

**A**  
**Track-Out Solution**  
**Dumpster/Drop Box Service**  
**(702) 419-7708**

Shellie Hughes, Executive Director  
Nevada Department of Taxation

1550 College Parkway

Carson City, Nevada 89701

Re: Proposed Amendment to NAC 372.938

Dear Ms. Hughes:

I am writing in support of the proposed amendment to NAC 372.938 proffered by NFIB. The proposed amendment would eliminate a "tax trap for the unwary." I can attest that NAC 372.938 is a tax trap, it snared my company.

Initially, Anissa Gustafson and I formed A Track-Out Solutions LLC, a certified Women-Owned Business, in order to provide a street sweeping service. Later, we started providing waste removal and disposal services for construction sites. This entailed delivering large steel dumpsters or concrete washout bins to construction sites, returning later to pick up the full dumpster or washout bin and transporting the full dumpster or washout bin to a disposal site. No company providing this service in Las Vegas collects sales tax on the amount they charge customers for the service. Consequently, we assumed the amounts we charged customers for our waste removal and disposal service, like our street sweeping service, would not be subject to sales tax.

The team we assembled at A Track had the knowledge and experience to create a successful small business. However, in retrospect it's clear our knowledge and experience did not extend to the nuances of the sales and use tax. I now understand that the reason no companies collect sales tax on their waste removal and disposal service is because they remitted use tax on the cost of acquiring the dumpsters and bins. A Track's failure to remit use tax was not intentional, but was a mistake made because of our lack of knowledge.

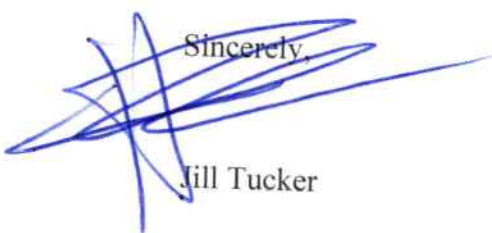
It's my understanding that, at this point, the statutes would allow A Track to correct its mistake by paying the use tax due on the acquisition cost of its dumpsters and bins. In addition, the statutes would impose interest and penalties. This would be a reasonable result; A Track would pay the same tax paid by other companies providing identical services, A Track would pay interest to compensate the state for the time value of money, and A Track would be assessed a penalty for its late payment of the tax. However, NAC 372.938 prevents this result.

The person who conducted the audit of A Track explained that under NAC 372.938 the failure of A Track to report its acquisition of the dumpsters and bins on its use tax returns constituted a "deemed election" to pay sales tax on amounts charged customers for its waste removal and disposal service. Even though A Track had not been collecting sales tax from its customers and no other company providing a waste removal and disposal service collects sales tax from their customers, A Track-Out was deemed to have unwittingly made the election years ago. A Track was trapped by the "deemed election" in NAC 372.938.

Because of the "deemed election," A Track's tax liability (without interest or penalties) is over twelve times greater than it would be if A Track were allowed to pay use tax, which is the tax paid by other companies providing a similar service. This is an increase of over 1180%. Although A Track has been a successful small business, it is not likely to survive the exorbitant tax increase caused by the "deemed election."

I encourage you to support the adoption of the proposed amendment so that other companies are not caught off guard and surprised by an exorbitant tax assessment.

Sincerely,



Bill Tucker

---

2711 Rimbey St

Las Vegas, NV 89115

ph. 702-419-7708

fx. 702-982-8413