

**REVISED PROPOSED REGULATION OF
THE NEVADA TAX COMMISSION**

LCB File No. R175-08

February 17, 2010

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

AUTHORITY: §§1-6, NRS 360.090 and 360.245.

A REGULATION relating to taxation; making various changes regarding the provision of notice of certain appeals to and the intervention of certain persons in proceedings before the Nevada Tax Commission; 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 and 3 of this regulation.

Sec. 2. *A notice of appeal filed pursuant to paragraph (b) of subsection 1 of NRS 360.245 must:*

1. Identify the decision being appealed, the date on which the decision was rendered and the basis for the appeal; and

2. Include an estimate of the amount of money at issue on the appeal. The estimate is not binding on the Commission, the Department, any party to the appeal or any other person or governmental entity.

Sec. 3. *1. As soon as practicable after a taxpayer or the authorized representative of a taxpayer files a notice of appeal pursuant to paragraph (b) of subsection 1 of NRS 360.245, the Department shall determine whether the appeal is likely to affect the revenue of a county or other local government. The Department shall make that determination based upon:*

(a) The estimate provided pursuant to section 2 of this regulation of the amount of money at issue on the appeal or, if the Department determines that the estimate is inaccurate, based upon the particular facts and circumstances of the appeal; and

(b) The applicable criteria established by the Commission pursuant to subsection 5.

2. If the Department determines pursuant to subsection 1 that an appeal is likely to affect the revenue of a county or other local government, the Department shall:

(a) As soon as practicable after making that determination, provide a copy of the notice of appeal to:

(1) The district attorney and the governing body of the county regarding which the determination is made; and

(2) The governing body of each other local government regarding which the determination is made.

(b) At least 30 calendar days before the date of the first meeting at which the Commission may hear the appeal, notify each person to whom a copy of the notice of appeal was provided pursuant to paragraph (a) of the date of that meeting.

↪ A county or other local government that receives a copy of a notice of appeal pursuant to this subsection may intervene in the appeal in the manner provided in NAC 360.070.

3. If a taxpayer or the authorized representative of a taxpayer files a notice of appeal pursuant to paragraph (b) of subsection 1 of NRS 360.245 and the Executive Director determines that the appeal involves a legal issue of broad applicability to:

(a) A county regarding which a copy of the notice of appeal has not been provided to the district attorney and the governing body of the county pursuant to subsection 2, the Executive

Director may provide a copy of the notice of appeal to that district attorney and governing body.

(b) A local government regarding which a copy of the notice of appeal has not been provided to the governing body of the local government pursuant to subsection 2, the Executive Director may provide a copy of the notice of appeal to that governing body.

4. Each person and local government that receives a copy of a notice of appeal pursuant to this section shall hold and protect the information contained in the notice of appeal and any accompanying materials in accordance with any applicable laws pertaining to the confidentiality of that information, including, without limitation, any applicable provisions of NRS 360.247, 372.750 and 374.755.

5. For the purposes of this section and subsection 6 of NRS 360.245, the Commission will, at least once every 5 years, establish for each county criteria for determining whether an appeal is likely to affect the revenue of the county or another local government within the county, including, without limitation, criteria pertaining to:

(a) The population and distribution of taxes in the county or other local government; and

(b) The ability of the county or other local government to meet its financial obligations.

↪ The Department shall provide the Commission with recommendations for those criteria.

Sec. 4. NAC 360.043 is hereby amended to read as follows:

360.043 1. The provisions of NAC 360.043 to 360.200, inclusive ~~H~~, *and sections 2 and 3 of this regulation:*

(a) Govern the practice and procedure in contested cases before the Commission and Department.

(b) 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.

Sec. 5. NAC 360.065 is hereby amended to read as follows:

360.065 1. “Appellant” means any party appealing to the Commission from a decision of the hearing officer.

2. “Intervener” means a person *or local government* 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 3 days before a hearing,~~ *is allowed pursuant to NAC 360.070* 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. 6. NAC 360.070 is hereby amended to read as follows:

360.070 1. A person *or local government* 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. *For the purpose of granting leave to intervene, it is presumed that a county or other local government that receives a copy of a notice of appeal pursuant to subsection 2 of section 3 of this regulation and timely files a petition for leave to intervene is directly and substantially affected by the proceeding.* 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}~~ *Except as otherwise provided in this subsection, petitions for leave 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}~~ The Commission may consider a petition for leave to intervene which is filed less than 21 working days before the commencement of the hearing if:*

(a) The petition and proof of service of copies thereof on all other parties of record are filed not less than 3 working days before the commencement of the hearing; and

(b) The petition states a substantial reason for the delay . ~~{, or it will not be considered.}~~

4. If a petition *for leave* 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.