

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R152-22

1. A clear and concise explanation of the need for the adopted regulation.

Proposed permanent regulation (R152-22) revises provisions relating to the voluntary disclosure of a taxpayer's failure to file a tax return with the Department of Taxation; expanding the applicability of those provisions to include taxpayers subject to certain additional taxes and fees; transferring from the Nevada Tax Commission to the Department the responsibility for determining in the first instance whether the tax liability of a taxpayer has been voluntarily disclosed; revising the requirements to be met by a taxpayer or the taxpayer's representative before the Department may make a determination of voluntary disclosure; authorizing the Executive Director of the Department or a person designated by the Executive Director to extend the time for complying with those requirements; requiring a taxpayer whose tax liability has been determined not to have been voluntarily disclosed to file any additional returns and pay any tax, penalty or interest determined to be owed; and providing other matters properly relating thereto.

This Regulation is necessary to provide clarity and streamline the process for voluntary disclosures to encourage more taxpayers to voluntarily disclose tax liabilities and ensure compliance with the regulatory requirements. Also, the existing regulations were outdated and did not provide for the voluntary disclosure of tax liability for new taxes implemented since their enactment, including modified business tax, gold and silver excise taxes, and taxes and fees imposed for transportation network companies, passenger carriers and peer-to-peer car sharing. The revisions also make the Department more efficient in its ability to process these applications, which in turn leads to proper filing, additional revenue/collections and less violations in audit.

2. 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.

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by issuing a questionnaire to interested parties regarding any impact on small businesses and sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop/Hearing</u>	<u>Number Notified</u>
5/8/24	Workshop	5/23/24	197
5/24/24	Adoption Hearing	6/25/24	201

The mailing list included the interested parties list maintained by the Department. Notices were also posted at the Nevada State Library, Legislative Counsel Bureau and various Department of Taxation locations throughout the State. Comments were also solicited by direct email.

Summary of public responses from Workshop:

1. Yolanda King, Nevada Taxpayers Association:

The Nevada Taxpayers Association, representing Nevada businesses, raised concerns about the processing of payment plans for voluntarily disclosed taxes, the effects of the regulation on waivers of penalty and interest, the consistency of redetermination rights with those following an audit, and the confirmation of appeal rights before the Nevada Tax Commission to contest Department decisions.

A copy of the recorded comments, the record of proceedings, and/or the Small Business Impact Statement may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 3850 Arrowhead Dr., 2nd Floor, Carson City, Nevada 89706, or by e-mailing the Department at sglazner@tax.state.nv.us.

3. The number of persons (not including Department staff or Commission Members) who:

- (a) Attended each hearing:**
- (b) Testified at each hearing:**
- (c) Submitted written comments:**

Workshop date: May 23, 2024

- (a) Number in attendance: 7
- (b) Number testifying: 1
- (c) Written statements submitted: 1

Adoption Hearing date: June 25, 2024

- (a) Number in attendance: 13
- (b) Number testifying: 1
- (c) Written statements submitted: 1

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

Testified at Adoption Hearing:

Name: **Yolanda King**

Telephone number: **702-457-8442**

Business address: **2303 East Sahara Avenue, Suite 102, Las Vegas, NV 89104-4138**

Electronic mail address: yolanda@nevadataxpayers.org

Name of entity or organization represented: **Nevada Taxpayers Association**

Provided written public comment for Adoption Hearing:

Name: **Yolanda King**

Telephone number: **702-457-8442**

Business address: **2303 East Sahara Avenue, Suite 102, Las Vegas, NV 89104-4138**

Electronic mail address: yolanda@nevadataxpayers.org

Name of entity or organization represented: **Nevada Taxpayers Association**

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

See response to #2 for description of how comments were solicited from affected businesses and an explanation of how interested persons may obtain a copy of the summary.

Summary of responses from affected businesses:

2. Yolanda King, Nevada Taxpayers Association:

The Nevada Taxpayers Association, representing Nevada businesses, raised concerns about the processing of payment plans for voluntarily disclosed taxes, the effects of the regulation on waivers of penalty and interest, the consistency of redetermination rights with those following an audit, and the confirmation of appeal rights before the Nevada Tax Commission to contest Department decisions.

A copy of the written and recorded comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 3850 Arrowhead Dr., 2nd Floor, Carson City, Nevada 89706, or by e-mailing the Department at sglazner@tax.state.nv.us.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The Nevada Tax Commission adopted the regulation without making any changes to the proposed version. The Department addressed the Nevada Taxpayers Association's concerns by referencing existing regulations. It was clarified that the Voluntary Disclosure process is a specific regulatory program that mandates the waiver of penalties and interest when the tax owed is voluntarily disclosed and paid in full.

However, there is a separate regulatory process that allows taxpayers to seek a payment plan if they need assistance paying a determined tax liability. Additionally, existing regulations permit taxpayers to petition for a waiver of penalties and interest upon full

payment of the tax liability. This waiver option is discretionary, whereas the Voluntary Disclosure process mandates the waiver upon full payment of the tax.

Furthermore, Department staff assured Ms. King during the workshop that existing regulations allow for redeterminations of Department decisions, and any Department decision to be appealed before the Nevada Tax Commission under NRS 360.245.

Based upon this feedback to the Nevada Tax Commission, the Commission adopted the language in its original form as consistent with its intent and satisfying the concerns of the public.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. This must include adverse, beneficial, immediate and long-term effects.

(a) Estimated economic effect on the businesses which they are to regulate.

The adopted permanent regulation presents no reasonably foreseeable or anticipated adverse or long-term economic effects on businesses. There may be beneficial and short-term economic effects on businesses since this Regulation provides more clarity to businesses to voluntarily disclose tax liability, including for tax types not previously captured, to obtain automatic waivers of penalty and interest. It will be difficult to quantify how many businesses currently do not file and will file under this program or with these revisions.

(b) Estimated economic effect on the public which they are to regulate.

The adopted permanent regulation presents no reasonably foreseeable or anticipated adverse or long-term economic effects to the public. There may be beneficial and short-term economic effects on the public through increased tax collection for state and local government revenue. However, the amount of such revenue is difficult to quantify and is based upon the number of business entities that file applications.

8. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of the adopted regulation presents no significant foreseeable or anticipated cost or decrease in costs.

9. 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.

The adopted permanent regulation does not overlap or duplicate any regulation of other state or local governmental entities.

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

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

- 11. 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 adopted permanent regulation does not include new fees or increase an existing fee.