

Place of Meeting:

**Nevada Department of Taxation
1550 College Parkway STE 115
Large Conference Room
Carson City, Nevada 89706**

This meeting will also be available by zoom. Please use the link below to join the webinar:

<https://us02web.zoom.us/j/86335714785>

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Webinar ID: **8863 3571 4785**

International numbers available: <https://us02web.zoom.us/u/kbglZYkuyK>

A copy of the regulation referenced above can be found on the Department's website at

https://tax.nv.gov/Boards/Public_Meetings/ and at the Nevada Legislature's website at

<https://www.leg.state.nv.us/App/Notice/A/>.

All interested parties will have the opportunity to present their ideas or. Please submit all suggestions in writing at least one week prior to the Workshop so the suggestions can be disseminated at the meeting. Written comments may be accepted at any time. Please email any comments to Sarah Glazner at sglazner@tax.state.nv.us so they may be posted to the Departments website. All public input will be considered in preparing a proposed regulation to be presented to the Nevada Tax Commission for adoption.

Members of the public who are disabled and require accommodations or assistance at the Workshop are requested to notify the Department of Taxation in writing or by calling 775-684-2096 no later than five working days prior to the Workshop.

Notice has been posted at the following location: The Department of Taxation - 1550 College Pkwy. Ste 115, Carson City.

Notice has been EMAILED/MAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno; Department of Taxation - 700 E. Warm Springs Rd. Ste 200, Las Vegas; The Legislative Building - Capitol Complex, Carson City; The Nevada State Library -100 Stewart Street, Carson City; The County Public Library's, Interested Parties Group, and the Mailing List maintained by the Department. Notice of this meeting was posted on the Department of Taxation website at <https://tax.nv.gov/>, on the Legislative website at <https://www.leg.state.nv.us/>, and the Nevada Public Notice Website at <https://notice.nv.gov/>.

If you have any questions, please feel free to call Sarah Glazner at 775-684-2059.

Nevada Department of Taxation Regulatory Workshop **Draft of Proposed Regulation R056-21**

NEVADA DEPARTMENT OF
TAXATION
1550 College Pkwy STE 115
Large Conference Room
Carson City, Nevada 89706

March 22, 2022
1:00 p.m.

Note: Items on this agenda may be taken in a different order than listed.
Items may be combined for consideration by the Department of Taxation.
Items may be pulled or removed from the agenda at any time.

Date and Time of Meeting: March 22, 2022 1:00 p.m.

The workshop will be held at the following location:

Place of Meeting:

Nevada Department of Taxation
1550 College Parkway STE 115
Large Conference Room
Carson City, Nevada 89706

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8656 or +1 301 715 8592

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A copy of the regulation referenced above can be found on the Department's website at https://tax.nv.gov/Boards/Public_Meetings/ and at the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>.

- I. Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes. Please email any comments to Sarah Glazner at sglazner@tax.state.nv.us so they may be posted to the Department's website.
- II. The Department will hold a workshop to solicit comments from interested parties on the following topic:

LCB File No. R056-21 establishes criteria for when live entertainment is provided by or entirely for the benefit of a governmental entity for the purposes of an exemption from the live entertainment tax administered by the Department of Taxation; provides that a person claiming the exemption on the live entertainment tax for entertainment provided by or entirely for the benefit of a governmental entity has the burden of proving by a preponderance of the evidence that the person satisfies the criteria for the exemption; requires such a person to submit certain records to the Department; and provides other matters properly relating thereto.

