



Nevada Tax Notes

The Official Newsletter of the Department of Taxation

Issue No. 190

January 2017

Tax Rate Increases for Washoe and Clark Counties

Effective April 1, 2017, the Sales and Use Tax rates for Washoe and Clark Counties will increase — Washoe will go from 7.725 to 8.265 percent and Clark from 8.15 to 8.25 percent.

*As of April 1, 2017:
Washoe's new rate is 8.265%
Clark's new rate is 8.25%*

Businesses should be sure to file the most recent tax return forms. Filing online at Nevada Tax Center is the best option to ensure up-to-date tax rates. Alternately, tax return forms can be found on our website at <https://tax.nv.gov>.

For questions or more information, our Call Center can be reached at 866-962-3707.

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Technical Bulletins Recently Issued by the Dept.

[Technical Bulletin MBT 16-0005](#) provides information about changes to the imposition of the Modified Business Tax (MBT) on employee leasing companies. The changes were the result of Assembly Bill 389 (AB 389). Previously, the MBT was imposed on the aggregate payroll of an employee leasing company and not based on the separate payroll of each client company. After AB 389, the client company is now viewed as the employer of the employees it leases, and can compute and pay the MBT based on its separate payroll, but it will also be required to register and pay unemployment insurance based on its own calculated contribution rate. For more information on the MBT, visit the [Modified Business Tax FAQ page](#) on the Department's website.

[Technical Bulletin SUT 16-0006](#) provides accurate and clarifying information about the taxability of veterinarian transactions. The bulletin covers the veterinarian's status as retailer of tangible personal property, multiple items sold by veterinarians for one price, retail sales of tangible personal property by veterinarians, and business supplies and equipment used or consumed by veterinarians. The bulletin clarifies that any charge for professional services must be separately stated from any related tangible personal property. If the specific charge for a procedure, examination, or vaccination is not separated, the entire charge may be subject to sales tax.



Questions?

Contact our Call Center:
(866) 962-3707
Monday through Friday
8:00 a.m.—5:00 p.m.

Upcoming Office Closures

<i>Presidents' Day</i> Monday — February 20, 2017	<i>Memorial Day</i> Monday — May 29, 2017	<i>Independence Day</i> Tuesday — July 4, 2017
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Public Meeting Reminder

All public meetings — such as workshops for regulations

Regulations Recently Adopted by the Dept.

LCB File Number R062-15 – Live Entertainment Tax

Existing law imposes an excise tax on admission to certain facilities where live entertainment is provided. (NRS 368A.200) Under existing law, if live entertainment is provided at a facility that is not located on the premises of a licensed gaming establishment, the Department of Taxation administers and collects the tax, and is required to adopt regulations governing the tax. (NRS 368A.140) Existing law also provides that the Nevada Tax Commission is required to prescribe regulations for carrying on the business of the Department. (NRS 360.090) This regulation revises various existing regulations governing the administration and collection of the tax on live entertainment provided at a facility that is not located on the premises of a licensed gaming establishment.

Existing law requires the tax on live entertainment to be collected from the purchaser at the time of the purchase of an admission to a facility where live entertainment is provided, whether or not the admission is purchased for resale. (NRS 368A.200) Section 4 of this regulation specifies that: (1) the taxpayer must collect the tax from a ticket broker or patron at the time of the sale of the admission; and (2) a ticket service provider must collect the tax from a patron at the time of the sale of the admission. Sections 2 and 3 of this regulation define the terms “ticket broker” and “ticket service provider” for the purposes of the regulations governing the tax on live entertainment.

Existing law provides that if the license or rental fee paid for a luxury suite, box or similar product at a facility with a maximum occupancy of at least 7,500 persons includes the admission of a certain number of persons to the facility, the taxable admission charge is an amount equal to the lowest priced admission charge multiplied by the number of

license or rental fee. (NRS 368A.020) Section 5 of this regulation defines the term “lowest priced admission charge” for the purposes of this provision and requires a taxpayer to provide to the Department, upon request, records to support the lowest priced admission charge. Section 5 also provides that if a license or rental fee is paid for a luxury suite, box or similar product at a facility with a maximum occupancy of less than 7,500 persons, the entire amount of the proceeds from the license or rental fee is subject to the tax.

