

AAA Team Sales Tax, LLC

May 2, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Subject: Ron Voigt
Notes for Public Comments given at May 1, 2023 Nevada Tax Commission (NTC) Meeting

Hello Commissioners,

1. Introduce myself

35 years of audit experience

18 years with Nevada Department of Taxation

17 years working in the Corporate World

Worked for 2 (two) major companies who are in the top 200

Contract Compliance

Financial Audits with Coopers & Lybrand and KPMG

2. Thanks to the Commission and Department

3. Nevada Taxpayers' Bill of Rights says "Taxpayer are expected to pay their fair share, not less or More.

4. NAC 372.605 -Food for Immediate Consumption

Has there been any guidance provided by the Administrative Law Judge (ALJ) on my question "Does Streamlined have any effect on Nevada Tax Law". Another words, "Does Streamlined set tax policy or determine when sales and use tax apply to transactions? My gut feeling is no and that is why the Audit Tax Manager is only mentioning something about consistent definitions. If that is the case, NAC 372.580 and the previous version of NAC 372.605 do a way better job defining "**Food**".

5. NAC 360.130 – Burden of Proof

AU39 (Audit Reports) are unclear for the taxpayer to understand. I will ask the question "Where is the Beef?" There is not Beef?

Ok, this NAC requires the Taxpayer to proof their side but the Taxpayer does have the Nevada Taxpayers' Bill of Rights which is a great counter to this NAC.

I have not seen a copy of the Nevada Taxpayers' Bill of Rights being included in the audit packages that have been sent in the last year and half.

Recommend that a copy of the Nevada Taxpayers' Bill of Rights be sent with every audit package! It would be very helpful to the Taxpayer.

Also recommend that the Department discuss the Nevada Taxpayers' Bill of Rights with the Taxpayer before the audit, during the audit, and after the audit. Definitely during the exit meeting.

6. NAC 372.938-Collection and Payment of sales tax on lease or rental of tangible personal property

I will ask the question “Did the egg come first or the chicken”

In this case, use tax liability (per NRS 372.185) came first when the Taxpayer purchased the equipment from an out-of-state vendor. No resale certificate was issued so the Taxpayer did not take responsibility for reporting sales tax.

I will explain it in common sense language so hopefully the public can understand. Who has first claim to any tax liability? Use Tax does. Why, because when the equipment was purchased from the out-state-vendor, no sales tax was paid and therefore, use tax is owed to the State. Since there was no resale certificate given, responsibility to collect the sales has not transferred to the Taxpayer but stays with seller per the Wayfair vs South Dakota decision.

7. NAC 372.200-Construction Contractors-Tangible personal property

NRS 372.055- Retail Sales Defined – Please look at the last paragraph for licensed optometrist (say Eye Doctor so folks in the public will understand me). This is the wording that I was looking for this NAC for a Construction Contractor. The two words I would like for you to key on is **materials** and **professional services**. This NAC and NAC 372.210 used these words in past versions. The word materials are very important when discussing a Construction Contractor because Construction Contractors do not have inventory, they have materials. The accounting books will show no inventory account. The accounting books will show a purchase account and/or an expense account.

NAC 372.320-Oculists, optometrists, and dispensing opticians

Replace the word **Optometrist (Eye Doctor)** with the word **Construction Contractor** and now you have what I am looking for in NAC 372.200. I do have an issue with last sentence in NAC 372.320. An Optometrist (Eye Doctor) is not a dispensing optician. The Department has been known to say they are.

Now the question to ask. Why did the Department not let you know about this NAC? If the wording can be used in this NAC why not in NAC 372.200 where it makes more sense.

8. Explain to Commissioner Byram

Why go straight to oral hearing with the Administrative Law Judge (ALJ)

More than just about a legal disagreement on the interpretation of the NRS or NAC.

Disagreement on Audit Approach

Disagreement on amounts of documents needed to do the audit.

Compliance audit vs Financial audit

Nevada Taxpayers’ Bill of Rights violations

Need accountability for incorrect audits

In most cases, incorrect audits result in overcollection of taxes or over-reporting of tax liability

Remember, the Nevada Taxpayers’ Bill of Rights require a Taxpayer to pay Fair Share of Taxes, Not less or NOT MORE!

Thank You and Be Safe!

Ron Voigt
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