Existing law imposes a tax on the charge for admission to a facility where live entertainment is provided. (NRS 368A.200) Existing law exempts from the tax live entertainment that is provided by or entirely for the benefit of a governmental entity. (NRS 368A.200, as amended by section 1.7 of Senate Bill No. 367, chapter 417, Statutes of Nevada 2021, at page 2708) **Section 2** of this regulation establishes when live entertainment is provided by or entirely for the benefit of a governmental entity for the purposes of this exemption from the live entertainment tax administered by the Department of Taxation. **Section 3** of this regulation: (1) provides that a person claiming to be a governmental entity exempt from the tax, or a person claiming to provide live entertainment for the benefit of such a governmental entity, has the burden of proving by a preponderance of the evidence that the person satisfies the criteria for the exemption; and (2) requires a person claiming to be a governmental entity exempt from the tax, or a person claiming to provide live entertainment for the benefit of such a governmental entity, to submit certain records to the Department. **Sections 4, 5 and 6** of this regulation make conforming changes to apply the provisions of sections 2 and 3 of this regulation to the live entertainment tax administered by the Department.

- III. ****Public Comment** – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.
- IV. Adjourn

****This item is to receive public comment on any issue and any discussion of those issues, provided that comment will be limited to areas relevant to and within the authority of the Nevada Department of Taxation. No action will be taken on any items raised in the public comment period. Public Comment may not be limited based on viewpoint.**

Please contact Sarah Glazner at 775-684-2059 or sglazner@tax.state.nv.us for any support materials. The support materials will be available at <https://tax.nv.gov/> and made available during the meeting located at the Nevada Department of Taxation, 1550 College Pkwy. Ste 115, Carson City.

Members of the public who are disabled and require accommodations or assistance at this workshop are requested to notify the Department of Taxation in writing or call 775-684-2096 no later than five working days prior to the workshop.

Notice of this workshop has been posted at the following location: The Department of Taxation - 1550 College Pkwy. Ste 115, Carson City.

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**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608 and NRS 233B.0609**

LCB File No. R056-21

1. Background

This proposed regulation (LCB File No. R056-21) establishes criteria for when live entertainment is provided by or entirely for the benefit of a governmental entity for the purposes of an exemption from the live entertainment tax administered by the Department of Taxation; provides that a person claiming the exemption on the live entertainment tax for entertainment provided by or entirely for the benefit of a governmental entity has the burden of proving by a preponderance of the evidence that the person satisfies the criteria for the exemption; requires such a person to submit certain records to the Department; and provides other matters properly relating thereto.

Existing law imposes a tax on the charge for admission to a facility where live entertainment is provided. (NRS 368A.200) Existing law exempts from the tax live entertainment that is provided by or entirely for the benefit of a governmental entity. (NRS 368A.200, as amended by section 1.7 of Senate Bill No. 367, chapter 417, Statutes of Nevada 2021, at page 2708) Section 2 of this regulation establishes when live entertainment is provided by or entirely for the benefit of a governmental entity for the purposes of this exemption from the live entertainment tax administered by the Department of Taxation. Section 3 of this regulation: (1) provides that a person claiming to be a governmental entity exempt from the tax, or a person claiming to provide live entertainment for the benefit of such an governmental entity, has the burden of proving by a preponderance of the evidence that the person satisfies the criteria for the exemption; and (2) requires a person claiming to be a governmental entity exempt from the tax, or a person claiming to provide live entertainment for the benefit of such an governmental entity, to submit certain records to the Department. Sections 4, 5 and 6 of this regulation make conforming changes to apply the provisions of sections 2 and 3 of this regulation to the live entertainment tax administered by the Department.

2. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R056-21. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department to 210 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content of the response is summarized below:

- No response was received for LCB Draft of Proposed Regulation - File No. R056-21.

Anyone interested in obtaining a copy of the completed small business impact questionnaire used for this summary, can contact:

Sarah Glazner
Nevada Department of Taxation
1550 College Parkway Ste 115
Carson City, NV 89706
Phone: (775) 684-2059
Fax: (775) 684-2020
sglazner@tax.state.nv.us

3. The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small businesses.

No response was received for LCB Draft of Proposed Regulation R056-21. Since no response was received, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes.

4. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate:

Adverse and Beneficial effects

The Department finds that there is no adverse or beneficial economic effect on small businesses.

Direct and indirect effects

The Department finds that there is no direct or indirect economic effect on small businesses.

5. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the

agency actually used any of those methods.

