission or Department under titles 31 and 32 of NRS.

(c) Will be liberally construed to secure the just, speedy and economical determination of all issues presented to the Commission or Department.

2. In special cases, where good cause appears, not contrary to statute, deviation from these rules, if stipulated to by all parties of record, will be permitted.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R112-07**

The Nevada Tax Commission adopted regulations assigned LCB File No. R112-07 which pertain to chapter 360 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 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.**

Copies of the proposed regulations, notice(s) of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of late-filed appeals to the Tax Commission as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Taxation (“Department”), <http://tax.state.nv.us/>, and mailed to all county libraries in Nevada and posted at the following locations:

Department of Taxation
1550 College Parkway, Suite 115
Carson City, Nevada 89706

Department of Taxation
4600 Kietzke Lane, Suite 235
Reno, Nevada 89502

Department of Taxation
555 E. Washington Avenue, Suite 1300
Las Vegas, Nevada 89101

Department of Taxation
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074

Department of Taxation
1010 Ruby Vista Drive, Suite 102
Elko, Nevada 89801

Legislative Building
401 S. Carson Street
Carson City, Nevada 89701

Nevada State Library
100 Stewart Street
Carson City, Nevada 89701

The Department of Taxation, as staff to the Nevada Tax Commission (“Commission”), solicited comment from the public by posting a notice of a workshop, dated June 27, 2007, to the locations listed above. A workshop was held on July 20, 2007. The minutes of that meeting may be obtained by writing to the Department of Taxation at 1550 College Parkway, Suite 115, Carson City, Nevada 89706. Thereafter, on or about October 4, 2007, the Executive Director of the Department of Taxation (“Executive Director”) issued a Notice of Intent to Act Upon a Regulation which incorporated in the proposed amendments the suggestions of the parties attending the July 20th workshop. The Commission, on or about November 5, 2007, adopted said regulation.

A copy of the summary of the public response, if any, to the proposed regulation may be obtained from the Nevada Department of Taxation, 1500 College Parkway, Suite 115, Carson City, Nevada 89706, 775-684-2096, or email to efierro@tax.state.nv.us.

2. **The number persons who:**
 - (a) Attended each hearing/workshop: July 20, 2007 – 8;
 - (b) Testified at each hearing/workshop: July 20, 2007 – 8;
 - (c) Submitted to the agency written comments: No written comments were submitted.
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.**

Comments were solicited from affected and interested businesses and persons, by notices posted at the Nevada State Library; various Department locations throughout the state; and at the Main Public Libraries in counties where an office of the Department is not located.

The Department and the general public commented on all of the proposed language changes during the workshop process. Members of the NTC, Department, and general public commented during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Department at (775) 684-2063 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at efierro@tax.state.nv.us.

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 permanent regulation was adopted on November 5, 2007 and included many of the changes suggested at the workshop. Moreover, the Commission adopted LCB's version without change.

5. **The estimated economic effect of the adopted regulation 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

The proposed regulations present no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public. It is anticipated the regulations promote the administrative appeal process by assisting certain taxpayers who, under certain circumstances, have failed to timely file an appeal to the Tax Commission.

(b) Both immediate and long-term effects.

The proposed regulations present no reasonably foreseeable or anticipated immediate or long-term economic effects to businesses or to the general public.

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

The Department anticipates little, if any, additional cost to administer the regulations.

7. A description of any regulations of other 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.

There are no known state or government agency regulations that the proposed amendments duplicate.

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

There are no known federal regulations regarding the appeal process afforded taxpayers under Chapter 360 of the Nevada Revised Statutes.

9. If the 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 Nevada Tax Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.