

Amendment No. 738

Senate Amendment to Assembly Bill No. 504

(BDR 32-922)

Proposed by: Senate Committee on Revenue**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SRT/HAC



Date: 5/24/2011

A.B. No. 504—Revises provisions governing delinquent taxes. (BDR 32-922)



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:

~~(This bill)~~ 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. ~~(This bill)~~ Section 1 also requires the Department to include the amount of any delinquent taxes that the Department determines is impossible or impractical to collect. ~~(This bill)~~ 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 to 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 provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377 or 377A of NRS, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of ~~10.5~~ 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

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

3. The interest must be paid:

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

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

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

360.295 Except as otherwise specifically provided in this title, if the Department grants an extension of the time for paying any amount required to be paid under this title, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of ~~14~~ 0.75 percent per month from the date the amount would have been due without the extension until the date of payment.

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

2 360.417 Except as otherwise provided in NRS 360.232 and 360.320, and
3 unless a different penalty or rate of interest is specifically provided by statute, any
4 person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370,
5 372, 374, 377, 377A, 444A or 585 of NRS, or any fee provided for in NRS
6 482.313, and any person or governmental entity that fails to pay any fee provided
7 for in NRS 360.787, to the State or a county within the time required, shall pay a
8 penalty of not more than 10 percent of the amount of the tax or fee which is owed,
9 as determined by the Department, in addition to the tax or fee, plus interest at the
10 rate of ~~14~~ 0.75 percent per month, or fraction of a month, from the last day of the
11 month following the period for which the amount or any portion of the amount
12 should have been reported until the date of payment. The amount of any penalty
13 imposed must be based on a graduated schedule adopted by the Nevada Tax
14 Commission which takes into consideration the length of time the tax or fee
15 remained unpaid.

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

17 361.420 1. Any property owner whose taxes are in excess of the amount
18 which the owner claims justly to be due may pay each installment of taxes as it
19 becomes due under protest in writing. The protest must be in the form of a separate,
20 signed statement from the property owner and filed with the tax receiver at the time
21 of the payment of the installment of taxes.

22 2. The property owner, having protested the payment of taxes as provided in
23 subsection 1 and having been denied relief by the State Board of Equalization, may
24 commence a suit in any court of competent jurisdiction in the State of Nevada
25 against the State and county in which the taxes were paid, and, in a proper case,
26 both the Nevada Tax Commission and the Department may be joined as a
27 defendant for a recovery of the difference between the amount of taxes paid and the
28 amount which the owner claims justly to be due, and the owner may complain upon
29 any of the grounds contained in subsection 4.

30 3. Every action commenced under the provisions of this section must be
31 commenced within 3 months after the date of the payment of the last installment of
32 taxes, and if not so commenced is forever barred. If the tax complained of is paid in
33 full and under the written protest provided for in this section, at the time of the
34 payment of the first installment of taxes, suit for the recovery of the difference
35 between the amount paid and the amount claimed to be justly due must be
36 commenced within 3 months after the date of the full payment of the tax or the
37 issuance of the decision of the State Board of Equalization denying relief,
38 whichever occurs later, and if not so commenced is forever barred.

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

- 41 (a) That the taxes have been paid before the suit;
42 (b) That the property is exempt from taxation under the provisions of the
43 revenue or tax laws of the State, specifying in detail the claim of exemption;
44 (c) That the person assessed was not the owner and had no right, title or
45 interest in the property assessed at the time of assessment;
46 (d) That the property is situate in and has been assessed in another county, and
47 the taxes thereon paid;
48 (e) That there was fraud in the assessment or that the assessment is out of
49 proportion to and above the taxable cash value of the property assessed;
50 (f) That the assessment is out of proportion to and above the valuation fixed by
51 the Nevada Tax Commission for the year in which the taxes were levied and the
52 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 ~~14~~ 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 ~~10.51~~ 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 ~~14~~ 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 ~~14~~ 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. 9. NRS 368A.230 is hereby amended to read as follows:

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

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

368A.310 In any judgment, interest must be allowed at the rate of ~~14~~ 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 Board or the Department.

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

372.695 In any judgment, interest must be allowed at the rate of ~~4~~ 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 to be determined by the Department.

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

374.700 In any judgment, interest shall be allowed at the rate of ~~4~~ 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 to be determined by the Department.

~~[Sec. 2.]~~ **Sec. 13.** This act becomes effective on July 1, 2011.