

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB FILE NO. R152-22I**

**The following document is the initial draft regulation proposed  
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NEVADA TAX COMMISSION**

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

AUTHORITY: §1, NRS 360.090, 360B.480, 372.025 and 374.070.

**VOLUNTARY DISCLOSURE OF FAILURE TO FILE RETURN**

**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, 363C, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS and *it determines* [he or she wishes] to disclose that fact voluntarily to the Commission, the taxpayer or the taxpayer's representative must file with the Department *a completed* [an] application for voluntary disclosure *in* [on] a form prescribed by the *Department* [Commission] before the Department has initiated an audit or investigation of the taxpayer.

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 Department shall acknowledge acceptance of the application within 30 days of the application filing date.* The *Department* [Director] shall not *acknowledge acceptance of* [approve and sign] the application until *it* [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.]

*a) For purposes of NAC 360.448, an application is deemed to be filed with the Department on the date that the application and registration is received by the Department.*

*b) An application filed with the Department is deemed complete when it includes, without limitation, an application filed in the form prescribed by the Department, registration with the Department, filed tax returns, and paid tax liability as attested by the taxpayer on the application within 90 days of acknowledgment of acceptance of the filed application.*

*c) The Director or designee may grant one extension of up to 90 days to complete the application if:*

*1) The request for an extension is made in writing to the Department subsequent to the filing of the application and prior to the expiration of the 90 days of acknowledgment of acceptance of the filed application; and*

*2) The request for an extension submitted pursuant to this subsection is accompanied by proof satisfactory to the Director or designee that the application would not be completed timely despite the exercise of ordinary care by and without the intent of the taxpayer and that the cause of the failure to complete the application was circumstances beyond the control of the taxpayer. Such circumstances include, without limitation, a natural disaster or other disaster beyond the control of the taxpayer, the death or hospitalization of the person responsible for the completed application, or other circumstances that could not have been anticipated by and were outside the control of the person responsible for the completed application at the time of filing of the application.*

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

*3. [4.] For the purposes of subsection 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 registration requirement*; 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; A by R110-12, 11-1-2012; R123-15, 6-28-2016)

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

1. Within 90 days after the taxpayer has received *acknowledgment of acceptance of its application from the Department [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 *acknowledgment of acceptance of its application from the Department [a copy of the approved application]*, fails to pay *the [any]* tax owed for the period described in subsection 1;

3. Fails to make a good faith effort to comply with the applicable provisions of chapter 360, 362, 363C, 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 *the* [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; A by R110-12, 11-1-2012; R123-15, 6-28-2016)

**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 *Department* [Director] 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 *Department* [Commission] will review any petition filed with the *Department* [Director] pursuant to subsection 3 and determine the amount of any tax, penalty or interest owed

by the taxpayer. The *Department* [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 *Department* [Commission] determines is owed by the taxpayer pursuant to subsection 4 within 60 days after he or she receives the notification from the *Department* [Commission] pursuant to subsection 4.

*6. If the Commission determines the taxpayer does not meet the qualification for waiver of penalty and interest under this section, the taxpayer reserves the right to request a waiver or reduction of penalty or interest if qualified pursuant to NAC 360.396.*

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

**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)