Existing law excludes certain activities from the definition of live entertainment and, thus, the tax on live entertainment does not apply to such activities. The activities excluded from the tax include, without limitation: (1) an activity that does not constitute a performance; and (2) a marketing or promotional activity. (NRS 368A.090) Section 9 of this regulation specifies the manner in which the Commission will determine whether an activity constitutes a performance” or a “marketing or promotional activity” for the purpose of determining whether the activity is subject to the tax. Section 9 further specifies the manner in which the Commission will interpret certain other terms for the purposes of determining the applicability of the tax.

Existing law imposes the tax on live entertainment on the amount charged by an escort or escort service for the service of escorting one or more persons at one or more locations in this State. (NRS 368A.200) Section 10 of this regulation requires an escort or escort service to register with the Department to collect the tax. Section 10 further requires an escort or escort service to keep certain records and to provide those records to the Department under certain circumstances. Section 13 of this regulation adopts provisions governing the manner in which the tax on the amount charged by an escort or escort service for the service of escorting one or more persons at one or more locations in this State.

Existing law was amended to provide that the tax on live entertainment no longer applies to food, refreshments and merchandise sold at a facility where live entertainment is provided. (NRS 368A.060) Sections 11, 13 and 14 of this regulation remove provisions governing the taxation of food, refreshments and merchandise sold at a facility where live entertainment is provided. Section 11 further specifies the circumstances under which the tax is applicable.

Under existing law, the amount of the taxable admission charge includes any service charge or other fee or charge that is required to be paid in exchange for admission to a facility

Main Office

1550 E. College Parkway
Ste. 115
Carson City, NV 89706
Phone: (775) 684-2000
Fax: (775) 684-2020

Las Vegas District Office

Grant Sawyer Office Building
555 E. Washington Ave. Ste. 1300
Las Vegas, NV 89101
Phone: (702) 486-2300
Fax: (702) 486-2373

Henderson Field Office

2550 Paseo Verde Parkway
Ste. 180
Henderson, NV 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

Reno District Office

4600 Kietzke Plaza
Building L, Ste. 235
Reno, NV 89502
Phone: (775) 687-9999
Fax: (775) 688-1303

where live entertainment is provided. (NRS 368A.020) Section 13 revises existing regulations governing the manner in which the amount of the tax is calculated to: (1) require the tax to be paid on all proceeds from the sale of an admission to a facility where live entertainment is provided which are received by a taxpayer, including, without limitation, certain service charges and fees received by, or on behalf of, the taxpayer; and (2) specify that any amounts excluded from taxation must be based on the actual amount imposed collected and retained and not on estimates of those amounts. Section 13 also adopts a provision governing the manner in which the tax is calculated when an admission to a facility where live entertainment is provided is sold as a component of a package.

Existing law provides that the tax does not apply to live entertainment that is provided by, or entirely for the benefit of, certain nonprofit organizations only if less than 7,500 tickets to the live entertainment are offered for sale or other distribution to patrons. (NRS 368A.200) Sections 14 and 15 of this regulation: (1) specify the manner in which the Department will determine the number of tickets offered for sale or other distribution to events that offer multiple live entertainment events; (2) require a nonprofit organization to provide to the Department documentation concerning the number of tickets available for sale or other distribution to patrons; and (3) provide that a person claiming to be a nonprofit organization exempt from the tax has the burden of proving by a preponderance of the evidence that the person satisfies the criteria for the exemption.

