

ISSUE NO. 195 | APRIL 2023

NEVADA TAX NOTES

The Official Newsletter of the Department of Taxation



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Upcoming Office Closures

The Nevada Department of Taxation will be closed on the following dates.



Monday, May 29
Memorial Day

Tuesday, July 4
Independence Day

The Department of Taxation is hiring! We are recruiting for multiple positions in our Northern and Southern Nevada offices. If you are interested in applying, check out the Department's [careers page](#).



Call Center: (866) 962-3707 Monday - Friday 6:30AM - 5:00PM

Carson City
1550 College Parkway, Ste 115
Carson City, Nevada 89706
Phone: (775) 684-2000

Reno
4600 Kietzke Lane Bldg L, Ste. 235
Reno, Nevada 89502
Phone: (775) 687-9999

Las Vegas
700 E. Warm Springs Road 2nd Floor
Las Vegas, Nevada 89119
Phone: (702) 486-2300

Asset Sales, Garage Sales, Occasional Sales, and Sales Tax

Assets are tangible personal property or resources that have value or provide a future benefit. Purchases of tangible personal property, including assets, are subject to Nevada sales or use tax when purchased for storage, use or consumption in Nevada. Assets may be owned by a business or an individual.

An owner of assets may at some point decide to place assets for sale. Even though the owner paid sales or use tax at the time of original purchase of its assets, the owner may become a retailer of those assets under certain conditions, subjecting each sale of assets to sales tax. Note that the retail sale or purchase transaction is subject to the sales or use tax, not the property itself.

There is no provision in Nevada law for the exemption from sales tax of “private party” sales. There is, however, a sales tax exemption for “occasional sales”. A sale meets the definition of an “occasional sale” as long as the owner makes no more than two sales in a 12-month period.

If an owner sells all of its assets to a single purchaser in a single transaction, or if a business is sold including all of its assets, the same rules apply. The solitary sale of a business and/or its assets may qualify as an occasional sale.

A retailer is defined as one who makes more than two retail sales during a 12-month period. If more than two sales of assets occur within 12 months, then the owner will be considered a retailer of the assets and must collect sales tax on the sales price of each asset sale. A note of caution, although the first two sales may have been occasional sales, once the third sale occurs, the first two sales no longer qualify as occasional, and all three sales are taxable.

If an owner arranges with an agent or consignee to take possession of and sell the assets, then the consignee will be considered a retailer and must collect sales tax on the sales price of the assets when sold. Note that “marketplace facilitator” and “marketplace seller” laws may apply.

Examples:

- A landscaping company’s assets includes yard maintenance equipment, office furniture, and trucks. In January, the owner upgrades the office furniture and sells the old furniture. In June, the owner sells a riding lawnmower. In November, the owner sells a truck. In February of the following year, the owner sells another riding lawnmower. Each of the four sales took place within 12-months of two other sales, therefore all four sales are subject to sales tax. The owner is responsible to collect and remit sales tax on each individual sale.
- A landscaping company’s owner decides to sell the company, including all of the assets. The individual sale of the company is an occasional sale and is exempt from sales tax.
- An individual has done some spring cleaning and decided to part with a collection of antique books and record albums. The individual lists each collectible antique on an online marketplace. The marketplace facilitator has an obligation to collect sales tax on the sales of the collectible antiques.
- An individual has weekly garage and yard sales over the summer to sell some belongings accumulated over the years. Once there are more than two sales in a 12-month period, sales tax must be collected and remitted on all sales of the goods. The individual must register for a Seller’s Permit and fulfill the sales tax obligation.

**NRS 372.025; 372.035; 372.055;
372.105; 372.185; 372.190; 372.320;
372.746 and 372.751**

NAC 372.160



Vending Machines

Vending machines dispense tangible personal property such that the gross receipts from the retail sales of this property may be subject to sales tax under NAC 372.500 and NAC 372.520.

Vending machine operators who sell taxable tangible personal property must obtain a sales tax permit. Such operators are required to report the gross receipts from the sales from these vending machines and remit the sales tax on those sales to the Department.

If the vending machine operator chooses to include the tax as part of the sales price for items, then there must be a notice on the machine stating, in substantial form: "The sales price of any item sold through this machine includes applicable Nevada Sales and Local Sales Tax."

Retail sales from vending machines of items other than food are taxable. Some food items are exempt from sales tax in certain circumstances.

Food items sold in vending machines are not taxable if they are not considered prepared food for immediate consumption, where the item is not sold in a heated state, where the actual vending machine process does not combine two or more ingredients, or where utensils are not provided. Examples of taxable food items include, but are not limited to, a dispensed cup of hot coffee, a soda dispensed in a cup, a hot sandwich, a packaged item of food dispensed with a utensil, or a food item prepared by the vending machine by combining two or more ingredients.

NRS 360B.095; 360B.460; and 372.085

NAC 372.500; 372.520; 372.605 and 372.607

Public Records Requests

The Department of Taxation (Department) provides access to or copies of public records pursuant to Nevada's Public Records Act. Public records include all documents and other records prepared and maintained by the Department that are not otherwise declared by law to be confidential.

