

Chapter 360 of NAC

LCB File No. T050-05

ADOPTED TEMPORARY REGULATION OF  
THE NEVADA TAX COMMISSION

Filed with the Secretary of State on June 13, 2005.

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

AUTHORITY: NRS 360.090.

**Section 1.** Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

**Section 2. Definitions.**

*The following definitions, for the purposes of electronic registration for, filing, and payment of taxes/fees, interest, penalties or other charges through electronic funds transfer, apply to NRS 360, 361, 362, 363A, 363B, 368A, 369, 370, 372, 372A, 374, 377, 377A, 444A; or any fee provided for in NRS 482.313, or NRS 680B as administered by the Department, as the respective tax/fee applications are implemented on the Department's website:*

*"nevadatax.nv.gov" means the Department's taxpayer service center website that provides taxpayers with the ability to conduct transactions and review tax account information over the internet.*

*"Authorized user" means an individual, granted authority by the taxpayer account security administrator to access taxpayer information available on the nevadatax.nv.gov website.*

*"Automated clearinghouse" (ACH) means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.*

*"Automated clearinghouse debit" means a transaction in which the Department, through its designated vendor originates an automated clearinghouse transaction debiting the person's bank account and crediting the State's bank account for the amount due.*

*"Automated clearinghouse credit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the taxpayer's bank to charge the taxpayer's account and deposit the funds to the State's bank account. Any fees assessed the taxpayer by the taxpayer's bank shall be the responsibility of the taxpayer.*

*"Electronic check" (E-Check) means an ACH debit transaction.*

*"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, or computer or magnetic tape, so as to order, instruct, or authorize a financial*

*institution (for the purposes electronic payments only, financial institution is as defined in Title 31 U.S.C. 5312, paragraphs 2(A thru F) and means: an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (h)); a commercial bank or trust company; a private banker; an agency or branch of foreign bank in the United States; and any credit union; or, a thrift institution) to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, or an automated clearinghouse credit.*

*"Electronic return, statement or other document" means all data entered into a return, statement, or other document that is prepared using computer software and transmitted electronically to the Department.*

*"Electronic Signature" means a user name attached to or logically associated with a record and executed or adopted by a taxpayer with the intent to sign an electronic return, statement or other document on the nevadatax.nv.gov website.*

*"Nevadatax Access Code" means a personal identification number (PIN) issued by the Department for the purposes of becoming a website user for access to, and filing of tax information.*

*"Permit" means one or more tax licenses or registrations obtained from the Department by completing and submitting a Nevada Business Registration by mailing or delivering it to the Department or by completing the Nevada Business Registration online at nevadatax.nv.gov.*

*"Security access" means the unlimited ability of the taxpayer or the taxpayer account security administrator to access the taxpayer's online accounts, conduct online transactions for the taxpayer, designate authorized users, specify the level of access granted to an authorized user, and modify or terminate the access of any authorized user.*

*"Signature" (NRS 360.780,3.) includes electronic signatures. A person shall be deemed to have affixed their signature to a tax return or business license application, by utilizing their Department issued nevadatax Access Code and they have checked the checkbox on the nevadatax online registration, that by submitting, they certify that the business for which they are registering to use nevadatax has granted them the authority to perform this action. They also certify that all information and statements supplied on the nevadatax online application are true and correct.*

*"Sole Proprietor" includes any business that is treated as a sole proprietor for purposes of federal income taxation.*

*"Taxpayer account security administrator" means an individual appointed and authorized by the taxpayer to administer security access on the nevadatax.nv.gov website for the specified taxpayer. The security administrator authorizes and assumes responsibility for, the authorized user(s) to access the taxpayer's account on the nevadatax.nv.gov website and electronically file the return on behalf of the taxpayer.*

*"Transaction fee" means a per-item fee, delineated in the State contract with a third party electronic services provider, for every online transaction conducted with the Department. Transaction fees will be funded by the Department.*

*"Website User" means a taxpayer that has, by means of providing specific information requested by the Department through its nevadatax.nv.gov website registration process, obtained a username and password entitling that taxpayer to conduct transactions and access its account information through the nevadatax.nv.gov website.*