[LBC File Number R146-15 – Tobacco Licenses](#)

Existing law authorizes the Department of Taxation to temporarily suspend or permanently revoke the license of a wholesale dealer of cigarettes who: (1) fails to file or files inaccurate information with the Department; (2) fails to pay any tax owed on cigarettes required by chapter 370 of NRS; (3) fails to cure any shortfall in escrow payments for which the wholesale dealer is liable; (4) sells in this State, purchases or possesses cigarettes in violation of chapter 370 of NRS; or (5) imports into or exports from this State cigarettes in violation of chapter 370 of NRS. Existing law also authorizes the Department to temporarily suspend or permanently revoke the license of any person who holds a license issued pursuant to chapter 370 of NRS for any violation of the provisions of existing law relating to the taxation of sales of cigarettes. Existing law requires the Department to adopt regulations establishing the procedure for the suspension and revocation of licenses issued pursuant to chapter 370 of NRS relating to the taxation of sales of cigarettes. (NRS 370.250, 370.253)

Existing law also requires the Department to maintain a directory of manufacturers of tobacco products who have made current and accurate certifications to the Department concerning the manufacturer and its brand families. Existing law further requires the Department to update the directory and to remove from the directory any manufacturer and its brand families that do not conform to the requirements for listing in the directory. (NRS 370.675)

Sections 2-18 of this regulation establish the procedures for the suspension and revocation of licenses of licensees and the removal of a manufacturer of tobacco products and its brand families from the directory. Section 7 of this regulation provides that the Department may issue a notice of intent to suspend or revoke a license of a licensee or to remove the name of a manufacturer of tobacco products and its brand families from the directory if the Department has cause to believe that such action is appropriate. Section 7 sets forth the required contents of the notice of intent and provides for service of the notice. Section 7 also provides that, with exceptions, a licensee or manufacturer of tobacco products who receives a notice of intent may, within 10 business days after receipt of the notice, provide evidence to the Department that the licensee or manufacturer is in compliance with all applicable provisions of law. If a licensee or manufacturer of tobacco products does not provide evidence satisfactory to the Department, section 8 of this regulation provides that the Department may issue a notice of hearing. Section 8 sets forth the required contents of the notice of hearing and provides for service of the notice of hearing. Additionally, section 8 provides that upon issuance of a notice of hearing the Department will appoint an administrative law judge to serve as the hearing officer. Sections 9-15 of this regulation establish the procedures for the conduct of a hearing. Section 16 of this regulation provides for the filing by a party of a notice of appeal from a decision of a hearing officer. Section 17 of this regulation provides for a hearing on such an appeal before the Nevada Tax Commission and establishes the procedure for such hearings. Section 18 of this regulation sets forth the date on which any final order issued by a hearing officer or the Commission must become effective.

Existing law requires the Department to allow a tax credit for products made from tobacco, other than cigarettes, alternative nicotine products and vapor products upon which the tax has been paid and that may no longer be sold. Additionally, existing law requires the Department to allow a tax credit for products made from tobacco, other than cigarettes, alternative nicotine products and vapor products shipped from this State and destined for retail sale and



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LBC File Number R146-15 – Tobacco Licenses, cont.

consumption outside the State on which the tax has previously been paid. To claim the tax credit, a wholesale dealer may file a claim with the Department on a form prescribed by the Department. (NRS 370.490) Section 19 of this regulation provides that the Department will allow the tax credit authorized by NRS 370.490 only to the wholesale dealer who originally reported and paid the tax to the Department. If another wholesale dealer who would otherwise be entitled to claim the credit furnishes certain substantiating evidence to the wholesale dealer who originally reported and paid the tax, section 19 authorizes the payment between the wholesale dealers of an amount equal to the credit and the filing of an amended return by a wholesale dealer who makes such a payment.

