

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R052-14

NAC 360.440 Application for voluntary disclosure. (NRS 360.090)

1. If a taxpayer fails to file a return as required by the applicable provisions of chapter 360, ~~{362, 364A,}~~ 369, *363A, 363B, 368A*, 370, 372, ~~{372A,}~~ 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS and he or she wishes to disclose that fact voluntarily to the Commission, the taxpayer or the taxpayer's representative must file with the Department an application for voluntary disclosure on a form prescribed by the Commission before the Department has initiated an audit or investigation of the taxpayer, *and file and pay at the same time it files its application for voluntary disclosure the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application*

~~{2. The Commission will not accept an application filed pursuant to subsection 1 until the application has been approved and signed by the Director. The Director shall not approve and sign the application until he or she has verified that the Department did not initiate an audit or investigation of the taxpayer before the date that the taxpayer filed an application with the Department pursuant to subsection 1. An application is deemed to be filed with the Department on the date the application is received by the Department.~~

~~3. After the Director has signed and approved the application, the Commission will provide the taxpayer with a copy of the approved application.~~

~~4.}~~ *2.* For the purposes of subsection *1*~~2~~, the Department has initiated an audit or investigation of a taxpayer if the Department has:

(a) Contacted the taxpayer by telephone, in person or in writing regarding a possible tax liability; or

(b) Given the taxpayer written notice that an audit will be conducted by the Department concerning liability for the type of tax that the taxpayer wishes to disclose voluntarily pursuant to this section.

(Added to NAC by Tax Comm'n by R079-01, eff. 9-20-2002)

NAC 360.444 Circumstances under which Commission will not consider tax liability as being voluntarily disclosed. (NRS 360.090) The Commission will not consider the tax liability of a taxpayer as being voluntarily disclosed if, *at the same time as filing* an application for voluntary disclosure pursuant to NAC 360.440, the taxpayer:

~~{1. Within 90 days after the taxpayer has received a copy of the approved application, fails to file with the Department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to NAC 360.440;~~

~~2. Within 90 days after the taxpayer has received a copy of the approved application, fails to pay any tax owed for the period described in subsection 1;}~~

1. Fails to file with the Department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to NAC 360.440;

2. Fails to pay any tax owed for the period described in subsection 1; and

3. Fails to make a good faith effort to comply with the applicable provisions of chapter 360, ~~362, 364A,~~ **363A, 363B, 368A,** 369, 370,372, ~~372A,~~ 374, 377,377A, or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, including, without limitation, registering with the Department, filing tax returns, paying any tax liability and remitting any taxes collected; or

4. Fails to provide an accurate estimate of his or her tax liability in the application for voluntary disclosure filed pursuant to NAC 360.440. The taxpayer shall be deemed to have provided an inaccurate estimate of his or her tax liability if:

(a) The tax liability provided in the application for voluntary disclosure is less than the taxpayer's actual tax liability by 10 percent or more; and

(b) The taxpayer is unable to demonstrate to the Department that he or she made a good faith effort to report accurately his or her tax liability in the application for voluntary disclosure.

(Added to NAC by Tax Comm'n by R079-01, eff. 9-20-2002)

NAC 360.446 Assessment of penalty and interest on tax liability; appeal of assessment. (NRS 360.090, 360.300)

1. If the Commission determines that the taxpayer has made a good faith effort in complying with the requirements set forth in NAC 360.444, the Department shall not assess the penalty and interest set forth in NRS 360.300 on the entire amount of the tax liability.

2. If the Commission does not consider the tax liability of a taxpayer to be voluntarily disclosed pursuant to NAC 360.444, the Department shall assess the penalty and interest set forth in NRS 360.300 on the entire amount of the tax liability.

3. A taxpayer who wishes to dispute the amount of any penalty or interest assessed by the Department pursuant to subsection 1 or 2 must file a written petition with the Director *pursuant to NRS 360.360* within 45 days after the taxpayer receives a bill from the Department for that amount. The petition must set forth any information that supports the dispute.

~~4.—The Commission will review any petition filed with the Director pursuant to subsection 3 and determine the amount of any tax, penalty or interest owed by the taxpayer. The Commission will notify the taxpayer of its decision by registered or certified mail, return receipt requested.~~

~~5.—The taxpayer must file any additional returns and pay the amount of any tax, penalty or interest that the Commission determines is owed by the taxpayer pursuant to subsection 4 within 60 days after he or she receives the notification from the Commission pursuant to subsection 4.]~~

NAC 360.448 Rights retained by Department. (NRS 360.090) The Department retains the right to:

1. Audit a taxpayer for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to NAC 360.440; and

2. Assess any tax, penalty and interest that is owed by the taxpayer.

(Added to NAC by Tax Comm'n by R079-01, eff. 9-20-2002)