

NEVADA TAX COMMISSION MEETING
MINUTES

December 7, 2020
9:00 a.m.

MEMBERS PRESENT (Via Zoom):

Jim DeVolld, Chairman
George Kelesis, Commissioner
Craig Witt, Commissioner
Francine Lipman, Commissioner
Tony Wren, Commissioner
Randy Brown, Commissioner
Sharon Rigby, Commissioner

MEMBERS ABSENT:

Ann Bersi, Commissioner

Chairman DeVolld called the meeting to order at 9:00 a.m.

I. Public Comment.

There was no public comment.

Director Young administered an oath to all meeting participants.

II. Meeting Minutes:

A. Consideration for Approval of the October 5, 2020 and October 26, 2020 Nevada Tax Commission Meeting Minutes.

Commissioner Brown made a motion to approve the October 5, 2020, meeting minutes. Commissioner Rigby seconded the motion. All in favor. Motion carries.

Commissioner Rigby made a motion to approve the October 26, 2020, meeting minutes. Commissioner Wren seconded the motion. Commissioner Brown was not present at the October 26th meeting and abstained from voting. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):

- a) AMTCR Nevada Inc
- b) Casye Family Group LLC
- c) Central Janitors Supply Co Inc.
- d) Elite Nutrition & Wellness Inc.
- e) Harry Mohney Erotica Museum LLC
- f) Healthy Tails LLC
- g) JPSQUARED, Inc.
- h) Komar Industries Inc.
- i) Michael Daniel Matzen
- j) One Stop Auto LLC
- k) Powar Group Limited
- l) RBQ LLC
- m) Steven and Aleman Enterprises LLC

B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax, Modified Business Tax and/or Commerce Tax):

- 1) Puregreens Nutrition PTE LTD
- 2) Nutriomo Labs PTE LTD
- 3) Clover 7 Nutritionals PTE LTD
- 4) Nutra Active PTE LTD
- 5) EMS Safety Services Inc
- 6) JPW Industries Inc
- 7) Samsara Networks Inc
- 8) POS Portal Inc
- 9) FMAV
- 10) Natural Healthy Concepts LLC
- 11) Novatime Technology Inc
- 12) Health-E Commerce Inc
- 13) The National Academy of Television Arts & Sciences
- 14) Filmwerks LLC
- 15) Valpak Direct Marketing Systems Inc
- 16) Redzone Production Systems
- 17) Next Generation Films Inc
- 18) Oak Hall Cap & Gown
- 19) Dura Supreme LLC
- 20) ORBO Corporation
- 21) Graf & Sons Inc
- 22) Englert Inc
- 23) Allbirds Inc
- 24) Marine Enterprises International LLC
- 25) Me Global Inc
- 26) Crossway
- 27) I/D/E/A Inc
- 28) CBA Florida Inc
- 29) Sharetown Inc
- 30) Nexus IS Inc
- 31) Gray Taxidermy Inc

C. Standard Direct Sales Organization Agreements:

- 1) The Body Shop at Home US LLC

D. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Jason Kenneth Design Inc.
- 2) Sun State Components of NV

E. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000, in response to COVID-19:

- 1) Maui Magnets Inc.
- 2) Top Golf USA Las Vegas LLC
- 3) Henderson Organic Remedies LLC dba The Source

F. Approval of Refund/Credit Request in Excess of \$250,000:

- 1) GMRI, Inc.
- 2) Las Vegas Arena Management
- 3) New York – New York Hotel and Casino
- 4) MGM Resorts International LLC
- 5) MGM Resorts International Marketing

- G. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use Tax, Modified Business Tax and/or Commerce Tax)
 - 1) Beauty and Essex Las Vegas
 - 2) RAD Source Technologies, Inc. v. The State of Nevada *ex rel.* Department of Taxation, Marijuana Enforcement Division, Case No. A-19-805074-W, pending in the Eighth Judicial District Court. Consideration for approval of Settlement Agreement and Stipulation and Order for Dismissal with Prejudice

