

AAA Team Sales Tax, LLC

11/18/22

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

Subject: Legislative Counsel Bureau (LCB) writing mentioned in the October 2022 Tax Notes

Dear Commissioners,

Enclosed, you will find the following:

1. Comments about that section in the October 2022 Nevada Tax Notes.
2. The section in the October 2022 Nevada Tax Notes that is commented on.
3. A great article that explains what is the Legislative Counsel Bureau (LCB).
4. Nevada Revised Statute (NRS) 360.133.

Thank You and Be Safe!

Ron Voigt  
AAA Team Sales Tax LLC

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Subject: Legislative Counsel Bureau (LCB) writings mentioned in the October 2022 Tax Notes

Hello Commissioners,

Please review the enclosed section of the October 2022 Tax Notes. I am pretty sure you will see the major error in the article. Legislative Counsel Bureau (LCB) writings are not “TAX LAWS (STATUTES)”, they are “OPINIONS”. This is illustrated in the Nevada Supreme Court decision on May 13, 2021, that upheld a decision that Senate Bill 551 was **unconstitutional** and ordered the Nevada Department of Taxation to refund any overpayment of the Modified Business Tax. The Legislative Counsel Bureau had provided opposite advice to the Legislature. Another illustration is the author’s attempt to change the definition of “Food for Immediate Consumption”. LCB File No. R056-18 Regulation for Prepared Food has nothing to do with the taxability of food. Most disturbing is the author trying to mislead the public (stakeholders) into believing this false plot. Nevada Statute (NRS) 372.284 is the tax law of the land for the taxability of food and that has not changed. I would be interested in knowing if the Nevada Tax Commission needs to approve these Legislative Counsel Bureau (LCB) writings again since recent legal opinions may have an effect on these such LCBs as written. The LCB cannot be used as a reference on the AU39 (audit report). Clearly, the author of the article is from the audit section who is trying to outline audit points for the next audit and has no intention on providing helpful educational information to the public (stakeholder). The author is trying to deceive the public to his/her view point. In today’s culture, some would consider the tone of the article bullying or harassment. Please have the auditor appear before your commission to clearly explain the introduction paragraph and the LCBs to the public (stakeholders). Please consider having the Tax Commission (aka Audit Committee) review the articles before they are published. Incorrect information does not serve the public (stakeholders) or the Department well. Instead of writing aggressive articles, the Department needs to have its article authors spend time writing Technical Bulletins. The great thing about a Technical Bulletin is it to be written in simple nontechnical language and contain updated legal opinions. That would not only be an advantage for the reader but also for the author in case he/she is called before the Commission.

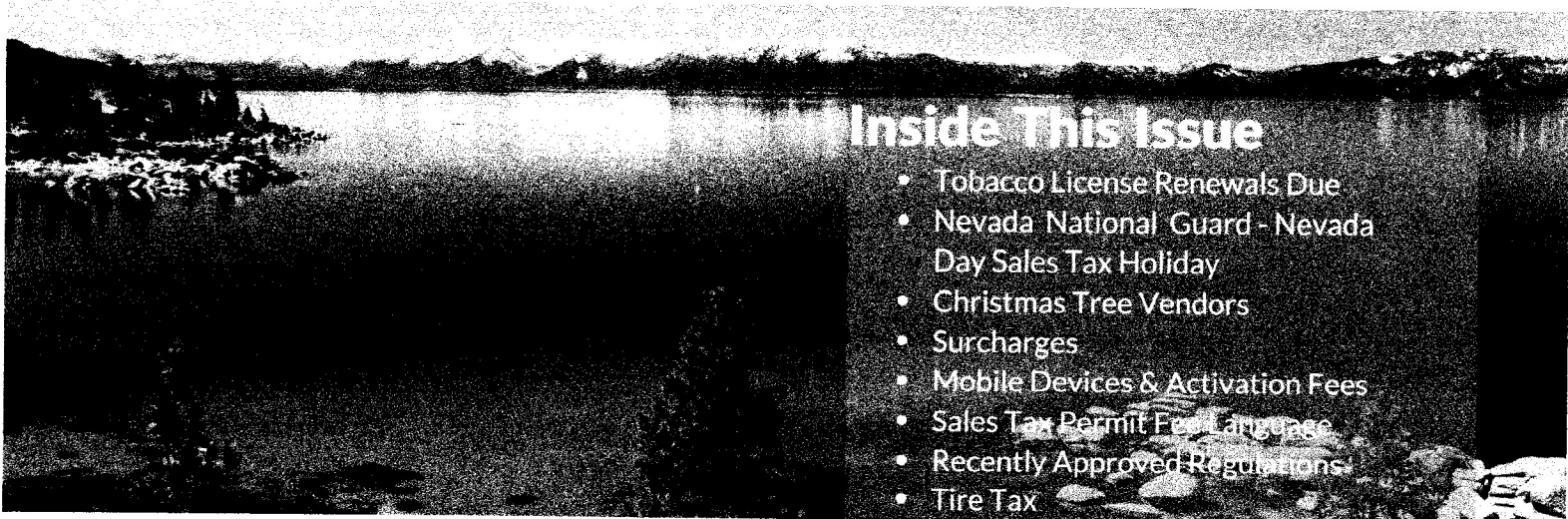
Thank You and Be Safe!

