

ASSEMBLY BILL NO. 504—COMMITTEE ON TAXATION

MARCH 28, 2011

Referred to Committee on Taxation

SUMMARY—Revises provisions governing delinquent taxes.
(BDR 32-922)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to taxation; requiring the Department of Taxation to provide an annual report to the Nevada Tax Commission of delinquent taxes owed to the Department; requiring the Nevada Tax Commission to request that the State Board of Examiners designate certain delinquent taxes owed to the Department as bad debt; revising the interest rate for the payment of certain delinquent taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Department of Taxation to prepare and furnish an annual report to the Nevada Tax Commission that shows debts to the Department incurred by delinquent taxpayers during the immediately preceding year. **Section 1** also requires the Department to include the amount of any delinquent taxes that the Department determines is impossible or impractical to collect. **Section 1** further requires the Nevada Tax Commission to request that the State Board of Examiners designate any such amount of delinquent taxes as bad debt.

Sections 2 and 6 of this bill reduce the interest rate on the overpayment of certain taxes from 0.5 percent per month to 0.25 percent per month. **Sections 3, 4 and 9** of this bill reduce the interest rate on late payments of certain taxes from 1 percent per month to 0.75 percent per month. **Sections 5, 7, 8 and 10-12** of this bill reduce the interest rate on the overpayment of certain taxes and certain illegally collected taxes from 6 percent per annum to 3 percent per annum.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On or before January 15 of each year, the Department shall prepare and furnish to the Nevada Tax Commission a report that shows all money owed to the Department for delinquent payments of any tax administered by the Department during the preceding year.

2. The Department shall include in the report prepared pursuant to subsection 1 the amount of any delinquent taxes that the Department determines is impossible or impractical to collect.

3. If the Department determines that it is impossible or impractical to collect any amount of delinquent taxes, the Nevada Tax Commission shall request that the State Board of Examiners designate such amount as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the delinquent taxes as a bad debt if the Board is satisfied that the collection of the delinquent taxes is impossible or impractical. If the amount of the delinquent taxes is not more than \$50, the State Board of Examiners may delegate to its Clerk the authority to designate delinquent taxes as a bad debt. The Nevada Tax Commission may appeal to the State Board of Examiners a denial by the Clerk of a request to designate delinquent taxes as a bad debt.

4. Upon the designation of delinquent taxes as a bad debt pursuant to this section, the State Board of Examiners or its Clerk shall immediately notify the State Controller thereof. Upon receiving the notification, the State Controller shall direct the removal of the bad debt from the books of account of the State of Nevada. A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the State of Nevada.

5. The State Controller shall keep a master file of all delinquent taxes that are designated as bad debts pursuant to this section. For each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was removed from the records and books of account of the State of Nevada, and any other information concerning the debt that the State Controller determines is necessary.

Sec. 2. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the



1 provisions of NRS 360.2935, interest must be paid upon an
2 overpayment of any tax provided for in chapter 362, 363A, 363B,
3 369, 370, 372, 374, 377 or 377A of NRS, any fee provided for in
4 NRS 444A.090 or 482.313, or any assessment provided for in NRS
5 585.497, at the rate of ~~10.5~~ 0.25 percent per month from the last day
6 of the calendar month following the period for which the
7 overpayment was made.

8 2. No refund or credit may be made of any interest imposed on
9 the person making the overpayment with respect to the amount
10 being refunded or credited.

11 3. The interest must be paid:

12 (a) In the case of a refund, to the last day of the calendar month
13 following the date upon which the person making the overpayment,
14 if the person has not already filed a claim, is notified by the
15 Department that a claim may be filed or the date upon which the
16 claim is certified to the State Board of Examiners, whichever is
17 earlier.

18 (b) In the case of a credit, to the same date as that to which
19 interest is computed on the tax or the amount against which the
20 credit is applied.

21 **Sec. 3.** NRS 360.295 is hereby amended to read as follows:

22 360.295 Except as otherwise specifically provided in this title,
23 if the Department grants an extension of the time for paying any
24 amount required to be paid under this title, a person who pays the
25 amount within the period for which the extension is granted shall
26 pay, in addition to the amount owing, interest at the rate of ~~11~~ 0.75
27 percent per month from the date the amount would have been due
28 without the extension until the date of payment.

29 **Sec. 4.** NRS 360.417 is hereby amended to read as follows:

30 360.417 Except as otherwise provided in NRS 360.232 and
31 360.320, and unless a different penalty or rate of interest is
32 specifically provided by statute, any person who fails to pay any tax
33 provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377,
34 377A, 444A or 585 of NRS, or any fee provided for in NRS
35 482.313, and any person or governmental entity that fails to pay any
36 fee provided for in NRS 360.787, to the State or a county within the
37 time required, shall pay a penalty of not more than 10 percent of
38 the amount of the tax or fee which is owed, as determined by the
39 Department, in addition to the tax or fee, plus interest at the rate of
40 ~~11~~ 0.75 percent per month, or fraction of a month, from the last day
41 of the month following the period for which the amount or any
42 portion of the amount should have been reported until the date of
43 payment. The amount of any penalty imposed must be based on a
44 graduated schedule adopted by the Nevada Tax Commission which



1 takes into consideration the length of time the tax or fee remained
2 unpaid.

