

## Taxpayer's Bill of Rights for Taxes on Fuels

This document sets forth the Taxpayer's Bill of Rights for Taxes on Fuels with explanations and an introduction to the services provided by the Department of Motor Vehicles. Our philosophy is simple: Most people want to pay what they owe on time and in full, and an important part of our job is to explain the taxpayer's responsibilities as clearly as possible. Taxes may be inevitable, but paying them should not be an overly confusing or intimidating experience.

Understanding how the system works is every taxpayer's right. Our goal is to take the mystery out of tax administration. When that happens, everyone benefits - taxpayers and tax administrators alike. The document is also an introduction to how the system works if you have a problem with your taxes or if you disagree with how much the Department says you owe in taxes. Well-informed taxpayers can get faster results by knowing their rights and exercising them quickly.

Taxpayers need to know what will happen if they do not pay taxes. State law provides for an escalating series of sanctions - from interest and penalty charges to court actions - designed to ensure that everyone pays his or her fair share of taxes. The enforcement tools, carefully used, encourage voluntary compliance while assuring honest taxpayers that they are not shouldering an unfair burden.

This document may not be able to provide you with all the detailed information that you need to answer a particular question or solve a specific problem. Therefore, we urge you to contact the Department directly if you have any further questions or comments.

The rights set forth in this document cover those taxes or tax provisions administered by the Department of Motor Vehicles under Chapters 360A, 365, 366, and 373 of the Nevada Revised Statutes (NRS).

**1. The legislature hereby declares that each taxpayer has the right:**

**(a)** *To be treated by officers and employees of the Department with courtesy, fairness, uniformity, consistency and common sense.*

Every taxpayer is liable only for the correct amount of tax that is due under the law. The Department must apply the law consistently and fairly to all taxpayers and treat them with courtesy and consideration. These criteria are taken into account when evaluating an employee's performance. The Department shall not evaluate any employee of the Department on the basis of assessments or collections from taxpayers. Any taxpayer not treated with fairness, courtesy and consideration by any Department employee, should contact the employee's supervisor with his concerns.

**(b)** *To a prompt response from the Department to each communication from the taxpayer.*

The Department tries to return telephone calls by the end of each day, but that is not always possible. However, we will return each call within 24 hours (weekends excluded). The Department provides a taxpayer with a written response to any written request by the taxpayer within 30 days after it receives the request. When lengthy research is required, that prohibits responding in 30 days, the taxpayer will be advised. A response will be provided when the information becomes available.

**(c)** *To provide the minimum documentation and other information as may reasonably be required by the Department to carry out its duties.*

The Department is mandated to ask only for information that it needs to do its job, and no more. All forms prepared by the Department ask for a minimum of information and they have attached instructions to help the taxpayer provide that information.

To support the fuel excise tax remittances, a taxpayer's records must include the normal books of accounting, together with all bills, receipts, invoices, cash register tapes or other documentation of original entry supporting the entries in the books of accounts.

The records should be kept for not less than four years, from the date of filing, unless written authorization to destroy is obtained from the Department. Any taxpayer who has failed to file a return with the Department will be required to maintain and provide his records for not less than 8 years.

Failure to maintain such records can be considered evidence of negligence or intent to evade the tax and may result in the imposition of penalties as provided

by law. The burden of proof falls upon the taxpayer to show a deficiency has been incorrectly assessed.

**(d)** *To written explanations of common errors, oversights and violations that taxpayers experience and instructions on how to avoid such problems.*

All billings from the Department have a written explanation of the reason for the billing. Department employees are always willing to help with specific problems and make helpful suggestions so the taxpayer can correct any existing problems. The Department will answer a written request for help or information in writing.

The Department will respond to questions over the telephone, however, the Department is not bound by the answers given to taxpayers by staff in telephone conversations. Therefore, if the information you are requesting concerns how the tax is to be collected or applied, the request should be in writing and should include as much detail as to the specific circumstances as possible. The Department's written response can be used to support the taxpayer's position should questions arise in an audit. Additionally, these types of problems are addressed periodically in the Department's quarterly publication, Motor Carrier Newsletter.

**(e)** *To be notified, in writing, by the Department whenever its officer, employee or agent determines that the taxpayer is entitled to an exemption or has been taxed or assessed more than is required by law.*

It is the policy of the Department to provide a refund or credit to the taxpayer on all overpayment of taxes, which the Department determines, is due as a result of an audit or other examination of the returns sent in by the taxpayer. The taxpayer will be notified in writing at the address the taxpayer provides the Department of the right to a refund or credit.

**(f)** *To written instructions indicating how the taxpayer may petition for:*

- (1) An adjustment of an assessment;*
- (2) A refund or credit for overpayment of taxes, interest or penalties; or*
- (3) A reduction in or the release of a bond or other form of security required to be furnished pursuant to the provisions of chapters 365 and 366 of NRS.*

By law, if the Department makes a determination that taxes are owed by a taxpayer, the department must serve written notice of that determination either personally or by mail. The Department will provide written instructions with the notice to the taxpayer on the procedure the taxpayer must follow to file a petition with the Department to contest the Department's determination that taxes are owed. Please note that generally there is a 30-day time limit on filing a petition with the Department to contest a determination that tax is owed with the exact date for filing the petition set forth in the notice. The petition must be in writing and set forth the reasons why the taxpayer is contesting the determination that

tax is owed. The petition must also include any books, records, or other evidence in support of the petition, payment of any uncontested amount, and a request for an Administrative Hearing. If the petition is mailed, the Department will consider the postmark date placed on the envelope by the U.S. Postal Service as the date of filing the petition. If the petition is not filed within the time allowed, the Department's determination that tax is owed becomes final. Please call the Department if you have any questions on the procedure for contesting the determination that tax is due.