- H. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
 - 1) Brent Orchard
 - 2) Jimmy Banks
 - 3) Ben Yau and Yu Hu
 - 4) Celia Calderon
 - 5) Kelly Jackson
 - 6) Samy Elaine
 - 7) Essie Burriss
 - 8) Linda Johnson
 - 9) Susan Conboy dba Statement of Style
 - 10) Jeffrey Campbell
 - 11) Joseph and Julie Vander Meer

- I. Consideration for Approval of Modified Business Tax Extension Requests over \$10k – For Taxpayers Affected by the Interest Rate Percentage Error:
 - 1) Diamond Resorts Centralized Services Co.
 - 2) Diamond Resorts International Marketing Inc.
 - 3) RBG, LLC
 - 4) Las Vegas Resort Holdings LLC
 - 5) GNLV Corp.

Commissioner Brown pulled Item III. E. 1) Maui Magnets, Inc. for discussion.

Commissioner Rigby pulled Item III. F. 2) Las Vegas Arena Management for discussion.

Commissioner Wren pulled items III. H. 4) Celia Calderon, H. 6) Samy Elaine and H 8) Linda Johnson for discussion.

Commissioner Lipman pulled Item III. H. 9) Susan Conboy dba Statement of Style for discussion.

Commissioner Wren made a motion to approve the consent calendar, excluding items III. E. 1), F 2), H. 4), H. 6), H. 8) and H. 9). The motion was seconded by Commissioner Brown. All in favor. Motion carries.

Item III. E. 1) Maui Magnets, Inc: Commissioner Brown asked that the Department's approval letters stating that penalty and interest has been waived include the following language: Subject to the approval of the Nevada Tax Commission. Commissioner Brown made a motion to approve Item III. E. 1) Maui Magnets, Inc. Commissioner Lipman seconded the motion. All in favor. Motion carries.

Item III. F. 2) Las Vegas Arena Management. Commissioner Rigby stated that the request is for \$530,933 and in the second to last paragraph it states the approval is for \$369,313. Director Young stated the correction will be made. Commissioner Rigby made a motion to approve this item with the proposed correction. Commissioner Brown seconded the motion. All in favor. Motion carries.

Item III. H. 4) Celia Calderon. Commissioner Wren made a motion to waive the remaining debt of the taxpayer. Commissioner Kelesis seconded the motion. Celia Calderon was present on the telephone. Adriane Robert-Larson, Tax Program Supervisor, was present on the telephone. All in favor. Motion carries.

Item III. H. 6) Samy Elaine. Commissioner Wren made a motion to waive the remaining debt of the taxpayer. Commissioner Kelesis seconded the motion. Lizette Arceo, Tax Manager, was present on behalf of the Nevada Department of Taxation. Chairman DeVolld, Commissioner Brown and Commissioner Lipman opposed the motion. Motion carries.

Item III. H. 8) Linda Johnson. Commissioner Wren made a motion to waive the remaining debt of the taxpayer. Commissioner Kelesis seconded the motion. Commissioner Lipman opposed the motion. Motion carries.

Item III. H. 9) Susan Conboy dba Statement of Style. Commissioner Lipman made a motion to approve the offer-in-compromise of Susan Conboy. Lizette Arceo, Tax Manager, was present on behalf of the Nevada Department of Taxation. Commissioner Witt seconded the motion. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. REGULATION:

- 1) Consideration for Adoption of Permanent Regulation LCB File No. R001-20: A Regulation relating to taxation; and to Nevada Administrative Code Chapter 361, regarding determination of taxable situs and allocation of value of locally assessed aircraft; and other matters properly related thereto.

Jeffrey Mitchell, Deputy Executive Director, was present on behalf of the Nevada Department of Taxation.

Public Comment on LCB File No. R001-20:

Jim Sousa, Esq., on behalf of MGM Resorts. MGM Resorts has several aircraft that are locally valued by the Assessor. Mr. Sousa stated that he was involved with the litigation that Mr. Mitchell referred to. The Regulation previously adopted was done in a cooperative process with the Assessor. The permanent Regulation has some small tweaks that are not going to change the way the Regulation is implemented. Mr. Sousa stated that his client is in agreement with the Regulation.

