

NEVADA TAX COMMISSION MEETING  
MINUTES

October 2, 2023  
9:00 a.m.

Members Present:

Tony Wren, Chairman  
Ann Bersi, Commissioner (virtual)  
Francine Lipman, Commissioner (virtual)  
Jeff Rodefer, Commissioner  
H. Stan Johnson, Commissioner (virtual)  
Sharon Byram, Commissioner (virtual)  
Craig Witt, Commissioner

- I. The meeting was called to order and a quorum was established.
  
- II. Public Comment

Ron Voigt with AAA Team Sales Tax LLC – In my opinion, there are misquotes in the Department's audit report which they called AU 39 and/or Administrative Law Judge's write-up related to Blackout, Inc. In fact, it looks like the ALJ really wrote the audit report. There are only two sentences that support what was called the audit finding. They call it a sales recommendation now within an internal audit report not a compliance audit. In a compliance audit you have an audit finding. Getting back to the two sections that I believe have been misquoted by the Department in their audit report is NRS 372.065 which has nothing to do with retail at all, it has to do with the wholesale price. For anything to be taxable, it has to be a retail sale. The other misquote is 372.025. They use a statement saying total sales must be reported to the Department. That's not true. The Nevada Supreme Court has stated NRS 372.025 as total retail sales price. Not all sales by a retailer will be required to be reported to the Department. Examples are a contractor with a sales permit or even an eye doctor with a sales permit. That is what I see that has been misquoted in their audit report. In the ALJ's write-up, what I see that has been misquoted is that the ALJ states NRS 372.105 imposes a sales tax of all gross receipts from the retail sales of taxable personal property in Nevada. This is incorrect. The Nevada Supreme Court has defined NRS 372.105 as the following: Sales tax is imposed on gross receipts slash total retail sales price. Again, you do not see the phrase all gross receipts. What they're trying to do in their report is to say that all gross revenue needs to be reported to the Department. That is not true. Retail sales activity does. I will use a famous quote used by Johnny Cochran during the OJ Simpson trial. "If the glove does not fit, you must acquit." Now I'm going to change it a little bit. If the quote which the regs that they quoted does not fit, you must acquit. The taxpayer should have won on that decision last month. There are no statutory or regulatory Nevada sales and use tax provision that relate specifically to the taxability of admission fees, entertainment fees and similar charges. Since the gross receipts from the collection of these charges do not involve tangible personal property, there's no taxable retail sale that can be the basis for imposing the sales tax or use tax. That you will find in opinions that have been issued by the Nevada Supreme Court. And to back that up, the Nevada Legislature passed the Nevada Bill of Rights which has the same type of language as NRS 360.291. Nevada sales tax is assessed only on the sales of tangible personal property. Sales of services are excluded from sales tax. However, when services are associated, and that's really what you've got to look at with the sale of tangible personal property, the total amount of taxable sales or at least retail price includes any services that are a part of the sales. They let you know about that, but they didn't let you know about the next part: Or any charges by the seller for any services necessary to complete the sale. And I do think that's the way some of you commissioners were thinking indirectly. This paragraph is supported by the Nevada Supreme Court, but it's also supported by NRS 372.025, NRS

372.050, which is retail sale, and NRS 372.085, which defines what tangible personal property is as touch, smell or feel, and NRS 372.05.

Director Hughes administered an oath to all parties testifying.

III. MEETING MINUTES:

A. Consideration for Approval of the August 14, 2023 Nevada Tax Commission Meeting Minutes.

Commissioner Byram moved to approve the meeting minutes of the August 14, 2023, Nevada Tax Commission meeting. Commissioner Witt seconded the motion. All in favor. Motion carried.

IV. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
  - a) Jensen Enterprises Inc.
  - b) JLW Services
  - c) NHM I LVB LLC

B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure:

- 1) Advanced Management Services Inc
- 2) Advanced Purification Engineering Corp
- 3) Advantech Corporation
- 4) Aero Precision LLC
- 5) American Battery Solutions Inc
- 6) Bedford Reinforced Plastics Inc
- 7) City Furniture Inc
- 8) Cryoperl Usa LLC
- 9) Faction Media Group LLC
- 10) Independent Trading Company
- 11) Manchac Technologies LLC
- 12) Metroquip Inc
- 13) Oliver Cabell Inc
- 14) On Time Mall
- 15) Pacific Color Graphics Inc
- 16) Rainier Industries LLC
- 17) Silencerco LLC
- 18) Textile Management Systems Inc
- 19) Vhernier Usa LLC

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

- 1) Henry Schein Inc.
- 2) Otis Elevator Company
- 3) AutoSavvy of Las Vegas LLC
- 4) SILFAB Solar WA Inc.