With respect to a taxpayer's claim that taxes were overpaid, please see section (e).

With respect to a taxpayer's request for a reduction or release of a bond or other form of security required to be furnished, please see section (l).

**(g)** *To recover an overpayment of taxes promptly upon the final determination of such an overpayment.*

A taxpayer may petition the Department for a refund of taxes believed to have been overpaid. The petition must be in writing and be accompanied by all relevant documentation to support the claim that taxes have been overpaid and a refund is due. Depending on the type of tax involved, Nevada law provides for various limits on the time within which a claim for refund may be made. Contact the Department for specific information.

**(h)** *To obtain specific advice from the Department concerning taxes imposed pursuant to Chapters 365, 366 and 373 of NRS.*

Collection of fuel taxes for the State is a major task of the Department. Another is taxpayer assistance. It is each employee's responsibility to assist taxpayers with information concerning the laws of the State, to inform taxpayers of procedures to follow to comply with these laws, and to give freely and willingly assistance where it is requested. It is the Department's goal to resolve any situation before it becomes a major problem.

**(i)** *In any meeting with the Department including an audit, conference, interview or hearing:*

- (1) To an explanation by an officer, agent or employee of the Department that describes the procedures to be followed and the taxpayer's rights thereunder;*
- (2) To be represented by himself or anyone who is otherwise authorized by law to represent him before the Department;*
- (3) To make an audio recording using the taxpayer's own equipment and at the taxpayer's own expense; and*
- (4) To receive a copy of any document or audio recording made by or in the possession of the Department relating to the determination or collection of any tax*

*for which the taxpayer is assessed, upon payment of the actual cost to the Department of making the copy.*

These rights are self-explanatory.

**(j)** *To a full explanation of the authority of the Department to assess a tax or to collect delinquent taxes, including the procedures and notices for review and appeal that are required for the protection of the taxpayer. An explanation, which meets the requirements of this section, must also be included with each notice to a taxpayer that an audit will be conducted by the Department.*

The Department's authority to assess the taxes it administers, and collect those taxes, is contained in Chapters 360A, 365, 366, and 373 of NRS as well as the accompanying Nevada Administrative Code (NAC), as are the rights and remedies of taxpayers to contest the assessment of taxes against them.

**(k)** *To the immediate release of any lien which the Department has placed on real or personal property for the nonpayment of any tax when:*

- (1) The tax is paid;*
- (2) The period of limitation for collecting the tax expires;*
- (3) The lien is a result of an error by the Department;*
- (4) The Department determines that the taxes, interest and penalties are secured sufficiently by a lien on other property;*
- (5) The release or subordination of the lien will not jeopardize the collection of taxes, interest and penalties;*
- (6) The release of the lien will facilitate the collection of tax, interest or penalties; or*
- (7) The Department determines the lien is creating an economic hardship.*

The rights as listed above show the Department's policy on a lien placed for nonpayment of taxes. The taxpayer is entitled, in most cases, to notification before a lien is filed against him. A tax lien is a public notice of debt and attaches to the taxpayer's property and his right to hold property. It can be filed for continued failure to pay or to establish a method of payment. Since a lien is a public record, it may harm his credit rating.

**(l)** *To the release or reduction of a bond or other form of security required to be furnished pursuant to the provisions of Chapters 365 and 366 of NRS by the Department in accordance with applicable statutes and regulations.*

Provided there are no taxes due, security will be returned, released, or allowed to expire when a taxpayer closes his account and a closing audit has been conducted. If it is determined that taxes are owed and not paid by the taxpayer, then a claim may be made on the security. In the case of cash or a savings certificate, any excess over and above the amount due will be refunded to the taxpayer.

Also, if a taxpayer has security on file for his account, Department regulations provide that a waiver reducing the amount of security required may be granted under the following conditions:

- a) the taxpayer must have a perfect record of timely reporting for 36 consecutive months;
- b) the taxpayer must request a waiver of the security in writing to the Department.
- c) the taxpayer must have been audited with the past 24 months.

Note: On corporations, corporate officers must sign a personal guarantee.

On written request, the Department may reduce the amount of security required to not less than the amount of the maximum monthly tax times two (2) of the preceding two years or \$5,000, whichever is greater.

**(m)** *To be free from harassment and intimidation by an officer, agent or employee of the Department for any reason.*

It is a policy of the Department that no taxpayer may be harassed or intimidated by any employee. Statutes set the limits of authority, and procedures tell employees how to perform their duties. The Department provides training, instruction, supervision and review of its employees in the performance of their duties. Abuse of any taxpayer shall not be tolerated, and if a taxpayer is not treated fairly and with courtesy by any Department employee, he should contact the employee's supervisor with his concerns.

**(n)** *To have statutes imposing taxes and any regulations adopted pursuant thereto construed in favor of the taxpayer if those statutes or regulations are of doubtful validity or effect, unless there is a specific statutory provision that is applicable.*

**2. The provisions of Chapters 365, 366 and 373 of NRS governing the administration and collection of taxes by the Department must not be construed in such a manner as to interfere or conflict with the provisions of this section or any applicable regulations.**

**3. The provisions of this section apply to all taxes administered and collected by the Department pursuant to the provisions of Chapters 365, 366 and 373 of NRS and any regulations adopted by the Department relating thereto.**