

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

LCB File No. R177-08

May 26, 2010

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

AUTHORITY: §1, NRS 360.090 and 360.297.

A REGULATION relating to taxation; establishing a procedure and criteria for determining the joint and several liability of certain persons for the payment of certain taxes and fees to 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. The Department shall not consider a member, an officer or an employee of a taxpayer to be a responsible person pursuant to NRS 360.297 unless the Department:

(a) Determines that the member, officer or employee is a person whose job or duty it is to collect, account for or pay to the Department the pertinent tax or fee imposed by chapter 360, 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090 or 482.313, or chapter 680B of NRS; and

(b) Provides the member, officer or employee with an opportunity to appear at a hearing before the Department to show cause why that determination should not be made, which must be held on a date which is not less than 10 days after the date of mailing, by registered or certified mail to the person at his or her last known address, or personal service to the person of an order to show cause why that determination should not be made. The Department may, for good cause shown, grant a continuance of the hearing.

2. The Department shall not make the determination required by subsection 1 unless the Department finds that the member, officer or employee meets at least two of the following criteria:

- (a) The person was directly involved in the day-to-day management of the taxpayer.*
- (b) The person made or had the authority to make decisions regarding which outstanding debts or taxes due from the taxpayer would be paid and the time of such payment.*
- (c) The person had direct control or supervisory authority over:*
 - (1) The daily bank accounts and disbursement records of the taxpayer;*
 - (2) The filing of the tax returns of the taxpayer; or*
 - (3) The issuance of the checks of the taxpayer.*

3. The Department shall notify any person whom it determines to be a responsible person pursuant to NRS 360.297 of the specific criteria used to make that determination.

4. The determination pursuant to this section of whether a person is a responsible person pursuant to NRS 360.297 is not affected by that person's:

- (a) Delegation of any duties or responsibilities to another person; or*
- (b) Reliance upon another person to handle any tax matters.*

5. As used in this section, "taxpayer" means any person, as defined in NRS 0.039, who is required to pay or remit any tax or fee imposed by chapter 360, 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090 or 482.313, or chapter 680B of NRS.