D. Consideration for the Adoption of the Administrative Law Judge's Recommended Decision regarding an Appeal of the Department's Denial of Waiver of Penalty and/or Interest pursuant to NRS 360.419:

- 1) Botach Inc.

- E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations
  - 1) Grand Canyon Destinations LLC
  
- F. Departments Recommendation to the Commission for Approval of a Payment Plan Request:
  - 1) Guinea Pigs LLC
  
- G. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
  - 1) Carmine Barra
  - 2) Maria and Jose Martinez
  - 3) Nimesh and Bhavna Patel
  - 4) Sevan Aslanyan

Commissioner Byram pulled Item IV. B. 1) Advanced Management Services, Commissioner Lipman pulled Item IV. G. 3) Nimesh and Bhavna Patel, Commissioner Rodefer pulled Item IV. E. 1) Grand Canyon Destinations, and Commissioner Witt pulled Item IV. B. 6) Bedford Reinforced Plastics Inc. for further discussion.

Commissioner Lipman moved to approve the consent agenda, not including the following pulled items: IV. B. 1), IV. G. 3), IV. E. 1) and IV. B. 6). Commissioner Witt seconded the motion. All in favor. Motion carried.

Item IV B 1) Advanced Management Services: Commissioner Byram asked if the taxpayer may have only needed a temporary permit. Karyn Ebright, Revenue Officer, stated she will ask the company if a temporary permit was their intent. Commissioner Byram made a motion to approve with understanding that the account will be closed if they are not going to be doing ongoing business in Nevada. Commissioner Bersi seconded the motion. All in favor. Motion carried.

Item IV B. 6) Bedford Reinforced Plastics Inc.: Commissioner Witt made a comment that this company's website lists Hoover Dam and the Bellagio fountain as their customers, but only paid tax in the amount of \$4,191.00. Karyn Ebright, Revenue Officer, stated she was not aware that the taxpayer is doing business with these companies. Commissioner Witt made a motion to continue this matter to a future meeting. Motion was seconded by Commissioner Rodefer. All in favor. Motion carried.

Item IV E. 1) Grand Canyon Destinations: Commissioner Rodefer shared concern on page two of the Settlement Agreement. The Agreement states that the taxpayer is going to make quarterly payments of \$3,133.33 for three years, which equals twelve quarters, but that amount multiplied by twelve equals \$37,599.96 which would leave a balance of \$2,400.04. David Pope, Chief Deputy Attorney General was present on behalf of the Department. Candace Carlyon was present on behalf of Grand Canyon Destinations. The parties agreed with the suggested revision and will add and initial the changes on the Settlement Agreement. Commissioner Rodefer made a motion to approve the Settlement Agreement with the noted revision regarding the amount for the quarterly payments. Commissioner Witt seconded the motion. All in favor. Motion carried.

Item IV G. 3) Nimesh and Bhavna Patel: Commissioner Lipman inquired about the amount of the offer-in-compromise. The documentation from the State indicates it's \$3,500, but the taxpayer continues to say in correspondence that they've already paid \$500 toward the \$3,500. Charles Tucker with Tucker & Associates was present on behalf of the taxpayer. Mr. Tucker stated the taxpayer does

understand that they owe \$3,500. Mixaly Arambula was present on behalf of the Department. Commissioner Lipman moved to approve the offer-in-compromise of Nimesh and Bhavna Patel. Commissioner Bersi seconded the motion. All in favor. Motion carried.

V. COMPLIANCE DIVISION:

A. Departments Recommendation to the Commission for Denial of a Payment Plan Request:

- 1) Moriv LLC dba S&R Auto Sales

Kathy Fey, Tax Program Supervisor, was present on behalf of the Department. Rudy Molina was present on behalf of Moriv LLC. Commissioner Witt moved to support the denial of the payment plan. Commissioner Rodefer seconded the motion. All in favor. Motion carried.

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

- 1) Las Vegas Peach LLC

Guy Childers, Audit Tax Manager, was present on behalf of the Department. Commissioner Rodefer asked Mr. Childers if he is satisfied with the taxpayer's procedures to ensure that this does not happen again. Mr. Childers stated the taxpayer has corrected the issue. Commissioner Witt moved to approve the refund. Commissioner Byram seconded the motion. All in favor. Motion carried.

- 2) Varian Medical Systems Inc.

Guy Childers, Audit Tax Manager, was present on behalf of the Department. Commissioner Byram moved to approve the refund. Commissioner Witt seconded the motion. All in favor. Motion carried.