The proposed regulation presents no reasonable, foreseeable or anticipated adverse impact to small businesses; therefore, no efforts were required to reduce the impact on small businesses.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The proposed regulation presents no significant foreseeable or anticipated costs for enforcement.

7. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed permanent regulation does not include new fees or increase an existing fee.

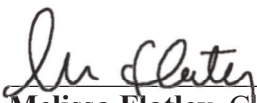
8. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulation does not overlap or duplicate any standards of other federal, state or local government entities.

9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

The Department has determined that there will be no adverse impacts to small businesses based on its analysis, and received no public comment.

I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared, and the information contained herein is accurate.



Melissa Flatley, Chief Deputy Executive Director
March 4, 2022

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R056-21

December 29, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§ 1-6, NRS 360.090 and 368A.140.

A REGULATION relating to taxation; establishing criteria for when live entertainment is provided by or entirely for the benefit of a governmental entity for the purposes of an exemption from the live entertainment tax administered by the Department of Taxation; providing that a person claiming the exemption on the live entertainment tax for entertainment provided by or entirely for the benefit of a governmental entity has the burden of proving by a preponderance of the evidence that the person satisfies the criteria for the exemption; requiring such a person to submit certain records to the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a tax on the charge for admission to a facility where live entertainment is provided. (NRS 368A.200) Existing law exempts from the tax live entertainment that is provided by or entirely for the benefit of a governmental entity. (NRS 368A.200, as amended by section 1.7 of Senate Bill No. 367, chapter 417, Statutes of Nevada 2021, at page 2708) **Section 2** of this regulation establishes when live entertainment is provided by or entirely for the benefit of a governmental entity for the purposes of this exemption from the live entertainment tax administered by the Department of Taxation. **Section 3** of this regulation: (1) provides that a person claiming to be a governmental entity exempt from the tax, or a person claiming to provide live entertainment for the benefit of such an governmental entity, has the burden of proving by a preponderance of the evidence that the person satisfies the criteria for the exemption; and (2) requires a person claiming to be a governmental entity exempt from the tax, or a person claiming to provide live entertainment for the benefit of such an governmental entity, to submit certain records to the Department. **Sections 4, 5 and 6** of this regulation make conforming changes to apply the provisions of sections 2 and 3 of this regulation to the live entertainment tax administered by the Department.

Section 1. Chapter 368A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *For the purposes of paragraph (p) of subsection 4 of NRS 368A.200, as amended by section 1.7 of Senate Bill No. 367, chapter 417, Statutes of Nevada 2021, at page 2708, live entertainment is provided by or entirely for the benefit of a governmental entity if the proceeds of the admission charges to the facility where the live entertainment is provided become the property of the governmental entity. The proceeds of the admission charges do not become the property of a person other than a governmental entity as long as the person retains not more of the proceeds than is necessary to cover the direct, supportable costs of hosting, promoting or sponsoring the event at which the live entertainment is provided.*

2. Except as otherwise provided in this section and chapter 368A of NRS and NAC 368A.010 to 368A.170, inclusive, and section 3 of this regulation, unless the live entertainment is provided by or entirely for the benefit of a governmental entity, the Department shall assess and compute the excise tax in accordance with NAC 368A.140.

Sec. 3. 1. *Any person who claims to be a governmental entity exempt from the provisions of NRS 368A.200, as amended by section 1.7 of Senate Bill No. 367, chapter 417, Statutes of Nevada 2021, at page 2708, or any person who claims to provide live entertainment entirely for the benefit of such a governmental entity, has the burden of proving by a preponderance of the evidence that the person is exempt from the tax imposed by chapter 368A of NRS.*

2. Any person who claims to be a governmental entity exempt from the provisions of NRS 368A.200, as amended by section 1.7 of Senate Bill No. 367, chapter 417, Statutes of Nevada 2021, at page 2708, or any person who claims to provide live entertainment entirely for the benefit of such a governmental entity, shall, upon the request of the Department, provide to the Department such records as the Department deems necessary to demonstrate that the

person who claims to be a governmental entity or the organization for whose benefit the person provided live entertainment is a governmental entity.

