

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB FILE NO. R149-22I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/30/2022**

NAC 360.480 Documentation required with claim for refund; time for filing claim for refund of interest or penalty. (NRS 360.090)

1. Except as otherwise provided in NAC 360.490 to 360.496, inclusive, a claim for a refund must be accompanied by:

- (a) A statement setting forth the amount of the claim;
- (b) A statement setting forth all grounds upon which the claim is based;
- (c) All evidence the claimant relied upon in determining the claim, including affidavits of any witnesses; and
- (d) Any other information and documentation requested by the Department.

2. A claim for a refund of interest and/or a penalty that was paid by the taxpayer related to a tax administered by the Department and approved by the Department for waiver, must be filed within 3 years from the date the waiver was processed and the overpayment established in the Department's system of record or from the date the Department mailed written notification of the credit, whichever occurs later, after the date of payment of the interest or penalty.

3. A claim for a refund of overpaid tax, as a result of, but not limited to, an amended return, correction or adjustment must be filed within 3 years from the date the adjustment was processed and the overpayment established in the Department's system of record or from the date the Department mailed written notification of the credit, whichever occurs later.

[Tax Comm'n, Practice Rule No. 22, eff. 11-15-77] — (NAC A 1-12-96; R044-01, 1-7-2002, eff. 11-1-2001; R032-03, 10-30-2003; R110-12, 11-1-2012)

NAC 360.480(2) provides that a claim for a refund of interest or a penalty that was paid by the Taxpayer related to a tax administered by the Department must be filed within 3 years after the date of payment of the interest or penalty. However, there is no guidance in the tax statutes for when a claim must be filed if the Taxpayer has paid the tax but not the penalty and interest.

To address this situation the title of NAC 360.480 should be updated and NAC 360.480(2), amended.

By doing this, the Department can address all refunds for all tax types in one NAC and add time limit language for requesting a P&I waiver to NAC 360.397. (below)

NAC 360.397 Request for waiver or reduction of penalty or interest: Generally. (NRS 360.090, 360.419)

1. Except as otherwise provided in NAC 360.398 and 363C.250, a taxpayer or the taxpayer's agent may request the waiver or reduction of the penalty or interest, or both, by submitting to the Department a written statement signed under oath by the taxpayer or the taxpayer's agent which sets forth the facts and circumstances surrounding the failure of the taxpayer to make the payment in a timely manner.

2. The Department shall not consider a request made pursuant to subsection 1 until the taxpayer has paid in full the tax or fee upon which the interest or penalty is assessed.

3. A claim for waiver or reduction of penalty and/or interest related to a tax administered by the Department must be filed within 3 years after the date the tax or fee, upon which the interest and/or penalty was assessed, was paid in full.

(Added to NAC by Tax Comm'n by R018-05, eff. 10-31-2005; A by R206-07, 4-17-2008; R123-15, 6-28-2016)