

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

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

AUTHORITY: NRS 360.090, 360.130, and 360.245

**Section 1.** Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 7 of this regulation:

**Sec. 2.** *A notice of appeal filed pursuant to NRS 360.245(1)(b) must identify the decision that is being appealed, the date on which the decision was rendered, the basis of the appeal, and a non-binding estimate of the amount at issue.*

**Sec. 3.** *Every five (5) years or sooner, the Commission shall determine the meaning of the phrase “likely to affect the revenue of the county or other local government” by establishing a minimum threshold for each county that each appeal must exceed in order to trigger the notification requirements of NRS 360.245(6). In establishing a minimum threshold, the Commission may consider, without limitation, using a formula involving the consolidated tax distributions for each county. For example, the Commission may determine that the phrase “likely to affect the revenue of the county or other local government” to mean an appeal involving tax revenue that the county or local government may be entitled to and which involves an amount that is greater than one-tenth (1/10) of one (1) percent of the consolidated tax distribution for a particular county for the previous fiscal year. For the purposes of illustration, if a taxpayer, who is located in Washoe County, appeals a decision to the NTC that involves \$215,000 in sales/use tax, Washoe County would be notified pursuant to Section 5 of this regulation because \$215,000 is greater than \$193,109.74, or 0.1% of 193,109,743.32, which is Washoe County’s consolidated tax revenue for fiscal year 2006. The Department, as staff to the Commission, shall submit a recommendation each year.*

**Sec. 4.** *As soon as practicable after a taxpayer or his authorized representative files of a notice of appeal, the Department, pursuant to the criteria established by the Commission, shall determine whether the appeal likely affects the revenue of the county or local government. If a taxpayer or his authorized representative fails, pursuant to Section 2, to provide a non-binding estimate of the amount at issue on appeal or a non-binding estimate cannot be ascertained the Department shall make a determination based on the facts and circumstances of each appeal.*

**Sec. 5.** *If it is determined that an appeal will likely affect the revenue of a county or local government, the Department shall, as soon as practicable, notify the applicable person by forwarding a copy of the notice of appeal to the “applicable person” in accordance with NRS 360.245(6)(a). The Department shall also notify the applicable person of the anticipated date upon which the Commission will likely hear the appeal. The notification shall be no later*

*than thirty (30) calendar days prior to the anticipated date of the Commission's meeting. For the purposes of this regulation, "applicable person" means the district attorney of each county or the governing bodies of the counties and other local governments.*

**Sec. 6.** *After receiving a copy of the notice of appeal, the county or other local government may become a party to the appeal in the same manner as an "intervener" pursuant to NAC 360.070.*

**Sec. 7.** *The applicable person shall hold and protect the notice of appeal and any accompanying materials in accordance with any applicable confidentiality statutes including, without limitation, NRS 372.750, and NRS 374.755, and are subject to the applicable provisions of NRS 360.247.*

**Sec. 8.** NAC 360.065 is hereby amended as provided in section 9 of this regulation:

**Sec. 9.** 1. "Appellant" means any party appealing to the Commission from a decision of the hearing officer.

2. "Intervener" means a person other than the original party to the proceeding who is directly and substantially affected by the proceeding and who requests in writing, not later than 21 ***working*** days before a hearing, to appear and present testimony or otherwise participate at the hearing.

3. "Petitioner" means any person who requests or seeks a redetermination, refund or adjustment of any tax, tax liability or the amount of any tax paid by him, an assessment for tax purposes or determination of value for any purpose, or who petitions the Department or Commission for an advisory opinion or to adopt, amend or repeal a regulation.

4. "Respondent" means any person who is required to respond to an appeal of an administrative decision of the Commission.

**Sec. 10.** NAC 360.070 is hereby amended as provided in section 11 of this regulation:

**Sec. 11.** 1. A person other than the original party to any proceeding who is directly and substantially affected by the proceeding must secure an order from the Commission or the hearing officer granting leave to intervene before being allowed to participate. The granting of leave to intervene in any matter or proceeding is not a finding or determination of the Commission or the hearing officer that the party will or may be a party aggrieved by any ruling, order or decision of the Commission or the hearing officer for purposes of court review or appeal.

2. Petitions for leave to intervene must be in writing and must clearly identify the proceeding in which intervention is sought. The petition must set forth the name and address of the petitioner and contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceeding, stating the manner in which the petitioner will be affected by the proceeding and outlining the matters relied upon by the petitioner as a basis for his request to intervene. If affirmative relief is sought, the petition must contain a clear and concise statement of the relief sought and the basis thereof, together with a statement as to the nature and quantity of evidence the petitioner will present if his petition is granted.

3. Petitions to intervene and proof of service of copies thereof on all other parties of record must be filed not less than ~~[2]~~ **21 working** days before the commencement of the hearing ~~[,or state a substantial reason for the delay, or it will not be considered]~~. *If a petition for leave to intervene is filed less than 21 working days before the commencement of the hearing, the petition must be received by the Commission no later than 3 working days prior to the Commission's meeting and state a substantial reason for the delay, or it will not be considered.*

4. If a petition to intervene shows a direct and substantial interest in the subject matter of the proceeding or any part thereof and does not unduly broaden the issues, the Commission or the hearing officer may grant leave to intervene or otherwise appear in the proceeding with respect to the matters set out in the intervening petition, subject to such reasonable conditions as may be prescribed.

5. If it appears during the course of a proceeding that an intervener has no direct or substantial interest in the proceeding and that the public interest does not require his participation therein, the Commission may dismiss him from the proceeding.

6. *If, pursuant to Sections 5 and 6 of this regulation, a county or local government is notified by the Department that an appeal will likely affects the revenue of the county or local government, and the county or local government timely files a petition for leave to intervene it will be presumed that the county or local government will be "directly and substantially affected by the proceeding."*