LBC File Number R137-15 – Click Through Nexus

Existing law requires the Nevada Tax Commission to prescribe regulations for carrying on the business of the Commission and of the Department of Taxation. (NRS 360.090)

Existing law requires every retailer whose activities have a sufficient nexus with this State to impose, collect and remit the sales and use taxes imposed in this State. (NRS 372.724, 374.724) Existing law also requires a retailer who engages in certain specified activities to collect and remit the sales and use taxes imposed in this State. (NRS 372.7243, 372.7247, 374.7243, 374.7247)

Existing law creates a presumption that a retailer is required to impose, collect and remit sales and use taxes if: (1) the retailer is part of a controlled group of business entities that has a component member who has physical presence in this State; and (2) the component member with such physical presence engages in certain activities in this State that relate to the ability of the retailer to make retail sales to residents of this State. A retailer may rebut this presumption by providing proof to the Department that the component member with physical presence in this State did not engage in any activity in this State that was significantly associated with the retailer's ability to establish or maintain a market in this State for the retailer's products or services. (NRS 372.7243, 374.7243) Section 5 of this regulation authorizes a retailer, in providing such proof, to provide to the Department a written certification obtained from each component member. Section 5 also establishes the requirements for such a written certification.

Existing law also creates a presumption that a retailer is required to impose, collect and remit sales and use taxes if: (1) the retailer enters into an agreement with a resident of this State under which the resident receives certain consideration for referring potential customers to the retailer through a link on the resident's Internet website or otherwise; and (2) the cumulative gross receipts from sales by the retailer to customers in this State through all such referrals exceeds \$10,000 during the preceding four quarterly periods.

A retailer may rebut this presumption by providing proof to the Department that each resident with whom the retailer has an agreement did not engage in any activity that was significantly associated with the retailer's ability to establish or maintain a market in this State for the retailer's products or services during the preceding four quarterly periods. Such proof may consist of the sworn written statements of each resident with whom the retailer has an agreement stating that the resident did not engage in any solicitation in this State on behalf of the retailer during the preceding four quarterly periods if the statements were obtained from each resident and provided to the Department in good faith. (NRS 372.7247, 374.7247)

Section 6 of this regulation authorizes a retailer, in providing such proof, to: (1) provide to the Department a written certification obtained from each resident on a form provided by the Department; or (2) show that the agreement between the retailer and each resident prohibits the resident from engaging in any solicitation activities in this State that refer potential customers to the retailer and, if the resident is an organization, requires the organization to maintain on its Internet website information alerting its members to the prohibition on such solicitation. Section 6 also establishes the requirements for the written certification.

Section 7 of this regulation sets forth the circumstances in which the activities of a retailer located outside this State are presumed to have a sufficient nexus with this State. Section 7 also requires such a retailer whose activities have a sufficient nexus with this State to: (1) impose, collect or remit the sales or use tax; and (2) register with the Department before, or at the time of, making a sale of tangible personal property.

The United States Supreme Court has interpreted local activities necessary for the maintenance of an out-of-state retailer's market for sales and the protection of its interests that are performed by in-state sales representatives as being significantly associated with the retailer's ability to establish and maintain a market in the state. (Tyler Pipe Indus., Inc. v. Wash. State Dep't of Revenue, 483 U.S. 232, 250 (1987)) In accordance with this interpretation, section 3 of this regulation provides examples of activities that are significantly associated with a retailer's ability to establish or maintain a market in this State for the retailer's products or services.

LCB File Number T009-16 – Taxation of Aircraft

These temporary regulations provide guidance to county assessors in the proper determination of taxable situs in and outside of Nevada for aircraft. In addition, the regulation provides guidance on the proper allocation of taxable value when multiple locations with tax situs exist. The purpose is to improve uniformity in the property tax treatment of aircraft in all Nevada jurisdictions.

Sections 3 through 22 provide definitions of terms and phrases used in the body of the proposed temporary regulation.

In particular, the term “aircraft” is defined as a contrivance used or designed for the navigation of or for flight in the air. A number of examples are provided. Centrally-assessed aircraft of companies of an interstate or inter-county nature are specifically excluded from the definition of aircraft because temporary regulations already exist which cover centrally-assessed aircraft. Also included in the definitions in Section 21 is the term “Taxable situs,” which means the location or locations where aircraft receives benefits and protection from the local government sufficient to confer the power to tax.

