

**APPROVED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R173-22

Filed December 29, 2022

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

AUTHORITY: §1, NRS 233B.120 and 360.090.

A REGULATION relating to taxation; establishing procedures for the filing of petitions with the Director of the Department of Taxation for declaratory orders as to the applicability of certain statutory provisions, regulations and administrative decisions; establishing procedures for the disposition of such petitions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Nevada Tax Commission to prescribe regulations for carrying on the business of the Commission and the Department of Taxation. (NRS 360.090) Existing law also requires each agency of the Executive Department of State Government to 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 establishes such procedures with respect to statutory provisions, regulations and administrative decisions of the Department or the Commission.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, a person may file a petition with the Director requesting a declaratory order concerning the applicability of any statutory provision, regulation or decision of the Department or Commission.

2. 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;*
- (d) A clear and concise statement of the question or matter to be decided; and*
- (e) If the petition concerns a decision of the Department or Commission, a copy of the decision.*

3. 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.

4. If the Department determines that a petition is a petition for a declaratory order, the Department shall submit the petition to a hearing officer. The hearing officer may refuse to review a petition for a declaratory order if the petition does not include the information required by subsection 2 or violates the provisions of subsection 3.

5. The hearing officer 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 his or her decision on, facts set forth in a sworn affidavit or accompanied by comparable indicia of reliability.

(e) Consider any other information that he or she determines is relevant to the question or matter to be decided.

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

6. The Department will maintain a record of each 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 hearing officer,

↳ whichever occurs later.

7. A declaratory order is appealable to the Commission in the same manner as any other appealable decision as provided in NRS 360.245 and NAC 360.172 to 360.185, inclusive.

8. A petition for a declaratory order and any related material, including, without limitation, any exhibit, hearing transcript, briefing to an administrative law judge or resulting declaratory order, is confidential unless disclosed in an appeal to the Commission pursuant to NRS 360.247.

9. If the Department finds that a person who filed a petition for a declaratory order provided inaccurate information in connection with the petition, the person who filed the petition cannot rely on any resulting declaratory order to bar any subsequent regulatory action by the Department nor may the Department grant a waiver pursuant to NRS 360.294 based upon the declaratory order.

10. A declaratory order issued pursuant to this section does not bar the Department from adopting a different interpretation of the law or pursuing a different policy in a future proceeding, including, without limitation, a petition for a declaratory order, enforcement proceeding or other adjudication.