

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB FILE NO. R098-201

**The following document is the initial draft regulation proposed
by the agency submitted on 06/25/2020**

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. xxx

[Date]

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

AUTHORITY: §1, NRS 360.090, 233B.120

A REGULATION relating to taxation; concerning petitions for declaratory orders; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that each agency shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders as to the applicability of any statutory provision, agency regulation or decision of the agency (NRS 233B.120)

This regulation adds provisions that provide the process for filing a petition for a declaratory order with the Department of Taxation.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *Except as otherwise provided in subsection 3, a person may file a petition with the Executive Director of the Department requesting a declaratory order concerning the applicability of any statutory provision, agency regulation or decision of the Department or Commission. The Director may delegate the handling of petitions for declaratory orders to the administrative law judges or hearing officers handling administrative tax cases or any employee of the Department.*

Sec. 3. *A petition for a declaratory order must include:*

- (a) The name and address of the petitioner;*
- (b) The reason for requesting the declaratory order;*
- (c) A statement of the facts that support the petition for a declaratory order; and*
- (d) A clear and concise statement of the question or matter to be decided.*

Sec. 4. *A person may not file a petition for a declaratory order concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.*

Sec. 5. *The Department may refuse to review a petition that requests the issuance of a declaratory order if the petition does not contain the information required by subsection 2.*

Sec. 6. *The Department may:*

(a) Conduct a hearing to determine issues of fact or to hear arguments relating to a petition for a declaratory order and may enter reasonable orders that govern the conduct of the hearing.

(b) Request that the petitioner provide additional information or arguments relating to the petition.

(c) Issue a declaratory order based on the contents of the petition and any material submitted with the petition.

(d) Consider, and base a decision on, (1) facts presented in a sworn affidavit or (2) stipulated facts.

(e) Consider any other information determined to be relevant to the question or matter to be decided.

(f) Enter any reasonable order to assist the review of the petition.

Sec. 7. *The Department will maintain a record of the declaratory order that is indexed by subject matter and will mail a copy of the declaratory order to the petitioner within 90 days after:*

(a) The petition is filed;

(b) A hearing is conducted concerning the petition; or

(c) Any additional information or written argument is received by the Department, whichever occurs later. The Department may, upon good cause, extend this time period sua sponte or in response to a request.

Sec. 8. *Declaratory orders are appealable to the Commission in the same manner as any other appealable decision.*