Doug Scott, Clark County Assessor's Office, stated the Assessor's office is in support of the proposed Regulation.

Commissioner Wren moved to approve LCB File No. R001-20. Commissioner Kelesis seconded the motion. All in favor. Motion carries.

B. Review and Approval of Net Proceeds of Minerals Projection and Prepayment Forms.

Jeffrey Mitchell was present on behalf of the Nevada Department of Taxation.

Public Comment: There was no public comment.

Commissioner Rigby moved to approve the Net Proceeds of Minerals Projection and Prepayment forms, with the year changed to 2021 in two places on the forms. Commissioner Wren seconded the motion and suggested the forms be sent to Commissioner Rigby for final approval. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

- A. Consideration for Approval to Remand Case back to the Administrative Law Judge, pursuant to the First Judicial District Court's Order Vacating Decision of Administrative Law Judge and Remanding Case for Additional Evidentiary Hearing:
1) Airlift Helicopters, Inc. and ALP, Inc.

Robert Werbicky, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

John Bartlett, Esq., was present on behalf of Airlift Helicopters, Inc. and ALP, Inc.

Commissioner Witt made a motion to remand the case back to the Administrative Law Judge. Commissioner Rigby seconded the motion. All in favor. Motion carries.

- B. Nevada Tax Commission's Twelve-Month Review of its Suspension of the Administrative Law Judge's July 19, 2019, Order of Revocation of the Seller's Permit, Contingent Upon the Seller's Compliance with the \$500.00 Weekly Payment Plan for the Sales & Use Tax Account Arrearage.
1) Beanners, LLC dba Mercados Mexican Bar & Grill

Peter Keegan, Deputy Attorney General, and Mary Patton, Tax Program Supervisor III, were present on behalf of the Nevada Department of Taxation.

Carolina J. Huey and Ray Solomon, Accountant, were present on behalf of Beanners, LLC, dba Mercados Mexican Bar & Grill.

Mary Patton stated that the Department recommends a one (1) year review of this matter.

Commissioner Kelesis moved to leave everything status quo and to continue this matter for review in one (1) year. Commissioner Brown seconded the motion. All in favor. Motion carries.

- C. Taxpayer's Appeal of the Department's Decision to deny the Taxpayer's Request for a Late Filed Petition for Hearing:
1) Universal Metal Works LLC

George Hritz, Management Analyst II, was present on behalf of the Nevada Department of Taxation.

Abigail Gutierrez was present on behalf of Universal Metal Works LLC.

Commissioner Kelesis moved to deny the taxpayer's late filed petition. Commissioner Wren seconded the motion. Roll call: Commissioner Witt – Yes; Commissioner Brown – No; Commissioner Lipman – No; Commissioner Wren – Yes; Commissioner Kelesis – Yes; Commissioner Rigby – No; Chairman DeVold – Yes. Motion carries.

- D. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:
1) Big Burger Beer & More, LLC d/b/a Street Food

Louis Csoka, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Suzanne Warren, Esq., was present on behalf of Big Burger Beer & More, LLC dba Street Food.

Jennifer Hampton, Auditor, was present on behalf of the Nevada Department of Taxation.

Commissioner Kelesis made a motion to postpone this matter. Motion died due to no second.

Commissioner Lipman made a motion to deny the taxpayer's appeal. Commissioner Witt seconded the motion. Roll call: Commissioner Witt – Yes, Commissioner Brown – Yes, Commissioner Lipman – Yes, Commissioner Wren – Yes, Commissioner Kelesis – No, Commissioner Rigby – Yes, Chairman DeVolld – Yes. Motion carries.

2) Grand Canyon Tours, Inc. dba Grand Canyon Tour and Travel
Robert Werbicky, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Karen Rancilio was present on behalf of Grand Canyon Tours, Inc. dba Grand Canyon Tours and Travel.

Commissioner Wren made a motion to deny the taxpayer's appeal. Commissioner Kelesis seconded the motion. Commissioner Rigby votes No. Motion carries.