C. Department's Request for Approval of Motion to Dismiss Taxpayer's Appeal and Affirm Decision of the Administrative Law Judge:

- 1) Lucino's Pizza LLC

Richard Yien, Deputy Attorney General, was present on behalf of the Department. Aniela K Szymanski, Debtors Counsel, Lucetta Scolaro and G. Scolaro were present on behalf of the taxpayer. Ms. Szymanski requested the motion be denied and asked that the Commission accept an opening brief. Commissioner Byram made a motion to table this matter to the next meeting of the Commission. Commissioner Byram withdrew her motion. Commissioner Lipman made a motion to deny the Motion to Dismiss, to accept the taxpayer's brief today, and gave the Department 30 days to reply. This matter will then come back to the Commission regarding the ALJ's decision. Commissioner Byram seconded the motion. Commissioner Rodefer stated that he believes that the taxpayer was properly served and the Department did its due diligence. David Pope, Chief Deputy Attorney General, was present and agreed to accept a hard copy of the taxpayer's brief on behalf of the Department. Commissioner Witt and Commissioner Rodefer voted No. Motion carried.

- 2) The Winery Super Market Corp.

David Pope, Chief Deputy Attorney General, was present on behalf of the Department. Commissioner Byram made a motion to dismiss the taxpayer's appeal and to affirm the Administrative Law Judge's decision in the matter of Winery Super Market. Commissioner Rodefer seconded the motion. All in favor. Motion carried.

VI. LOCAL GOVERNMENT SERVICES

- A. Review and Consideration to Approve an Addendum to Bulletin 213, 2024-2025 Agricultural Land Values and Open Space Property Procedures to Include Tables Relating to the Valuation of Open-Space Golf Course Land and Improvements.

Cheryl Erskine, Coordinator of Assessment Standards for the Division of Excise and Local Government Services, was present on behalf of the Department. Commissioner Witt moved to approve the Addendum to Bulletin 213, 2024-2025 Agricultural Land Values and Open Space Property Procedures to Include Tables relating to the Valuation of Open Space Golf Course Land and Improvements. Commissioner Bersi seconded the motion. All in favor. Motion carried.

- B. Taxpayer's Appeal of the Treasurer's Denial of Waiver of Penalty and/or Interest per NRS 361.4835 (Washoe County):  
1) 1410 LLC

Victoria Salas, Locally Assessed Properties Supervisor, was present on behalf of the Department. Linda Jacobs, with the Washoe County Treasurer's Office, was present. Commissioner Lipman moved to deny the taxpayer's appeal. Commissioner Byram seconded the motion. All in favor. Motion carried.

- C. Consideration of the Approval of Low-Income Housing Application for Property Tax Exemption pursuant to NRS 361.082(3) and NAC 361.089(1)

Victoria Salas, Locally Assessed Properties Supervisor, was present on behalf of the Department. Commissioner Byram asked if the State received feedback from the counties. Ms. Salas stated the State was able to review feedback and agreed with it. Commissioner Byram made a motion to approve the Low Income Housing Application for Property Tax Exemption. Commissioner Witt seconded the motion. All in favor. Motion carried.

- D. Determination and Allocation of Certification of Centrally Assessed 2023-2024 Unsecured and 2024-2025 Secured Unitary Property Valuations and Assessments pursuant to NRS 361.320, NRS 361.321 and 361.323.

Sorin Popa, Supervisor Centrally Assessed Properties, was present on behalf of the Department. Commissioner Rodefer moved to approve the Certification of Centrally Assessed 2023-2024 Unsecured and 2024-2025 Secured Unitary Property Valuations and Assessments. Commissioners Witt and Byram seconded the motion. All in favor. Motion carried.

VII. 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. Assignment of Department of Taxation's Regulations to Commissioners.

Yvonne Nevarez-Goodson, Chief Deputy Executive Director, reviewed the Department's regulations and the assignment of regulations to the commissioners.

VIII. BRIEFING:

A. Briefing to/from the Commission and the Executive Director. (for discussion only)

Shellie Hughes, Executive Director of the Nevada Department of Taxation, provided an update to the Commission with the latest progress on the Carson City office move. The Department anticipates that all staff will move between November 15th and 18th, and we will be open to the public at the new Arrowhead location by appointment only starting November 20th. We are also pleased to announce that the State of Nevada has issued a notice of award to Fast Enterprises, LLC to serve as Taxation's vendor for project MYNT which is the Department's modernization project. The Department and Fast have finalized contract negotiations, and the draft contract language will be reviewed by the Nevada Board of Examiners on October 10th. If the Board of Examiners approve the contract, Fast will be commencing its work and coming on board with the Department in December.

IX. Next Tax Commission meeting date is scheduled on December 4, 2023.

X. Public Comment.

There was no public comment.

XI. Items for Future Agendas. (for discussion only)

Commissioner Lipman thanked Commissioner Brown for his service.

XII. Meeting adjourned at 10:31 a.m.