

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R079-01

October 30, 2001

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

AUTHORITY: §§1-6, NRS 360.090.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. *If a taxpayer fails to file a return as required by the applicable provisions of chapter 360, 362, 364A, 369, 370, 372, 372A, 374, 377, 377A, or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS and he wishes to disclose that fact voluntarily to the commission, the taxpayer or his representative must file with the department an application for voluntary disclosure on a form prescribed by the commission before the department has initiated an audit or investigation of the taxpayer.*

2. The commission will not accept an application filed pursuant to subsection 1 until the application has been approved and signed by the director. The director shall not approve and sign the application until he has verified that the department did not initiate an audit or investigation of the taxpayer before the date that the taxpayer filed an application with the department pursuant to subsection 1. An application is deemed to be filed with the department on the date the application is received by the department.

3. After the director has signed and approved the application, the commission will provide the taxpayer with a copy of the approved application.

4. For the purposes of subsection 2, the department has initiated an audit or investigation of a taxpayer if:

(a) An auditor of the department has contacted the taxpayer by telephone to schedule an appointment to audit the taxpayer concerning liability for the type of tax that the taxpayer wishes to disclose voluntarily pursuant to section 2 of this regulation; or

(b) The department has contacted the taxpayer in writing regarding a possible tax liability or given the taxpayer written notice that an audit will be conducted by the department concerning liability for the type of tax that the taxpayer wishes to disclose voluntarily pursuant to section 2 of this regulation.

Sec. 3. 1. *Within 30 days after a taxpayer has received a copy of an application approved pursuant to section 2 of this regulation, the taxpayer must:*

(a) File with the department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to section 2 of this regulation;

(b) Except as otherwise provided in subsection 2, pay any tax, penalty and interest owed for the period described in paragraph (a); and

(c) Submit documentation to the department of the methodology the taxpayer used to determine his tax liability.

2. A taxpayer who disputes that he owes tax for any portion of the period being disclosed must file a petition with the director at the same time as he files the delinquent tax returns with the department pursuant to this section. The petition must state the reasons supporting the dispute of tax liability.

3. The commission will review any petition filed pursuant to subsection 2 and determine the tax liability of the petitioner. The commission will notify the petitioner of its decision by registered or certified mail, return receipt requested.

4. The petitioner must file any additional returns and pay any additional tax liability within 60 days after he receives the notification from the commission pursuant to subsection 3.

Sec. 4. *The commission will not consider the tax liability of a taxpayer as being voluntarily disclosed if, after filing an application for voluntary disclosure pursuant to section 2 of this regulation, the taxpayer:*

1. Within 30 days after the taxpayer has received a copy of the approved application, fails to file with the department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to section 2 of this regulation;

2. Within 30 days after the taxpayer has received a copy of the approved application, fails to pay any tax, penalty or interest owed for the period described in subsection 1 other than a tax that is the subject of a petition filed pursuant to section 3 of this regulation;

3. Fails to comply with an order of the commission concerning a petition filed pursuant to section 3 of this regulation;

4. Fails to make a good faith effort to comply with the applicable provisions of chapter 360, 362, 364A, 369, 370, 372, 372A, 374, 377, 377A, or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS including, without limitation, registering with the department, filing tax returns, paying any tax liability and remitting any taxes collected; or

5. Fails to provide an accurate estimate of his tax liability in the application for voluntary disclosure filed pursuant to section 2 of this regulation. The taxpayer shall be deemed to have provided an inaccurate estimate of his tax liability if:

(a) The tax liability provided in the application for voluntary disclosure is less than the taxpayer's actual tax liability by 10 percent or more; and

(b) The taxpayer is unable to demonstrate to the department that he made a good faith effort to report accurately his tax liability in the application for voluntary disclosure.

Sec. 5. A taxpayer may request in writing, before the expiration of the 30-day period set forth in section 3 of this regulation, an extension of 60 days in which to file a petition, tax return or make a required payment. The commission:

1. Will grant an initial request for an extension of 60 days; and

2. May grant a subsequent request for an extension of 60 days if it determines that the circumstances warrant an additional extension.

Sec. 6. The department retains the right to:

1. Audit a taxpayer for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to section 2 of this regulation; and

2. Assess any tax, penalty and interest that is owed by the taxpayer.