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Posted 5/25/22

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of

LCB File No. R052-21

Nevada Tax Commission

The Nevada Tax Commission will hold a Public Hearing at **9:00 a.m. on Monday, June 27, 2022** at the Nevada Department of Taxation 1550, College Pkwy Ste 115, Carson City. The purpose of the hearing is to receive comments from all interested parties regarding the adoption of the regulation that pertains to LCB File No. R052-21.

You may participate by using Zoom, by telephone or in person. Please connect by Zoom or by telephone between 8:15 a.m. and 8:45 a.m. on the date of the meeting.

To participate using Zoom:

Go to: <https://zoom.us/>

Press Join a Meeting.

When prompted to provide the Meeting ID, please enter: **851 5513 4598#**

To dial in by telephone, dial: US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799

When prompted to provide a Meeting ID, please enter: **851 5513 4598#**

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Need and purpose of the proposed regulations or amendments

The need and purpose of the proposed permanent regulation (R052-21) requires a person who operates a peer-to-peer car sharing program to provide proof to the Department of Taxation that the person has obtained or attempted to obtain an electronic certification relating to the payment of sales and use taxes due on the purchase of a shared vehicle; specifies the required contents of the

certification; requires a shared vehicle owner who has paid sales and use taxes to retain documentation evidencing the payment; provides for the liability of a shared vehicle owner who provides incorrect or false information to a car sharing program regarding the payment of sales and use taxes; requires a person who operates a car sharing program to submit quarterly reports to the Department; establishes requirements for the retention of certain records relating to the operation of a car sharing program; and provides other matters properly relating thereto.

2. How to obtain the approved or revised text of regulations prepared by LCB

You may obtain a copy of the proposed permanent regulation by writing to the Nevada Department of Taxation, 1550 College Parkway, Ste 115, Carson City, Nevada 89706; or by calling the office at (775) 684-2059. The proposed permanent regulation is also available for review and download on the Department of Taxation website at <https://tax.nv.gov/> or on the Nevada Legislature website at <https://www.leg.state.nv.us/>.

3. Methods used in determining the impact on a small business

The agency used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes, which includes its own analysis by considering the extent of the regulatory provisions contained in LCB File No. R052-21. The Department prepared a small business impact questionnaire that was forwarded to the Interested Parties List which is maintained by the Department.

The Department will continue to accept input on the impact of the proposed permanent regulation on small businesses through the regulatory process. No respondents indicated that this regulation would have a direct and significant economic burden upon a small business.

The Department held a workshop for concerned members of the public to state their concerns and submit correspondence regarding the regulation.

4. Estimated economic effect of regulation on businesses and the public

a. Adverse and beneficial effects

The proposed permanent regulation does not present any reasonable, foreseeable or anticipated adverse economic effects on small businesses.

b. Immediate and long-term effects

Same as above

5. Cost for enforcement of the regulations

The proposed permanent regulation does not present any significant, foreseeable or anticipated cost or decrease in costs for enforcement.

6. Overlap or duplication of other state or local governmental agencies

The proposed permanent regulation does not overlap or duplicate any regulation of other state or local

governmental entities.

7. Regulation required by federal law

Not Applicable

8. More stringent than federal regulations

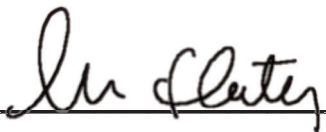
The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. New or increases in existing fees

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

Persons wishing to comment on the proposed action of the Nevada Tax Commission may appear at the above scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Tax Commission, 1550 E. College Parkway, Suite 115, Carson City, Nevada 89706. Written submissions must be received at least two weeks prior to the above scheduled public hearing.

Under NRS 233B.064(2), when adopting any regulation, the Agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporation, and its reason for overruling the consideration urged against its adoption.



Melissa Flatley, Chief Deputy Executive Director
May 25, 2022

Members of the public who are disabled and require accommodations or assistance at the meeting 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 meeting.

A copy of the Notice and the proposed permanent regulation to be adopted and/or amended is on file and has been posted at the following location: The Department of Taxation - 1550 College Parkway, Ste 115, Carson City, Nevada.

Members of the public may inspect these documents during regular business hours at the above location. Additional copies of the notice and proposed permanent regulation to be adopted and/or amended are available at the below locations.

The text of the proposed permanent regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will be mailed to members

of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

Notice has been EMAILED/MAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno, Nevada; Department of Taxation - 700 E. Warm Springs Rd, Ste 200, Las Vegas, Nevada; The Legislative Building - Capitol Complex, Carson City, Nevada; The Nevada State Library -100 Stewart Street, Carson City, Nevada; 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/>.

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R052-21

February 23, 2022

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

AUTHORITY: §§ 1 and 4, NRS 360.090 and sections 11.3, 11.5 and 11.7 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at pages 1842-44 (NRS 482C.230, 482C.240 and 482C.245); § 2, NRS 360.090 and section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240); § 3, NRS 360.090 and sections 11.3 and 11.5, Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at pages 1842 and 1843 (NRS 482C.230 and 482C.240).