E. Department's Motion to Dismiss Taxpayer's Appeal of Advisory Opinion No. 20-013 dated July 30, 2020; and Taxpayer's Appeal of Advisory Opinion No. 20-013 dated July 30, 2020, pursuant to NAC 360.175(2)(a):

1) Aaron Katz

Peter Keegan, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Aaron Katz was present on the telephone.

Commissioner Brown made a motion to grant the Department's request to dismiss the taxpayer's appeal. Commissioner Rigby seconded the motion. All in favor. Motion carries.

F. Petition for Reconsideration of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes pursuant to NRS 372.3261 (Sales/Use Tax):

1) Orthopaedic Summit Association, Inc.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Jay DeVoy and Dr. Kevin Plancher were present on behalf of Orthopaedic Summit Association, Inc.

Commissioner Lipman made a motion to uphold the Department's denial of the exemption. Commissioner Rigby seconded the motion. All in favor. Motion carries.

2) International Society of Women Airline Pilots

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Scott Czaja was present on behalf of the International Society of Women Airline Pilots.

Commissioner Witt made a motion to uphold the Department's denial of the exemption. Commissioner Lipman seconded the motion. All in favor. Motion carries.

3) Magnet Schools of America, Inc.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Todd Mann, Judy Shen, Gia Moore and Jynana Joiner were present on behalf of Magnet Schools of America, Inc.

Commissioner Witt moved to grant Magnet Schools of America, Inc. the requested exemption. This motion died due to no second.

Commissioner Rigby made a motion to uphold the Department's denial of the exemption. Commissioner Lipman seconded the motion. Roll call: Commissioner Witt – No, Commissioner Brown – Yes, Commissioner Lipman – Yes, Commissioner Wren – Yes, Commissioner Rigby – Yes, Chairman DeVolld – Yes. Motion carries.

4) United States Raelian Movement

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Thomas Kensig, Bishop of the US Raelian Movement, was present on their behalf. Dr. Jonathan Levy was present as a potential witness.

Commissioner Witt moved to grant the United States Raelian Movement the requested exemption. Commissioner Rigby seconded the motion. Commissioner Wren votes No. Motion carries.

5) Nova Distribution Inc.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Thomas Kensig, Bishop of the US Raelian Movement, was present on behalf of Nova Distribution Inc. Dr. Jonathan Levy was present as a potential witness.

Commissioner Rigby made a motion to uphold the Department's denial of the requested exemption. Commissioner Lipman seconded the motion. All in favor. Motion carries.

G. Consideration to Delegate Authority to a Member of the Nevada Tax Commission and the Executive Director of the Nevada Department of Taxation to Negotiate Settlement Agreements for all Pending and Future Litigation.

David Pope, Chief Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Commissioner Rigby moved to approve the delegation of authority to the Executive Director of the Nevada Department of Taxation and to Chairman DeVolld to negotiate pending litigation, with the caveat that final approval is with the Nevada Tax Commission. Commissioner Wren seconded the motion. All in favor. Motion carries.

H. Pursuant to NRS 360.265, consideration for approval of the removal of the names of certain debtors, including the amount of tax, penalty and interest, from the records of the Department for debts exceeding 5 years due and collection being impossible or impracticable.

Commissioner Wren made a motion to approve the removal of the names of certain debtors, including the amount of tax, penalty and interest, from the records of the Department for debts exceeding 5 years due and collection being impossible or impracticable. Commissioner Rigby seconded the motion. All in favor. Motion carries.

VI. INFORMATIONAL ITEMS:

- A. Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- B. Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

C. Modified Business Tax Extension Requests Under \$10k – For Taxpayers Affected by the Interest Rate Percentage Error.

There were no questions from the Commission.

VII. BRIEFING:

A. Briefing to/from the Commission and the Executive Director.

Director Young Reported:

The Federation of Tax Administrators' virtual conference is being held starting today, December 7th through the 10th. The Department can attend at no cost. Information to attend was sent to the Tax Commission and to members of the Department. Deputy Director Upton and I will be presenting the Department's on-boarding program called "TOP" on December 9th. TOP is a component of the Department's strategic plan.

