

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB FILE NO. R143-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/13/2018**

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LCB File No. xxx

June xx, 2018

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

AUTHORITY: §1, NRS 360.090, 372.660 and 372.665

A REGULATION relating to taxation; concerning the payment of interest to a taxpayer on a refund of an overpayment of tax by the Department of Taxation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires that a taxpayer that receives a refund for overpayment of taxes is generally entitled to interest on that refund. (NRS 372.660) The Department of Taxation may only withhold interest if it determines that the overpayment occurred as a result of the taxpayer either intentionally or carelessly overlying the tax. (NRS 372.665)

This regulation adds provisions that provide factors to be applied when evaluating whether the overpayment was made intentionally or carelessly by the taxpayer.

Section 1. Chapter 372 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to x, inclusive of this regulation.

Sec. 2. *For the purposes of NRS 372.665, the following factors are determinative when evaluating whether interest may be disallowed on a refund sought for overpayment of tax.*

1. An overpayment will be considered to be made intentionally if the taxpayer makes an overpayment for any reason other than a good faith belief that the amount paid was owed;

2. An overpayment will be considered to be made carelessly if the taxpayer failed to take any combination of reasonably prudent steps to avoid an overpayment, including, but not limited to, where the taxpayer failed to:

(a) Maintain accurate and complete books and records;

(b) Correct errors identified under prior audits;

(c) Question the taxability of transactions during prior audits where the overpayments were identifiable;

(d) Correct overpayments made after requesting prior refunds involving the same or similar issues;

(e) Correct overpayments, involving repeated transactions or transactions of a similar type, made over a long period of time, in the face of a standing regulation or law on the matter that is commonly followed in the industry, trade, or practice;

(f) Take any steps to seek an advisory opinion or other written advice from the Department, where the overpayment based upon a mistaken interpretation of tax law;

(g) Seek advice from a Nevada licensed Certified Public Accountant or other Nevada licensed tax professional.