Ron Voigt  
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Please refer to  
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# NEVADA TAX NOTES

The Official Newsletter of the Department of Taxation



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## Tobacco License Renewals Due

The renewals and license fees for tobacco licensees are due no later than December 31, 2022. In order to review and process each renewal efficiently, we encourage licensees to return their renewal as soon as possible. If renewals and fees are not submitted on time, your license may be canceled. Tobacco licenses are valid for the calendar year from January 1 through December 31. In September, the Department of Taxation mailed renewal forms for the renewals for tobacco licenses: tobacco retail, cigarette and other tobacco products wholesalers, and tobacco retailers.

Licensees can mail in renewals to the Department of Taxation. Please also be aware that local city or county governments may have additional licensing requirements.

Remember, if your mailing address has changed, contact the Department of Taxation to update it. To learn more about licensing and taxes, visit the Department of Taxation [FAQ page](#). Also, please reference NRS 370 and NAC 370 for specifics.

For more information on tobacco license renewals, visit the Department of Taxation website at [tax.nv.gov](#). If you have any questions, please contact the Department of Taxation at (702) 486-2000 or visit our website at [tax.nv.gov](#). The Department of Taxation is committed to providing excellent customer service and ensuring that all licensees have the information they need to successfully renew their licenses.



## Approved Regulations of the Nevada Tax Commission

The Nevada Tax Commission has approved regulations, which have been posted to the Publications section of the Department's website.

Regulations that are adopted by the Nevada Tax Commission are not effective until filed with the Office of the Secretary of State. Once filed, the regulations have the effect of law even if they are not included in the Nevada Administrative Code. Additionally regulations are added to the Nevada Administrative Code by the Legislative Counsel Bureau. **The regulations posted on this page are effective but have not yet been added to the Nevada Administrative Code.**

For your information, review the below list of the adopted regulations. The links to the adopted regulations, and effective dates are included for easy reference.

### Bad Debt Regulation

*LCB File No. R191-18 Effective December 19, 2018*

A REGULATION relating to sales tax; establishing a time limit for claiming a deduction for a bad debt; requiring a retailer who claims a deduction for a bad debt to retain certain records; establishing the method for determining the value of certain repossessed property for the purpose of calculating the amount of a deduction for bad debt; and providing other matters properly relating thereto.

<https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/TaxLibrary/R191-18AP.pdf>

### Regulation for Prepared Food

*LCB File No. R056-18 Effective June 8, 2020*

A REGULATION relating to taxation; revising provisions governing the determination of whether food sold by a retailer is prepared food intended for immediate consumption for the purposes of the imposition of sales and use taxes on the retail sale of the food; and providing other matters properly relating thereto.

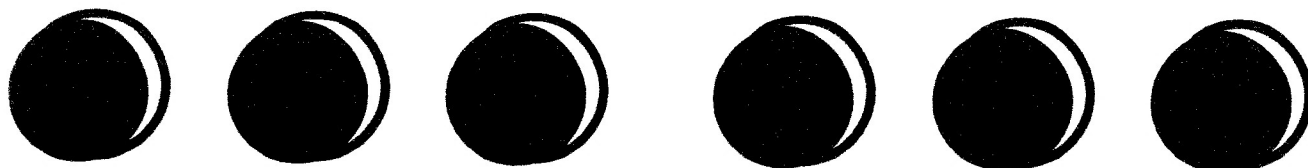
<https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/TaxLibrary/R056-18AP.pdf>

### Loss/Damage Charges

*LCB File No. R123-18 Effective June 8, 2020*

A REGULATION relating to taxation; clarifying, for purposes of the sales tax, provisions concerning certain charges assessed against a person who rents or leases tangible personal property; and providing other matters properly relating thereto.