Upon receipt of a public records request, the Department will determine whether it possesses responsive records and whether any such records are confidential. The Department will allow inspection or produce copies of any records that are not confidential.

Many records of the Department are confidential as a matter of law. With a few exceptions, records concerning the administration or collection of any tax, fee, assessment, or other amount required by law to be collected or the imposition of disciplinary action are confidential and privileged. In other words, most taxpayer information is confidential. If the Department determines it has a confidential record in response to a public records request, it will either redact the confidential information from the record or withhold the record in its entirety. The Department will inform the requester of the basis of such confidentiality.

The Public Information Officer for the Department responds to all public records requests submitted to the Department. The Public Information Officer will acknowledge receipt of a request within five business days and produce the requested record within that same timeframe or inform the requester of the additional time necessary to review and produce any responsive records.

In addition to public records requests, members of the public may also submit requests for information to the Public Information Officer. The Public Information Officer will track requests for information and provide responses as soon as the requested information can be researched, gathered, and verified by the Department.

Requests for public records and requests for information can be made to the Department's Public Information Officer by email, postal mail, or through this [link](#).

NRS 239.0107 and NRS 360.255

Tips to Taxpayers - Tax Account Mailing Address

The Department is required to mail correspondence to a taxpayer's address as it appears in the Department's records. Department mail is not forwarded by the United States Postal Service. Instead, the correspondence will be returned to the Department and the address will be flagged to prevent future Department mailings to that address. If a mailing address is flagged, the Department may attempt to mail correspondence to another address on file.

The mailing address of a business is required at the time of registration, whether submitted online via the Nevada Tax Center or the Silverflume Portal, or by submitting a Nevada Business Registration form to one of the Department's offices.

Taxpayers must notify the Department of any address changes.



Taxpayers may easily update mailing addresses through Nevada Tax Center, correspondence submitted to the Department, Nevada Business Registration revision form, Taxpayer Update Form, or even with a phone call to the Department.

Tips to Taxpayers Column: The Nevada Department of Taxation's newsletter was called Tips to Taxpayers from its 1968 inception until 1990. The Department is paying homage to the newsletter's first decades of taxpayer assistance by including a Tips to Taxpayers column with tax account tips and hints in each edition of Nevada Tax Notes.

Approved Regulations

The Nevada Tax Commission and the Committee on Local Government Finance have approved regulations which have been posted to the Publications page of the Department's website.

Regulations that are adopted by the Nevada Tax Commission and the Committee on Local Government Finance are not effective until filed with the Secretary of State. Once filed, the regulations have the effect of law even if they are not included in the Nevada Administrative Code. 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 as of this publication.

The link to the adopted regulations is included [here](#).

Appraiser Certification

LCB File No. R020-17 Effective January 30, 2019

A REGULATION relating to property taxes; revising provisions governing the continuing education required to be completed by appraisers certified by the Department of Taxation to conduct appraisals of property for the purposes of taxation; and providing other matters properly relating thereto.

Liquor Delivery and Auditing

LCB File No. R068-21 Filed December 29, 2022

A REGULATION relating to taxation; establishing provisions governing the delivery of alcohol sold by retail liquor stores to consumers; requiring brew pubs to maintain certain records related to the manufacture of malt beverages for sale to a wholesaler located outside this State; and providing other matters properly relating thereto.

Committee on Local Government Finance – Fiscal Watch Status

LCB File No. R003-20 Effective November 2, 2020

A REGULATION relating to local government finance; requiring the Department of Taxation to include a request for documentation in the notice that a local government has been placed on fiscal watch; authorizing the Department of Taxation and the Committee on Local Government Finance to request certain documentation from a local government that has been placed on fiscal watch; authorizing a local government to object to a request for documentation; and providing other matters properly relating thereto.

Partial Abatement and Change in Use

LCB File No. R018-17 Effective February 27, 2018

A REGULATION relating to property taxes; revising provisions governing the exclusion from certain partial abatements of property taxes for an improvement to or change in the actual or authorized use of property; and providing other matters properly relating thereto.

LET Local Government Exempt

LCB File No. R056-21 Filed December 29, 2022

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.

Timeframe for Briefs in Appeals

LCB File No. R175-22 Filed December 29, 2022

A REGULATION relating to taxation; revising procedures concerning the filing of certain briefs and other documentation in an appeal to the Nevada Tax Commission; and providing other matters properly relating thereto.

Repairer

LCB File No. R174-22 Filed December 29, 2022

A REGULATION relating to taxation; revising provisions governing the imposition and collection of sales and use tax for repair work performed pursuant to a contract with the State or a political subdivision; and providing other matters properly relating thereto.

Declaratory Order

LCB File No. R173-22 Filed December 29, 2022

A REGULATION relating to taxation; establishing procedures for the filing of petitions with the Director of the Department of Taxation for declaratory orders as to the applicability of certain statutory provisions, regulations and administrative decisions; establishing procedures for the disposition of such petitions; and providing other matters properly relating thereto.