

**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608 and NRS 233B.0609**

LCB File No. R152-22

1. Background

Existing regulations provide that a taxpayer who fails to file a tax return with the Department of Taxation as required by various provisions of law, and who wishes to voluntarily disclose that fact to the Nevada Tax Commission, must file with the Department an application for voluntary disclosure. Any such application must be filed before the Department has initiated an audit or investigation of the taxpayer. (NAC 360.440) **Section 1** of this regulation expands the applicability of those provisions to include, without limitation, taxpayers who are subject to the modified business tax, the tax imposed on the gross revenue of gold and silver mining businesses, the taxes imposed on transportation network companies and other passenger carriers and the taxes and fees imposed in connection with the operation of peer-to-peer car sharing programs. **Section 1** also sets forth the requirements that must be complied with by a taxpayer or the taxpayer's representative before the Department may consider the tax liability of the taxpayer to have been voluntarily disclosed, and provides that those requirements must generally be met within 90 days after notice is given by the Department of its acceptance of the taxpayer's application for voluntary disclosure. Under those provisions, the taxpayer or the taxpayer's representative must file any required registration and delinquent tax returns for the period being disclosed, pay the tax estimated to be owed for that period and submit any additional information or material required by the Department. Under specified circumstances, **section 1** also authorizes the Executive Director of the Department or a person designated by the Executive Director to grant one extension of time for compliance with those requirements. **Sections 2 and 3** of this regulation make conforming changes and transfer, from the Commission to the Department, the responsibility for determining in the first instance whether the tax liability of a taxpayer has been voluntarily disclosed.

Under existing regulations, if the Commission determines that a taxpayer has made a good faith effort to comply with the requirements for voluntary disclosure, the Department is prohibited from assessing the penalty and interest otherwise prescribed by statute on the entire amount of the taxpayer's tax liability. If the Commission determines that the taxpayer's tax liability has not been voluntarily disclosed, the Department is required to assess the prescribed penalty and interest on the entire amount of that liability. A taxpayer who wishes to dispute the amount of the assessed penalty or interest must file a petition with the Executive Director for consideration and action by the Commission. (NAC 360.446) **Section 3** eliminates the "good faith effort" language from the existing provisions. If the Department determines that the taxpayer's tax liability has not been voluntarily disclosed, **section 3** requires the Department to notify the taxpayer of that determination and issue a bill for the amount of any tax, penalty or interest owed by the taxpayer. In such a case, **section 3** also: (1) requires the taxpayer to file any additional returns and pay any tax, penalty or interest determined to be owed; and (2) provides that the taxpayer may file a petition with the Department, for review by the Commission, disputing the Department's determination or the amount of any tax, penalty or interest assessed by the Department. **Section 3** further clarifies that any action taken by the Commission or Department under their authority does not affect the right of a taxpayer to request a waiver or reduction of a

penalty or interest, or both, pursuant to regulatory provisions that authorize the Department to grant such a waiver or reduction in extenuating circumstances.

2. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R152-22. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department to 187 members of its interested parties list.
- Mailed to 10 Rural Businesses
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content responses are summarized below:

- One response was received for LCB Draft of Proposed Regulation – File No. R152-22 and had no impact.
- Yolanda King, President of the Nevada Taxpayers Association, representing Nevada businesses, raised concerns about the processing of payment plans for voluntarily disclosed taxes, 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.
- During Workshop, it was clarified that the voluntary disclosure process was distinct from other processes for payment plans and requesting waivers of penalty and interest. Specifically, an approved voluntary disclosure results in a waiver of penalty and interest whereas other requests for waivers are discretionary and based upon satisfaction of certain criteria. Moreover, there are separate statutory and regulatory provisions for approval of payment plans. Finally, it was confirmed that the redetermination and appeal processes are not affected by this regulation.

Anyone interested in obtaining a copy of the completed small business impact questionnaire used for this summary, can contact:

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3. The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small businesses.

One response was received during the workshop for LCB Draft of Proposed Regulation R152-22 for the questionnaire regarding the impact of the regulation on small businesses. The small business questionnaire resulted in no responses. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes and understanding of the Nevada Taxpayers Association of the Department's intent and feedback regarding its public responses.

4. The estimated economic effect of the proposed regulation on small businesses which it is to regulate:

Adverse and Beneficial Effects

The Department finds that there is no reasonable, foreseeable or anticipated adverse or beneficial economic effect on small businesses.

Direct and Indirect Effects

The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect economic effect on small businesses.

5. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

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The Department considered the public responses provided by the Nevada Taxpayers Association and determined there would be no impact on small businesses based upon the Association's assurance that its concerns had been appropriately addressed and that the regulation would not otherwise affect redetermination or appeal rights and that the existing processes for payment plans and waivers of penalty and interest remained unaffected by this Regulation.

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

The proposed regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

- 7. If the proposed 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 proposed permanent regulation does not include new fees or increase an existing fee.

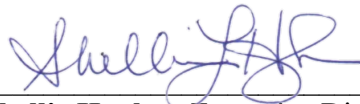
- 8. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

The proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

- 9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The Department has determined that there will be no adverse impacts to small businesses based on its analysis of the proposed regulations and lack of public comment.

I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared, and the information contained herein is accurate.



Shellie Hughes, Executive Director
September 3, 2024