

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R089-14

July 22, 2014

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

AUTHORITY: §§1-7, NRS 360.090 and 360.2915.

A REGULATION relating to taxation; revising provisions governing agreements between the Department of Taxation and taxpayers for the payment of taxes, interest and penalties in installments; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Nevada Tax Commission, as head of the Department of Taxation, to adopt regulations providing for an agreement between a taxpayer and the Department to pay taxes, interest and penalties in installments over a period of 12 months or less or, upon a showing of good cause, over a period of more than 12 months. (NRS 360.2915) Existing regulations establish the requirements and conditions for such an installment agreement. (NAC 360.450-360.464)

Existing regulations contain separate provisions for installment agreements of 12 months or less and those of more than 12 months. (NAC 360.450, 360.456) **Section 1** of this regulation combines those provisions, and **section 7** of this regulation repeals the redundant provision, NAC 360.456. Under existing regulations, a taxpayer’s request to enter into an installment agreement of 12 months or less may be denied if the taxpayer has previously failed to comply with a similar agreement. (NAC 360.450) **Section 1** extends this provision to apply to any request to pay taxes, interest and penalties in installments over a period of more than 12 months.

Under existing regulations, the Department may not, unless expressly authorized by the Commission, enter into an installment agreement with a taxpayer whose tax liability exceeds a maximum amount determined by the Commission. (NAC 360.454, 360.460) **Section 3** of this regulation provides that the Commission will make its determination of this amount on or before June 30 of each even-numbered year. **Section 3** also requires the Department to post the amount on its Internet website within 30 days thereafter.

Under existing regulations, the Department is not allowed to enter into an installment agreement with a term of more than 24 months unless the agreement is expressly authorized by the Commission. (NAC 360.460) **Section 5** of this regulation increases that period to 36 months.

Existing regulations authorize the Department and a taxpayer, by mutual consent, to terminate or modify an installment agreement. (NAC 360.462) If entry into the agreement required the authorization of the Commission under the provisions described above, **section 6** of this regulation provides that any termination or modification of the agreement must likewise be authorized by the Commission.

Sections 2, 4 and 6 of this regulation otherwise make conforming changes to reflect the repeal of NAC 360.456.

Section 1. NAC 360.450 is hereby amended to read as follows:

360.450 1. Except as otherwise provided in *subsection 2 and* NAC ~~360.456 and~~ 360.460 and subject to the approval of the Director or the Director's designee, the Department may enter into an agreement with a taxpayer, upon the request of the taxpayer, that allows the taxpayer to pay taxes, interest and penalties in installments over a period of 12 months or less if:

(a) The taxpayer submits accurate and complete information that the Department requires to determine whether to enter into the agreement;

(b) The taxpayer agrees in writing ~~that he or she will~~ *to* comply with all applicable laws and regulations of the Commission during the period in which the agreement is in effect, including, without limitation, reporting and payment requirements;

(c) The taxpayer agrees in writing that the agreement may be terminated immediately if the taxpayer fails timely to make any payment required by the agreement or defaults in any other reporting or payment requirement;

(d) The Department determines that as of the date on which the taxpayer requested to enter into the agreement, the taxpayer is unable to pay the entire amount of taxes, interest and penalties due for financial reasons; and

(e) The amount owed by the taxpayer on the date on which ~~he or she~~ *the taxpayer* requested to enter into the agreement does not exceed the amount set by the Commission pursuant to NAC 360.454.

2. *Except as otherwise provided in NAC 360.460, the Director may, for good cause shown, upon the request of a taxpayer who satisfies the requirements set forth in subsection 1, authorize the Department to enter into an agreement with a taxpayer that allows the taxpayer to pay taxes, interest and penalties in installments over a period of more than 12 months.*

3. The Department *or the Director, as applicable*, may deny a request to enter into an agreement pursuant to subsection 1 *or 2* if the taxpayer has not complied with a previous agreement with the Department to pay taxes, interest and penalties in installments.

4. *As used in this section, “good cause” includes, without limitation, circumstances that would prevent a taxpayer from paying the taxes, interest and penalties in a period of 12 months or less.*

Sec. 2. NAC 360.452 is hereby amended to read as follows:

360.452 1. An agreement to pay taxes, interest and penalties in installments pursuant to NAC 360.450 ~~{or 360.456}~~ must:

(a) Be in writing.

