

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R175-22

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

AUTHORITY: § 1, NRS 360.090 and 360.245.

A REGULATION relating to taxation; revising procedures concerning the filing of certain briefs and other documentation in an appeal to the Nevada Tax Commission; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, all decisions of the Executive Director or other officer of the Department of Taxation are final unless appealed to the Nevada Tax Commission. (NRS 360.245) Existing regulations establish the procedures for pursuing such an appeal, including, without limitation, prescribing the period during which an appellant is required to file his or her opening brief with the Commission. (NAC 360.175) This regulation revises those procedures by prescribing the period for the filing of an answering brief by a respondent and a reply brief by the appellant. This regulation also requires a brief or other documentation filed with the Commission in connection with an appeal be accompanied by an acknowledgement or affidavit showing service of the brief or other documentation on all other parties of record. This regulation authorizes the Commission to dismiss an appeal if certain documentation is not timely filed.

Section 1. NAC 360.175 is hereby amended to read as follows:

360.175 1. The staff, petitioner or a designated representative may, within 30 days after service of the copy of the findings of fact, conclusions of law and decision of the hearing officer, file a notice of appeal with the Commission.

2. Within 30 days after filing a notice of appeal, the appellant shall file with the Commission : ~~{a:}~~

(a) ~~{Brief}~~ *An opening brief* setting forth the points relied upon in his or her appeal and authorities in support thereof; and

(b) ~~{Designation of}~~ *A statement identifying* the parts of the record before the hearing officer that he or she deems relevant to his or her appeal.

3. An appeal from the decision of the hearing officer to the Commission must be based upon one or more of the grounds set forth in subsection 3 of NRS 233B.135.

4. The filing of a notice of appeal does not excuse compliance with the decision of the hearing officer nor suspend the effectiveness of a decision unless otherwise ordered by the hearing officer.

5. *Within 30 days after service of the appellant's opening brief upon a respondent, the respondent shall file with the Commission:*

(a) An answering brief with the Commission; and

(b) A statement identifying the parts of the record before the hearing officer that he or she deems relevant to his or her response.

6. *Within 30 days after service of the respondent's answering brief upon the appellant, the appellant may file with the Commission a reply brief.*

7. After receipt of a notice of appeal, filed in compliance with subsection 1, and the documentation required by ~~{subsection}~~ *subsections 2, 5 and 6*, the Department will schedule a time for oral argument before the Commission at its next meeting. The oral argument will be limited to a period of time not to exceed 20 minutes unless extended by the Commission. The Commission will not review evidence which was not submitted to the hearing officer unless it determines that good cause exists for a failure to submit the evidence to the hearing officer.

~~{6.}~~ 8. The Commission will modify, reverse or affirm the decision of the hearing officer or remand the case to the hearing officer. The Director shall issue a final written decision on behalf of the Commission.

9. A brief and any other documentation filed with the Commission pursuant to subsection 2, 5 or 6 must be accompanied by an acknowledgment of or an affidavit showing service on all other parties of record.

10. The filing deadlines set forth in subsections 2, 5 and 6 may be extended:

(a) By the parties by stipulation; or

(b) By the Chair of the Commission upon written application by the appellant or respondent and a showing of good faith by the moving party.

11. The Commission may dismiss an appeal if the appellant fails to timely file the documentation required by subsection 2.