Section 23 provides for the type of documentation that would show that an aircraft is part of the inventory of the business and therefore exempt. The burden for proving that an aircraft is eligible for the exemption is on the taxpayer. Section 23 provides a list of the types of documents necessary to show the aircraft is eligible for exemption.

Section 24 provides that aircraft owned by an active-duty serviceperson or his or her spouse serving in Nevada does not establish taxable situs pursuant to federal law with certain exceptions. Section 25 provides that an aircraft owned by a foreign air carrier, based and registered abroad and used exclusively in international commerce is deemed to have not acquired taxable situs in Nevada.

Section 26 provides for the types of information that are necessary when declaring aircraft pursuant to the requirements of NRS 361.265. Section 27 refers to the Nevada Administrative Code sections which regulate how aircraft are to be valued.

Section 28 provides the criteria by which taxable situs may be acquired. Section 29 provides the authority to establish taxable value is conferred on the county assessor of the county where the aircraft is habitually situated when not in flight.

Section 30 provides that the burden of proof is on the taxpayer to show whether an aircraft has acquired taxable situs outside of Nevada and is therefore eligible for allocation of the taxable value. Section 30 also provides examples of the types of documents that would provide sufficient information to prove taxable situs.

Section 31 provides the authority to the county assessor to determine whether an aircraft has acquired tax situs in Nevada and in another jurisdiction. The assessor is required to allocate the portion of the aircraft’s taxable value that fairly reflects its use in Nevada. The section provides the formula for calculation of the allocation of taxable value, which is the same as is currently in applied by county assessors.

Section 32 provides that an aircraft must remain listed on a county’s assessment roll until the taxpayer provides written notice to the assessor that the aircraft no longer has a taxable situs in the county. Section 33 provides that a commercial or general aircraft which is titled or registered to fractional owners must be assessed as a single taxable unit.

Section 34 provides that the portion of the total taxable value for which there was no allocation or apportionment within Nevada for the immediately preceding year is not subject to the general abatement afforded under NRS 361.4722.

[LCB File Number T010-16 – Property Tax Appraiser Certification and Continuing Education](#)

The purpose of the temporary regulation regarding appraiser certification and continuing education, is to update and clarify existing provisions relating to the study of relevant subject matter courses; the basis for awarding contact hours by the Department; and to provide consistency with the requirements of NRS 361.223 regarding completion of continuing education during a three-year period by property tax appraisers.

Section 1 amends NAC 361.547 to clarify that contact hours do not include the time devoted to taking an examination at the conclusion of a course.

Section 2 amends NAC 361.565 to provide for additional courses considered relevant for purposes of continuing education by property tax appraisers.

Section 3 amends NAC 361.567 to clarify that hours are awarded primarily on the basis of the number of hours listed on the certificate of completion of a class; or if the certificate fails to list the hours, on the basis of other documentation required to be submitted. Credit hours that are awarded by the Department are final, even though in subsequent years the course length or content might change. The Department may grant credit for coursework earned that is older than 5 years if applied to the first 180 hours earned; thereafter, the coursework earned must be no older than 3 years. Certification is subject to suspension or revocation if continuing education requirements are not met within a 3 year period.

still filing paper returns?

At nevadatax.nv.gov you can:

- File & pay securely
- Look up past returns
- Update your address



Department of Taxation to Regulate Retail Marijuana



In November 2016, Nevada voters approved the legalization of marijuana and assigned responsibility to the Department of Taxation for regulating the numerous aspects of the industry.

Ballot Question 2-The Initiative to Regulate and Tax Marijuana, requires the Department to establish licensing qualifications and procedures, as well the regulation of retail marijuana establishments, which will include cultivation facilities, manufacturers, distributors, testing facilities, and retailers. The Department will administer the 15 percent excise tax on wholesale sales imposed by the measure as well as the 10 percent excise tax on retail sales if approved by the Legislature (the 10 percent tax is part of Gov.

