

Chapter 360 of NAC

LCB File No. E002-08

AMENDED EMERGENCY REGULATION OF THE NEVADA TAX COMMISSION

(Effective until and including October 28, 2008)

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

AUTHORITY: §1, NRS 360.090 and 360.419; and §§1 and 2, NRS 360.263.

A REGULATION relating to the implementation of the Amnesty Program by incorporating changes to the waiver of certain penalties and interest.

Section 1. NAC 360.405 is hereby amended as follows:

1. Except as otherwise provided in ~~[sub]~~ section 3 ~~[2]~~ *and subject to the conditions set forth in this regulation, [the Department may relieve a person who has not paid a tax or fee imposed pursuant to NRS 370.440 to 370.503, inclusive, chapter 372 or 374 of NRS or NRS 444A.090 or 482.313 of all or part of the penalties and interest imposed pursuant to NRS 360.300, 360.330 or 360.417 with regard to the unpaid tax or fee if:] a person's failure to make a timely return or payment of a tax or fee imposed pursuant to chapter 372, 374, 377, 377A or 377B of NRS or NRS 360A.130 or 363B.110 shall be deemed to be the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent; and a person's failure to timely obtain or renew a state business license as required pursuant to NRS 360.780 and 360.784 shall be deemed to be the result of considerations based on equity and fairness. In these circumstances, the Department, as staff to the Tax Commission, may relieve a person of all or part of the penalties and interest imposed pursuant to NRS 360.300, 360.417 or 360.784 with regard to the unpaid tax or fee if:*

(a) The person failed to pay the unpaid tax or fee for a reason other than *negligence*, fraud or intentional evasion of the payment of the unpaid tax or fee;

(b) Not earlier than *July 1, 2008* ~~[February 1, 2002,]~~ and not later than *October 28, 2008* ~~[September 30, 2008]~~ ~~[June 30, 2002]~~, the person files with the Department a request for relief pursuant to this section;

(c) The person, *no later than October 28, 2008*, ~~[September 30, 2008]~~ registers pursuant to NRS 372.220 ~~[or NAC 444A.041]~~, if required;

(d) The person, *no later than October 28, 2008*, ~~[September 30, 2008]~~ obtains *any other applicable* license ~~[a license pursuant to NRS 370.445]~~, if required;

(e) The person, *no later than October 28, 2008*, ~~[September 30, 2008]~~ pays in full the fee for any permit or license required for any business in which he engages that is related to the unpaid tax or fee;

(f) The person, *no later than October 28, 2008*, ~~[September 30, 2008]~~ pays in full the unpaid tax or fee; and

(g) *The person satisfies any other conditions permitted by law that are deemed relevant by the Executive Director or the Tax Commission. ~~[The Commission authorizes the Department to relieve the person of the penalties and interest]~~*

2. Except as otherwise provided in this paragraph and for the purposes of NRS 360.784, a person shall be deemed to have submitted the annual fee required to be paid pursuant to that section in a timely manner if the person files any required return and remits the fee on or before October 28, 2008 ~~[September 30, 2008]~~.

*3~~[2]~~. The Department may not, pursuant to ~~[sub]~~ section 1, relieve the person of any interest that accrues or penalties that are imposed on or after **October 28, 2008** ~~[September 30, 2008]~~ ~~[July 1, 2002]~~, on any portion of the unpaid tax or fee that remains unpaid on or after **October 28, 2008** ~~[September 30, 2008]~~ ~~[July 1, 2002]~~.*

4~~[3]~~. A person who requests or receives relief pursuant to this section may be selected for an audit and audited by the Department in the same manner as a person who does not request or receive relief pursuant to this section.

5~~[4]~~. The limitations set forth in NRS 360.355 apply to taxes and fees paid pursuant to this section.

6~~[5]~~. ~~The provisions of sections 1 through 5 apply only to taxes and fees that are due and payable before June 1, 2008~~

7. Notwithstanding section 6 and NAC 360.440, 360.442, and 360.444, the Department may accept a voluntary disclosure if:

(a) All the conditions set forth in this regulation are met; and

(b) The Executive Director is satisfied that the amount disclosed is representative of the amount of tax or fee that is due to the Department.

**NOTICE OF ADOPTION OF AMENDED EMERGENCY REGULATION
LCB File No. E002-08**

The Nevada Tax Commission adopted temporary regulations assigned LCB File No. E002-08 which pertain to chapter 360 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 1. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

(a) Both adverse and beneficial effects; and

The proposed emergency regulation (“regulation”) presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public. It is anticipated that the regulation will be beneficial in that it will assist the State, with respect to the budget shortfall, in collecting past due taxes and registering new taxpayers. It may also be beneficial to taxpayers in that there will be a short-term incentive to pay past due taxes in exchange for a waiver of penalty and/or interest.

(b) Both immediate and long-term effects.

Immediately, the Amnesty Program will likely accelerate the collection of past due taxes. Long-term, the State may see an increased revenue stream as a result of newly registered taxpayers.

- 2. The estimated cost to the agency for enforcement of the adopted regulation:**

The Department anticipates little, if any, additional cost to administer the regulation.

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

There are no known state or government agency regulations that the proposed regulation duplicates.

- 4. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

There are no known federal regulations that regulate the same activity.

5. **If the regulation provides 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 Nevada Tax Commission or the Department is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.