Sec. 4. NAC 368A.010 is hereby amended to read as follows:

368A.010 As used in NAC 368A.010 to 368A.170, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 368A.030 to 368A.095, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NAC 368A.100 is hereby amended to read as follows:

368A.100 For the purposes of chapter 368A of NRS and NAC 368A.010 to 368A.170, inclusive, *and sections 2 and 3 of this regulation*, the Commission will interpret the term:

1. “Admission” to mean the right or privilege to enter, or have access to, a facility where live entertainment is provided.
2. “Boxing contest or exhibition” to have the meaning ascribed in NRS 467.0107 to the term “unarmed combat.”
3. “Complimentary” to mean the granting of admission to a facility where live entertainment is provided without the receipt of any form of payment or consideration by the taxpayer from any person who is not affiliated with the taxpayer.
4. “Marketing or promotional activity” to mean an activity described in subparagraphs (1) to (8), inclusive, of paragraph (a) of subsection 2 of NRS 368A.090 that is provided for the primary purpose of drawing attention to a particular product, service or brand.
5. “Membership fee” to mean an amount paid for a membership that provides admission to a facility where live entertainment is provided.
6. “Performance” to mean the presentation of an activity described in subparagraphs (1) to (8), inclusive, of paragraph (a) of subsection 2 of NRS 368A.090 that is the primary reason for

which a patron or patrons paid an admission charge to enter, or have access to, the facility. In determining whether an activity constitutes a performance pursuant to this subsection, the Commission may consider, without limitation, the following factors:

- (a) Whether the activity is advertised, promoted or otherwise marketed; and
- (b) Whether the activity garners the predominant attention of a patron or patrons of the facility.

7. “Performance by a disc jockey” to mean the playing of recorded music, the mixing of audio or the adding of sound, video and lighting effects by a person or group of persons to a patron or group of patrons. For the purposes of this subsection and subparagraph (9) of paragraph (a) of subsection 2 of NRS 368A.090, the Commission will interpret the term “recorded music” to include, without limitation, music on a cassette tape, compact disc, phonograph album, digital media or video tape or disc, or on live television.

8. “Service charge or any other fee or charge” to mean an amount imposed and received by, or on behalf of, a taxpayer without the payment of which a patron could not obtain admission to a facility where live entertainment is provided. The term does not include an amount imposed and retained by a ticket broker or a ticket service provider.

9. “Shopping mall” to include any area or premises where multiple vendors assemble for the primary purpose of selling goods or services, regardless of whether consideration is collected for the right or privilege of entering that area or those premises and regardless of whether the vendors gather indoors or outdoors.

10. “Ticket” to mean a physical or electronic document that provides a patron admission to a facility where live entertainment is provided.

Sec. 6. NAC 368A.110 is hereby amended to read as follows:

368A.110 1. Except as otherwise provided in subsection 3, if a taxpayer intends to provide live entertainment at a facility that is not a licensed gaming establishment, the taxpayer shall register with the Department to collect the tax. The taxpayer shall thereafter collect and remit the tax to the Department in accordance with the provisions of chapter 368A of NRS and NAC 368A.010 to 368A.170, inclusive ~~[H]~~, *and sections 2 and 3 of this regulation.*

2. Except as otherwise provided in subsection 3, if a taxpayer intends to provide live entertainment at a facility that is a licensed gaming establishment, the taxpayer shall act in accordance with NAC 368A.300 to 368A.540, inclusive.

3. If a taxpayer is an escort or escort service, the taxpayer must:

(a) Register with the Department to collect the tax on live entertainment. The taxpayer shall thereafter collect and remit the tax to the Department in accordance with the provisions chapter 368A of NRS and NAC 368A.010 to 368A.170, inclusive.

(b) Maintain the following records for a period of at least 4 years after the date on which the record is created:

(1) The date on which the service of escorting a person or persons at one or more locations in this State is provided; and

(2) The full amount charged for that service.

(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.