Sandoval’s recommended 2017-2019 budget). State and local sales tax will also apply to retail marijuana. The Department must develop requirements to prevent the sale or diversion of marijuana and marijuana products to anyone under the age of 21, including reasonable restrictions on how marijuana is marketed and packaging requirements.

The Department is drafting regulations for the retail marijuana program, which will describe all of those procedures and requirements. Once regulations are adopted, the Department can begin accepting applications for retail marijuana establishment licenses. As mandated by Ballot Question 2, for the first 18 months after the Department begins accepting applications, only current holders of a medical marijuana establishment registration certificate may apply for cultivation, manufacturing, testing, and retail licenses. The Department anticipates beginning to issue licenses in the summer of 2017.

As part of the regulation development process, the Department will hold public workshops and invite comment on the draft regulations before they are adopted.

For more information, visit the [Retail Marijuana FAQ page](#) on the Department’s website.

To receive updates from the Department, including notices for public workshops on retail marijuana regulations, send an email to sklapstein@tax.state.nv.us.

“Ask the Advisors” Workshops

The Department of Taxation offers free workshops to help new and existing businesses understand how to navigate the taxes administered by the Department. Topics include Sales and Use Tax, Modified Business Tax, Live Entertainment Tax, collection of taxes, resale certificates, exemptions, how to amend a return, preparing for an audit, petition/appeal rights, and more.

Reservations are required, as classes fill up quickly.

To reserve your spot in a **Henderson class**, call **(702) 486-2354** and **(775) 687-9999** for a **Reno class**.

Classes in both locations run from 9:00 a.m. to 12:00 p.m.



Southern Nevada

Department of Taxation Office
2550 Paseo Verde Parkway
Suite 180
Henderson, NV

February 21	May 16	August 15
March 21	June 20	September 19
April 18	July 18	October 17
November & December—no classes		

Northern Nevada

Department of Taxation Office
4600 Kietzke Lane
Building B, Suite 111
Reno, NV

February 15	August 16
May 17	October 18

Are You Sending Mail to the Wrong Address?

If so, we may not receive your return or payment

Knowing which address to send your mail to can be daunting—we understand that. Here is a handy guide to help you sort it all out, because it could mean the difference between having your return and payment reach us on time...or incurring penalties and interest.

If you're sending...

Mail it to...

Regular tax return and/or payment, including:

- > Sales and Use Tax returns
- > Modified Business Tax Return

Nevada Department of Taxation
P.O. Box 7165
San Francisco, CA 94120-7165

Not Commerce or Excise tax returns—see below

Correspondence, including:

- > Amended return
- > Penalty & interest waiver request
- > Cancellation request

Nevada Department of Taxation
1550 College Parkway E
Suite 115
Carson City, NV 89706

All supplemental returns, including:

- > Abatement returns
- > Vessel trade in/trade down
- > Contractor exemption return

Nevada Department of Taxation
1550 College Parkway E
Suite 115
Carson City, NV 89706

Excise Tax returns

Nevada Department of Taxation
1550 College Parkway E
Suite 115
Carson City, NV 89706

Commerce Tax return **with** payment

Nevada Department of Taxation
Attn: Commerce Tax
P.O. Box 51180
Los Angeles, CA 90051-5480

Commerce Tax return **without** payment

Nevada Department of Taxation
Attn: Commerce Tax Non-Remittance
P.O. Box 51133
Los Angeles, CA 90051-5433

Questions about Commerce Tax?



The Department offers:

- [Training videos](#) about Commerce Tax on its YouTube channel
- Dedicated [Commerce Tax section](#) of the Department's website



If you need information about:

- Commerce Tax registration
- A welcome letter you received
- Filing a return via Nevada Tax Center
- The status of your filing



If you need specific, technical information about the application of the Commerce Tax law or regulations, please email your questions to comtax@tax.state.nv.us.

Contact our Call Center at **(866) 962-3707**.