

LCB File No. R079-01

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

Voluntary Disclosure

a) **Generally.** In the case of a failure to file a return required by law that is voluntarily disclosed to the Department, in accordance with this Section, the tax may be assessed no more than 8 years after the original due date of each return required to have been filed.

b) **Taxpayers must voluntarily come forward and disclose.** In order for the statute of limitations to be limited to no more than eight years under Nevada law, a taxpayer must voluntarily come forward and disclose its liability to the Nevada Tax Commission (Commission). A taxpayer has voluntarily come forward and disclosed its liability to the Commission when it has done the following:

c) **Taxpayer must file an application for voluntary disclosure.** Taxpayer must file an application for voluntary disclosure (Application) in a form prescribed by the Commission, prior to the date the Department of Taxation has initiated an audit or investigation of the taxpayer. The Application is not accepted by the Commission until it has been approved and signed by the secretary to the Commission. The Secretary to the Commission may not sign the Application until the Department has notified the Commission that the Department has not initiated an audit or investigation of the taxpayer, as those terms are defined in subsection (c)(1) below, prior to the filing date of taxpayer's Application with the Commission and the Commission has determined that the Taxpayer has voluntarily disclosed its delinquent return[s]. The filing date of taxpayer's Application with the Commission is the date the Application is received by the Department. Once the secretary to the Commission has signed the Application, the Commission will furnish the taxpayer with a copy of the executed Application.

d) **Taxpayer must file returns and pay liability.** Once taxpayer has received a copy of the executed Application, the taxpayer must file Nevada tax returns for the tax being disclosed for the last eight years or other applicable delinquent period of time with the Commission and pay all tax, penalty and interest (except for those amounts for which taxpayer is petitioning the Commission seeking relief) within thirty days from the Nevada Tax Commission secretary's Signature Date (Signature Date). The Nevada Tax Commission secretary's Signature Date is the date the Commission secretary signs the Application. Taxpayer's determination of its tax liability, including the methodology used by taxpayer, must be documented and in a manner reviewable by the Department. A taxpayer who maintains that it was not required to file returns and pay tax for the entire eight years shall file returns and pay tax for the period that it maintains it was required to do so under Nevada law. In addition, taxpayer will provide in its petition to the Commission its reasons why it maintains it does not owe tax for the entire voluntary disclosure period (immediately preceding eight years). The Commission will determine the number of years (up to the eight-year maximum) taxpayer is subject to Nevada tax under voluntary disclosure. The Commission will notify taxpayer of its decision. Taxpayer will file returns and pay tax for the number of years (up to eight years maximum) the Commission has determined taxpayer is

subject to tax under voluntary disclosure. Taxpayer will file any additional returns and pay any additional liability owed within 60 days from the date of notification to the taxpayer. The date of notification is the date shown on the notification sent to the taxpayer by the Commission.

e) **Taxpayer may file petition with tax returns.** Taxpayers, who, in addition to seeking relief from the eight-year statute of limitations, are requesting additional relief from the Commission, must file a petition within 30 days from the Signature Date in the manner prescribed by NRS 360.245. Taxpayers shall file their petition with the Commission concurrently with their tax returns for the voluntary disclosure period to the address designated by the Commission.

f) **Disqualification from voluntary disclosure.** A taxpayer does not qualify for voluntary disclosure if:

1) **The Department has initiated an audit or investigation.** If it is established that the Department had, prior to the date taxpayer filed its Application with the Commission, initiated an audit or investigation of the taxpayer.

i.) **Initiated an audit.** The Department has initiated an audit of the taxpayer if, at a *minimum*:

ii.) The auditor of the Department has contacted the taxpayer by telephone to schedule an appointment to audit taxpayer for the particular Nevada tax type being disclosed; or

iii.) The Department has contacted the taxpayer in writing regarding a possible tax liability or a notice of intent to audit for the particular Nevada tax type being disclosed.

2) **Taxpayer does not file returns.** Taxpayer does *not* file tax returns within thirty days from the Signature Date.

3) **Taxpayer does not pay tax liability.** Taxpayer does *not* pay all tax, penalty and interest (except for those amounts for which taxpayer is seeking relief from the Commission) within thirty days from the Signature Date.

4) **Taxpayer does not comply with Commission Order.** Taxpayer does not comply with the Commission's Order regarding taxpayer's petition seeking relief.

5) **Taxpayer does not begin prospective compliance.** Taxpayer must begin prospective compliance with Nevada tax law as a part of voluntary disclosure. Taxpayer has begun prospective compliance when taxpayer has made a good faith effort to comply with Nevada tax law. This would include prospectively filing all returns that are due, paying the tax liability owed, registering with the Department and begin remitting all taxes collected.

6) **Taxpayer has not remitted all taxes collected for the Nevada tax type being disclosed as part of voluntary disclosure.** Taxpayer must remit all taxes (and interest) previously collected for all periods by taxpayer for the Nevada tax type being disclosed as part of taxpayer's voluntary disclosure with the Department. This includes periods beyond the eight-year limitation for which the taxes were collected but not remitted. Failure to remit all taxes (and interest) previously

collected for the Nevada tax type being disclosed will disqualify taxpayer from the relief provided under voluntary disclosure unless a payment plan is agreed to by the Taxpayer and the Commission.

7) **Extension.** Taxpayer may request in writing, before the expiration of the 30-day period, an automatic 60-day extension in order to file its petition or tax returns or make payment. Taxpayer may request in writing, before the expiration of any extension, a further extension in order to file its petition or tax returns or make payment. The Commission, in its discretion, may grant an additional extension where taxpayer's facts warrant a further extension of time in order to comply with the Commission's filing requirements.

8) **The Department retains the right to audit taxpayer and verify accurate reporting.** Taxpayer has made a good faith effort to accurately report its tax liability under voluntary disclosure when taxpayer has made a reasonable and honest effort to calculate and report its correct tax liability due and does not intentionally or purposefully misrepresent its tax liability to the Department. The Department shall retain the right to audit taxpayer for all open years of the voluntary disclosure period and assess all tax, penalty and interest that are owed by taxpayer. Taxpayer will not qualify for the relief provided under voluntary disclosure when the Department finds that taxpayer understated its final tax liability to the Commission by 10% or more and taxpayer cannot demonstrate to the Department that a good faith effort was made to accurately report its liability for the voluntary disclosure period.