(b) Except as otherwise provided in this paragraph, contain a personal guaranty by two responsible persons in their individual capacities. If there is only one responsible person, the agreement must contain the personal guaranty of that person in his or her individual capacity. In lieu of or in addition to any personal guaranty required by this paragraph, the Department may require a personal guaranty of any other person agreed upon by the taxpayer and the Department.

(c) Be accompanied by the initial payment required by the terms of the agreement.

2. As used in this section, “responsible person” has the meaning ascribed to it in subsection 2 of NRS 360.297.

Sec. 3. NAC 360.454 is hereby amended to read as follows:

360.454 ~~{The}~~

1. On or before June 30 of each even-numbered year, the Commission will determine the maximum amount of tax liability that ~~{a taxpayer may have to enter into}~~, *except as otherwise provided in NAC 360.460, may be the subject of* an agreement with the Department to pay taxes, interest and penalties in installments pursuant to NAC 360.450. ~~{or 360.456.}~~

2. The Department shall post the amount determined by the Commission pursuant to subsection 1 on the Internet website maintained by the Department within 30 days after the Commission makes its determination.

Sec. 4. NAC 360.458 is hereby amended to read as follows:

360.458 The Commission may review and deny or approve any agreement entered into by the Department pursuant to NAC 360.450. ~~{or 360.456.}~~

Sec. 5. NAC 360.460 is hereby amended to read as follows:

360.460 If the Department receives a request for an agreement pursuant to NAC 360.450 ~~{or 360.456}~~ from a taxpayer whose tax liability exceeds the amount set by the Commission pursuant to NAC 360.454 or whose proposed period of installment payments exceeds ~~{24}~~ **36** months, the Department shall review the request and transmit the request and the recommendation of the Department regarding the request to the Commission. The Commission may authorize the Department to enter into an agreement with such a taxpayer pursuant to NAC 360.450. ~~{or 360.456.}~~

Sec. 6. NAC 360.462 is hereby amended to read as follows:

360.462 1. The Department may terminate an agreement entered into pursuant to NAC 360.450 ~~{or 360.456}~~ if the Department determines ~~{:}~~ **that:**

(a) The taxpayer has not complied with the terms of the agreement;

(b) The taxpayer provided to the Department incomplete or inaccurate information on which the Department based its determination to enter the agreement; or

(c) The financial conditions of the taxpayer have changed such that the taxpayer has the ability to pay the full amount of taxes, interest and penalties owed.

2. If the Department determines to terminate an agreement pursuant to paragraph (b) or (c) of subsection 1, the Department shall provide the taxpayer with written notice of its intention to terminate the agreement at least 10 days before the date on which the Department intends to terminate the agreement. The notice must contain an explanation of the decision of the Department to terminate the agreement.

3. ~~The~~ *Except as otherwise provided in this subsection, the* Department may terminate ~~the~~ ~~alter~~ or modify an agreement entered into pursuant to NAC 360.450 if mutual consent to terminate ~~the~~ ~~alter~~ or modify the agreement exists between the Department and the taxpayer. *If entry into the agreement was authorized by the Commission pursuant to NAC 360.460, any such termination or modification of the agreement must also be transmitted to and authorized by the Commission.*

4. If an agreement is terminated pursuant to this section, the total amount covered by the agreement, including, without limitation, taxes, interest and penalties, is due on the date on which the agreement terminates.

Sec. 7. NAC 360.456 is hereby repealed.

TEXT OF REPEALED SECTION

360.456 Agreement for payment over period of more than 12 months.

1. Except as otherwise provided in NAC 360.460, the Director may, for good cause shown, upon the request of a taxpayer who satisfies the requirements set forth in NAC 360.450, authorize the Department to enter into an agreement with the taxpayer that allows the taxpayer to pay taxes, interest and penalties in installments over a period of more than 12 months.

2. As used in this section, “good cause” includes, without limitation, circumstances that would prevent a taxpayer from paying the taxes, interest and penalties in a period of 12 months or less.