**Section 3. Recordkeeping Requirements**

*For each electronic return of taxes/fees, interest, penalties or other charges, the taxpayer shall keep records, receipts, invoices and other pertinent papers to substantiate the electronic return for four years following the later of the return's due date or the date the electronic return was filed with the Department.*

**Section 4. Online Registration for filing and payment of taxes/fees, interest, penalties or other charges**

**A. To register online with the Department:**

*1. Submit to the Department a completed nevadatax.nv.gov online Nevada Business Registration and confirm by pressing the certification box button on the website upon completion of the registration process, that:*

- a. The information contained in the online Nevada Business Registration is true and correct, and*
- b. The signatory is duly authorized to act on behalf of the business.*

**B. To become a website user of the nevadatax.nv.gov website, a taxpayer that has not obtained a permit from the Department shall:**

*1. Provide the following information during the nevadatax.nv.gov website registration process:*

- a. The legal name of the registrant and any one of the following numbers:
  - i. The registrant's Federal employer identification number, or*
  - ii. The registrant's social security number, if the registrant is a sole proprietor, and**
- b. The legal name and e-mail address of the taxpayer account security administrator, and*

*2. Submit to the Department a completed nevadatax.nv.gov online Nevada Business Registration and confirm, by pressing the certification box button on the website upon completion of the registration process, that:*

- a. The information contained in the Nevada Business Registration submitted during the online business registration is true and correct,*
- b. The signatory is duly authorized to act on behalf of the business, receive confidential information, and*
- c. Security access is granted to the taxpayer's security administrator.*

**C. To become a website user of the nevadatax.nv.gov website, a taxpayer that has a permit issued by the Department shall:**

*1. Provide the following information during the nevadatax.nv.gov website registration process:*

- a. The legal name of the registrant and any one of the following numbers:
  - i. The registrant's Federal employer identification number, or*
  - ii. The registrant's social security number, if the registrant is a sole proprietor, or the identification (permit) number(s) assigned to the registrant by the Department, and**
- b. Selected information from a return, previously filed by the registrant, and*
- c. The legal name and e-mail address of the taxpayer account security administrator, and*

*2. Submit to the Department the nevadatax.nv.gov website registration and confirm by pressing the button on the website upon completion of the registration process that:*

- a. The website user is duly authorized to act on behalf of the business, receive confidential information, and*
  - b. Security access is granted to the taxpayer's security administrator.*
- D. To file online, a taxpayer, their security administrator, or authorized user shall use the taxpayer's electronic signature to sign any of the taxpayer's electronic returns. Use of the taxpayer's electronic signature is the taxpayer's declaration, that the electronic return is, to the best of the taxpayer's knowledge and belief, true, correct, and complete.*

**Section 5. Return and Payment Requirements**

- A. For each electronic return of taxes/fees, interest, penalties or other charges a timely return must be completed and submitted with payment no later than midnight Pacific Time on the return due date. Online payment may be submitted only by ACH debit or ACH credit.*
- B. If a return is submitted electronically but payment is mailed, a copy of the printout of the electronic return confirmation page must be submitted with the payment and must be postmarked by the return due date.*
- C. A Zero-return must be submitted in the event that no taxes are due for the reporting period in accordance with the appropriate statute.*

**NOTICE OF ADOPTION OF TEMPORARY REGULATION**  
**LCB File No. T050-05**

The Nevada Tax Commission adopted temporary regulations assigned LCB File No. T050-05 which pertain to chapter 360 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Notices of hearing for the adoption and amendment of the proposed temporary regulations were posted at the following locations: Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada; and Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed temporary regulations were placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed temporary regulations were also made available and placed on file at the Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Suite 1300, Las Vegas, Nevada; Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada; Department of Taxation, 850 Elm Street, No.2, Elko, Nevada; and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours. A copy of the notice of hearing and the proposed temporary regulations were placed on the Department's website at <http://tax.state.nv.us>.