3 **Sec. 5.** NRS 361.420 is hereby amended to read as follows:

4 361.420 1. Any property owner whose taxes are in excess of
5 the amount which the owner claims justly to be due may pay each
6 installment of taxes as it becomes due under protest in writing. The
7 protest must be in the form of a separate, signed statement from the
8 property owner and filed with the tax receiver at the time of the
9 payment of the installment of taxes.

10 2. The property owner, having protested the payment of taxes
11 as provided in subsection 1 and having been denied relief by the
12 State Board of Equalization, may commence a suit in any court of
13 competent jurisdiction in the State of Nevada against the State and
14 county in which the taxes were paid, and, in a proper case, both the
15 Nevada Tax Commission and the Department may be joined as a
16 defendant for a recovery of the difference between the amount of
17 taxes paid and the amount which the owner claims justly to be due,
18 and the owner may complain upon any of the grounds contained in
19 subsection 4.

20 3. Every action commenced under the provisions of this section
21 must be commenced within 3 months after the date of the payment
22 of the last installment of taxes, and if not so commenced is forever
23 barred. If the tax complained of is paid in full and under the written
24 protest provided for in this section, at the time of the payment of the
25 first installment of taxes, suit for the recovery of the difference
26 between the amount paid and the amount claimed to be justly due
27 must be commenced within 3 months after the date of the full
28 payment of the tax or the issuance of the decision of the State Board
29 of Equalization denying relief, whichever occurs later, and if not so
30 commenced is forever barred.

31 4. In any suit brought under the provisions of this section, the
32 person assessed may complain or defend upon any of the following
33 grounds:

34 (a) That the taxes have been paid before the suit;

35 (b) That the property is exempt from taxation under the
36 provisions of the revenue or tax laws of the State, specifying in
37 detail the claim of exemption;

38 (c) That the person assessed was not the owner and had no right,
39 title or interest in the property assessed at the time of assessment;

40 (d) That the property is situate in and has been assessed in
41 another county, and the taxes thereon paid;

42 (e) That there was fraud in the assessment or that the assessment
43 is out of proportion to and above the taxable cash value of the
44 property assessed;



(f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; or

(g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed.

5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) and (g) of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.

6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.

7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed ~~6~~ 3 percent per annum from and after the date of payment of the tax complained of.

Sec. 6. NRS 361.486 is hereby amended to read as follows:

361.486 1. Except as otherwise provided in subsection 2 and NRS 361.485, interest must be paid on an overpayment of the taxes imposed by this chapter at the rate of ~~10.5~~ 0.25 percent per month, or fraction thereof, from the last day of the calendar month in which the overpayment was made to the last day of the calendar month in which a refund is made.

2. No interest is allowed:

(a) On a refund of any penalty or interest paid by a taxpayer; or

(b) If the ex officio tax receiver determines that the overpayment was made intentionally or by reason of carelessness.

Sec. 7. NRS 363A.210 is hereby amended to read as follows:

363A.210 In any judgment, interest must be allowed at the rate of ~~6~~ 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.

Sec. 8. NRS 363B.200 is hereby amended to read as follows:

363B.200 In any judgment, interest must be allowed at the rate of ~~6~~ 3 percent per annum upon the amount found to have been



1 illegally collected from the date of payment of the amount to the
2 date of allowance of credit on account of the judgment, or to a date
3 preceding the date of the refund warrant by not more than 30 days.
4 The date must be determined by the Department.

5 **Sec. 9.** NRS 368A.230 is hereby amended to read as follows:

6 368A.230 Upon written application made before the date on
7 which payment must be made, the Board or the Department may, for
8 good cause, extend by 30 days the time within which a taxpayer is
9 required to pay the tax imposed by this chapter. If the tax is paid
10 during the period of extension, no penalty or late charge may be
11 imposed for failure to pay at the time required, but the taxpayer shall
12 pay interest at the rate of ~~4~~ 0.75 percent per month from the date
13 on which the amount would have been due without the extension
14 until the date of payment, unless otherwise provided in NRS
15 360.232 or 360.320.

16 **Sec. 10.** NRS 368A.310 is hereby amended to read as follows:

17 368A.310 In any judgment, interest must be allowed at the rate
18 of ~~4~~ 3 percent per annum upon the amount found to have been
19 illegally collected from the date of payment of the amount to the
20 date of allowance of credit on account of the judgment, or to a date
21 preceding the date of the refund warrant by not more than 30 days.
22 The date must be determined by the Board or the Department.

23 **Sec. 11.** NRS 372.695 is hereby amended to read as follows:

24 372.695 In any judgment, interest must be allowed at the rate
25 of ~~4~~ 3 percent per annum upon the amount found to have been
26 illegally collected from the date of payment of the amount to the
27 date of allowance of credit on account of the judgment, or to a date
28 preceding the date of the refund warrant by not more than 30 days,
29 the date to be determined by the Department.

30 **Sec. 12.** NRS 374.700 is hereby amended to read as follows:

31 374.700 In any judgment, interest shall be allowed at the rate
32 of ~~4~~ 3 percent per annum upon the amount found to have been
33 illegally collected from the date of payment of the amount to the
34 date of allowance of credit on account of the judgment, or to a date
35 preceding the date of the refund warrant by not more than 30 days,
36 the date to be determined by the Department.

37 **Sec. 13.** This act becomes effective on July 1, 2011.