With regard to Covid-19, the Department has not been spared from the impact of the pandemic. In late October there were multiple positive cases in the Carson City office. The executive team closed the office for a period of time to limit the spread, to have the office cleaned, and to require all staff to obtain testing before they could return to work. During this time, we were grateful for the Reno office who stepped in to make sure the services of the Department continued seamlessly. At that time, the Department did move to a more work-at-home environment where possible. The percentage of employees who are working from home and working in the office is about 50 percent. We have also been impacted by the number of hours employees have been out on administrative leave due to COVID positivity, those awaiting test results, and those who have been authorized administratively due to remote learning and/or child care issues.

The Department has submitted to the Governor three BDR's for the 2021 legislative session which have become the following bills:

AB9, which is BDR 32-270, and authorizes the Department to disclose certain information to the Governor's Finance Office and to the Governor's office for revenue projections. Currently, NRS 360.255 prevents the Department from sharing information with the Governor's Finance Office. This sharing is necessary for the purpose of revenue projections by amending the statute. This will allow the disclosure to the Governor's Finance Office and would allow for more efficient and accurate revenue projections on the state's revenue.

SB37, which is BDR 32-281, revises provisions relating to the distribution of city/county relief act. We are proposing to use the Governor's certified numbers only when determining the population of a county and not the census numbers. Often, the timing of the distribution does not allow us to refer to those census numbers.

SB25, which is BDR 32-282, revises the provisions relating to the exemption from the Sales and Use Tax on food for human consumption. NRS 372.2841 provides that the Department shall determine the tax exemption on whether the food is intended for immediate consumption and not on the type of establishment where food is sold. This statute is unnecessary and complicated to follow now that Nevada is a part of the Streamlined Sales and Use Tax Agreement. No other state has such restrictive language as ours and it often causes confusion in the industry because we cannot provide a list of establishments on our website to show when food is available for immediate consumption based on NRS 360B.460.

It is anticipated that this legislative session will be very busy for the Department with proposals for revenue increases. Shellie Hughes and I will be working on legislative training for staff and we are hoping to provide that training in January.

Tax payments with credit cards was piloted in September and is going very well. We are working on expanding the tax types that can remit their tax payments with credit cards. We have received \$903,000 in credit card transactions, meaning payments, and we believe this will increase over time. We are grateful for this opportunity that our staff at the Department and our IT program to be able to expand our options for remitting taxes. The Department has released its strategic plan. The strategic plan is a result of efforts of the Department's executive team where we conducted strategic planning sessions, SWOT analysis, meeting with employees, and leadership discussions.

To follow up on the Department's requested budget, the following enhancement decision units were submitted: The first is to request employees for the taxpayer advocate office. The second is a statistician for the data government team. And the third is a backlog of IT projects, additional funding for computers, IT infrastructure replacement, and the funding for taxation modernization project. These requests were included in a part of the Department's strategic plan. Additionally, we were faced with budget proposals to reduce the budget by 12 percent. The budget reduction proposals, as required by the Governor's Finance Office, are confidential. However, at this time, I will share that the executive team worked very hard to come up with solutions and proposals that do not include the layoff of any employees. At this time the budget process moved to a confidential phase called the Governor's recommend phase. We will know the outcome of the budget decisions in January at the governor's State of the State Address.

The executive team has implemented monthly leadership talks for Department employees. This is where one day a month someone from the executive team spends a lunch hour communicating with staff on various leadership topics. The first leadership talk was in September and was sponsored by me; we played a game called We Connect. The October leadership talk was sponsored by Shellie Hughes and she introduced her role within the Department and shared her education and experience in a fun interactive bingo game. Joe Bernardy, our Information Security Officer, shared how to stay safe in an electronic world.

And, lastly, an update for the tax amnesty program. Currently, we still do not have a date. However, we are working on system improvements so that this will be an automated process. We did notice taxpayers in a January mailing of the upcoming amnesty and the opportunity for credit cards; and will provide the information on a date when amnesty will commence as soon as we have finalized that information.

VIII. Next Meeting Date: January 25, 2021

IX. Public Comment.

There was no public comment.

X. Items for Future Agendas.

No items for future agendas were discussed.

XI. Meeting adjourned at 1:30 p.m.