Hearings were held on March 8, 2005, March 30, 2005, and April 21, 2005, at the Department of Taxation, 1550 East College Parkway, Large Conference Room, Carson City, Nevada, and teleconferenced to the Department of Taxation, 2550 Paseo Verde Parkway, Hearing Room, Henderson, Nevada. A pre-adoption hearing was held May 9, 2005, prior to the Nevada Tax Commission adoption hearing at the Nevada Department of Transportation Large Conference Room, Third Floor, 1263 S. Stewart St, Carson City, Nevada, and video-conferenced to Nevada Department of Transportation, Building B, Training Room A, 123 E. Washington Avenue, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed temporary regulations, only affected or interested persons and businesses as set forth in #3 below responded to the proposed temporary regulations and testified at the hearings. Copies of the transcripts of the hearings, for which a reasonable fee may be charged, may be obtained by calling the Nevada Department of Taxation at (775) 684-2096 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson city, Nevada, 89706.

The proposed temporary regulations, for practical purposes, were discussed at three workshops and have been heard and considered at one public hearing of the Nevada Tax Commission, on May 9, 2005.

**2. The number of persons who:**

- |                                       |                            |                            |
|---------------------------------------|----------------------------|----------------------------|
| (a) <b>Attended the hearings:</b>     | <b>March 8, 2005 - 14</b>  | <b>March 30, 2005 - 10</b> |
|                                       | <b>April 21, 2005 - 11</b> | <b>May 9, 2005 - 5</b>     |
| (b) <b>Testified at the hearings:</b> | <b>March 8, 2005 - 4</b>   | <b>March 30, 2005 - 4</b>  |
|                                       | <b>April 21, 2005 - 3</b>  | <b>May 9, 2005 - 0</b>     |

(c) **Submitted to the Tax Commission written comments:** Written comments were submitted by Allison, MacKenzie, Russell, Pavlakis, Wright & Fagan, LTD, on behalf of American Express. No other written comments by the general public were submitted to, or received by the Department of Taxation or the Nevada Tax Commission.

**3. A description of how comment was solicited from affected and interested persons, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, and by direct mail to the approximately 240 interested businesses and persons on the Department of Taxation's mailing list.

Comments from the above-referenced industry in #2 were received relative to the proposed draft of the temporary regulations.

**4. If the temporary regulations were adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the temporary regulations without change.**

The proposed temporary regulations were modified at public workshops prior to adoption, due to issues raised by the Department of Taxation, by representatives of other state agencies, and by affected credit card issuing agencies. The proposed temporary regulations were changed at the public hearings reflecting minor technical corrections raised by credit card industry, the Department of Taxation, members of other state agencies or Tax Commission members, and the Tax Commission believed no changes other than those made were necessary.

**5. The estimated economic effect of the adopted temporary regulations on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Adverse and beneficial effects; and (b) Both immediate and long-term effects.**

**(a) Adverse and beneficial effects:**

The proposed temporary regulations present no foreseeable or anticipated adverse economic effects to businesses or the public. The regulations will have a beneficial impact on taxpayers that desire to register with the Department, and file and remit taxes online. That effect cannot be quantified at this time.

**(b) Immediate and long-term effects:**

Same as #5(a) above.

**6. The estimated cost to the agency for enforcement of the adopted temporary regulations.**

The proposed temporary regulations present no significant foreseeable or anticipated cost or decrease in costs for enforcement. However, there is a 20 cents per-transaction fee for online payments that have been budgeted for, that should be offset by the elimination of manual processing of returns and payments, which cannot be quantified at this time.

**7. A description of any regulations or other state or governmental agencies which the temporary regulations which the temporary regulations overlap or duplicate and a statement explaining why the duplication or overlap is necessary. If the temporary regulations overlap or duplicate a federal regulation, the name of the regulating federal agency.**

The proposed temporary regulations are particular to the Department of Taxation practices and procedures and do not appear to overlap or duplicate regulations of other state or local governmental agencies.

**8. If the temporary regulations include provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are no known federal regulations pertaining to state taxation procedures, which are the subject of the proposed temporary regulations.

**9. If the temporary regulations provide a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed temporary regulations do not provide a new fee or increase an existing fee.