<https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/TaxLibrary/R123-18AP.pdf>



# Gansert: LCB needs to be split along party lines after backing losing side in tax fight



Heidi Seevers Gansert

By Ray Hagar Nevada Newsmakers  
Monday, May 24, 2021

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Citing a Democratic bias, Republican state Sen. Heidi Gansert called for the staff of the Legislative Counsel Bureau, considered non-partisan, to be split along party lines.

"At some point of time, we need to divide the staff and have a Republican and Democrat staff, at least from a legal standpoint," she said this week during a taping of Nevada Newsmakers.

Gansert, from Reno, said the LCB's Democratic leanings were apparent in the recent legal fight – won by Republicans at the Supreme Court – which ruled bills pushed through the 2019 Legislature by a Democratic majority were unconstitutional because they failed to pass with the required two-thirds majority.

"That was difficult because the staff at the Legislature is supposed to be non-partisan and it just didn't feel that way," Gansert told host Sam Shad. "It felt partisan and we needed to challenge the bill that was passed."

Both the District Court and Supreme Court deemed the LCB ruling to be incorrect. And the subsequent legal fight forced state Senate Republicans to scramble to fight the ruling on their own, Gansert said.

"It was also frustrating because the LCB defended the Democrats' position, which ended up being wrong, right?" she said. "So we've got the Supreme Court that finds it wrong and then the Republicans, to fight it, had to actually raise money to do that."

When asked if she would want to question LCB staffers' political leanings, Gansert said that was not her point.

"The answer is not just questioning staff but (making sure) you get equal representation, that you don't have one party having to raise money to fight something that they think is unconstitutional. "And again, I think the story would be different if it wasn't found unconstitutional by the Supreme Court," Gansert said. "But it was and we had to raise money because the LCB was only representing one party in the lawsuit."

The Supreme Court ruling is considered a major victory for Republicans, upholding the Gibbons Tax Restraint Initiative of 1996.

That constitutional amendment stipulates that any tax increase must be approved by super-majorities in both houses of the Legislature. In 2019, Democrats held an overwhelming majority in the Assembly and getting two-thirds approval was not an issue.

In the state Senate, however, Democrats were one vote away from a super majority. They argued, and LCB agreed, that the two-thirds requirement was not necessary because one issue was simply repealing a scheduled reduction in fees and for that, the two-thirds majority was unnecessary.

In an unprecedented decision in 2003, the Nevada Supreme Court ruled the two-thirds threshold was not necessary to raise taxes to fund education. But the Legislature still got a two-thirds majority in both houses anyway, before voting to raise taxes to fend off expected legal challenges. However, some Supreme Court justices felt the wrath of voters in the 2004 election. Senate Minority Leader James Settlemeyer, R-Minden, said earlier this month on Nevada Newsmakers that the state would have to return more than \$100 million to the taxpayers because of the court's decision.

Settlemeyer said it would not hurt the state's education system as Democrats fear because of the lofty projections for tax revenue in the near future by the state's Economic Forum.

"It doesn't really create a hole," Settlemeyer said. "It just shows that they stole money from people when they didn't have the authority to do so."

**NRS 360.133 Duty of Executive Director to prepare technical bulletins; requirements for technical bulletins.**

1. The Executive Director shall prepare or cause to be prepared technical bulletins to educate the public on:
  - (a) Issues related to their businesses and the taxes administered by the Department; and
  - (b) Written opinions that the Executive Director receives from the Attorney General pursuant to NRS 228.150.
2. The technical bulletins must be written in simple nontechnical language and may include:
  - (a) Information and guidance concerning specific issues or topics;
  - (b) Examples for clarification purposes; and
  - (c) Any other information determined by the Executive Director or Nevada Tax Commission to be beneficial to the public.
3. A technical bulletin must not include advice on a specific fact situation but may include information that is applicable to a specific industry or type of business.
4. The technical bulletins must be published and revised as needed. Each bulletin and revised bulletin must be published and posted on an Internet website maintained by the Department and made available upon request at the offices of the Department.
5. Any technical bulletin published or revised pursuant to this section is intended for informational purposes only.
6. The Executive Director shall submit each proposed technical bulletin and any revisions to a bulletin to the Nevada Tax Commission for approval before publishing the bulletin or revised bulletin.  
(Added to NRS by 2013, 158)