A REGULATION relating to taxation; requiring a person who operates a peer-to-peer car sharing program to provide proof to the Department of Taxation that the person has obtained or attempted to obtain an electronic certification relating to the payment of sales and use taxes due on the purchase of a shared vehicle; specifying the required contents of the certification; requiring a shared vehicle owner who has paid sales and use taxes to retain documentation evidencing the payment; providing for the liability of a shared vehicle owner who provides incorrect or false information to a car sharing program regarding the payment of sales and use taxes; requiring a person who operates a car sharing program to submit quarterly reports to the Department; establishing requirements for the retention of certain records relating to the operation of a car sharing program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governs the licensing and operation of peer-to-peer car sharing programs, which connect shared vehicle owners with shared vehicle drivers. (Sections 2-30.67 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at pages 1841-52 (Chapter 482C of NRS)) If a shared vehicle owner has not paid any sales or use taxes due on the purchase of a shared vehicle or has elected to collect sales and use taxes measured by the gross charges for the sharing of the vehicle, a car sharing program that makes the vehicle available for sharing is required under existing law to collect and remit sales and use taxes on behalf of the shared vehicle owner. Before a shared vehicle is made available for sharing by a car sharing program, existing law also requires the program to request from the shared vehicle owner an electronic certification as to whether the shared vehicle owner paid all sales and use taxes due on the purchase of the vehicle. (Section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240))

Section 2 of this regulation requires a person who operates a peer-to-peer car sharing program to provide the Department of Taxation, upon request of the Department, with proof that the car sharing program has obtained or attempted to obtain the required certification from each shared vehicle owner who places a vehicle on the digital network or software application of the program. **Section 2** also specifies the information that must be included in the certification, and requires a shared vehicle owner who has paid sales and use taxes due on the purchase of the vehicle to retain certain documentation evidencing the payment. If such an owner provides incorrect or false information regarding the payment of sales and use taxes, **section 2** provides that the owner is liable for any sales or use tax due on the purchase of the vehicle, measured by the gross charges for the sharing of the vehicle plus any applicable interest and penalties.

Section 3 of this regulation requires each operator of a peer-to-peer car sharing program to submit to the Department, at the end of each calendar quarter, a report containing specified information about each shared vehicle placed on the program's platform during the quarter.

Existing law authorizes the Department to specify by regulation the types of records that must be kept by a car sharing program to determine the fees and taxes owed in connection with the operation of the program. (Section 11.7 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1844 (NRS 482C.245)) **Section 4** of this regulation sets forth the records to be retained and the period for which they must be retained.

Section 1. Chapter 482C of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *A person who operates a peer-to-peer car sharing program shall submit to the Department of Taxation, upon request, proof that the person has obtained or attempted to obtain, from each shared vehicle owner who places a vehicle on the digital network or software application of the peer-to-peer car sharing program, the electronic certification required by section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240).*

2. The electronic certification must include, for each such shared vehicle:

(a) The full name of the shared vehicle owner;

(b) The license plate number, year, make and model of the shared vehicle;

(c) An attestation by the shared vehicle owner, under penalty of perjury, as to whether the shared vehicle owner has paid all sales and use taxes due on the purchase of the shared vehicle; and

(d) A notice to the shared vehicle owner that if the shared vehicle owner attests that all sales and use taxes due on the purchase of the shared vehicle have been paid and it is determined that any sales or use tax has not been paid, the shared vehicle owner is liable for any sales or use tax due on the shared vehicle, measured by the gross charges for the sharing of the shared vehicle plus any applicable interest and penalties for failure to pay tax.

3. A shared vehicle owner who has paid sales and use taxes due on the purchase of a shared vehicle shall retain documentation evidencing the payment. The documentation:

(a) Must set forth the:

- (1) Year, make and model of the shared vehicle;*
- (2) Vehicle identification number of the shared vehicle;*
- (3) Date of purchase of the shared vehicle;*
- (4) Full amount paid for the shared vehicle; and*
- (5) Amount of sales or use tax paid on the purchase of the shared vehicle.*

(b) May consist of:

- (1) A purchase order or notarized bill of sale;*
- (2) A dealer invoice; or*
- (3) Any other document provided by the seller of the shared vehicle that contains the information required by paragraph (a).*

4. If a shared vehicle owner provides incorrect or false information to a peer-to-peer car sharing program regarding the payment of sales and use taxes due on the purchase of the shared vehicle, the shared vehicle owner is liable for any sales or use tax due on the purchase of the shared vehicle, measured by the gross charges for the sharing of the vehicle plus any applicable interest and penalties for failure to pay tax.

Sec. 3. 1. *On or before March 31, June 30, September 30 and December 31 of each year, a person who operates a peer-to-peer car sharing program shall submit to the Department of Taxation a report containing information about each shared vehicle placed on the digital network or software application of the peer-to-peer car sharing program during the immediately preceding calendar quarter.*

2. The report must be in the form prescribed by the Department of Taxation and include, for each such shared vehicle:

(a) The name and contact information of the shared vehicle owner;

(b) The license plate number and vehicle identification number of the shared vehicle;

(c) Whether the shared vehicle owner has certified that all sales and use taxes due on the purchase of the shared vehicle have been paid;

(d) The state in which the shared vehicle is registered; and

(e) Any other information required by the Department of Taxation.

Sec. 4. 1. *Each person responsible for retaining the records of a peer-to-peer car sharing program shall retain:*

(a) A copy of each car sharing program agreement entered into by the peer-to-peer car sharing program;

(b) Any records or other pertinent documents substantiating the information contained in each report filed on behalf of the peer-to-peer car sharing program pursuant to section 3 of this regulation; and

(c) Each electronic certification obtained by the peer-to-peer car sharing program from a shared vehicle owner pursuant to section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240).

2. The records described in subsection 1 must be retained:

(a) For not less than 4 years after the date of any such agreement, record, certification or other document; or

(b) Until any litigation or prosecution pursuant to chapter 360 of NRS or audit pursuant to section 11.3 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1842 (NRS 482C.230) is finally determined,

↳ whichever is longer.

3. Each person responsible for retaining the records of a peer-to-peer car sharing program shall make the records retained pursuant to this section available for inspection and copying by the Department of Taxation or any of its authorized agents upon demand at reasonable times during regular business hours.