

## COMMERCE TAX QUESTIONS AND ANSWERS

*Please check back for more as we continue to update the FAQs.*

### I. FILING REQUIREMENTS:

**Q: What is the Commerce Tax?**

A: The Commerce Tax is a tax on a privilege of engaging in a business in Nevada.

**Q: What entities are subject to Commerce Tax?**

A: Business entities engaged in business in Nevada are subject to Commerce Tax.

**Q: What is a business entity?**

A: A business entity means:

- bank
- business association
- business trust
- C- or S-corporation
- holding company
- joint stock company
- joint venture \*
- limited-liability company
- limited-liability partnership
- partnership
- professional association
- savings and loan association
- sole proprietorship
- any other person engaging in a business in Nevada, including a natural person filing schedule E, part I, with their Federal tax return

\*Note: joint venture, except a joint operating or co-ownership arrangement which meets the requirements of 26 C.F.R. §1.761-2(a)(3), Treasury Regulations §1.761-2(a)(3) that elect out of federal partnership treatment as provided by 26 U.S.C. §761(a).

**Q: What is “engaging in business”?**

A: “Engaging in business” means commencing, conducting or continuing a business, the exercise of corporate or franchise powers regarding a business, and the liquidation of a business which is or was engaging in a business when the liquidator holds itself out to the public as conducting that business.

**Q: What entities have to file the Commerce Tax return?**

A: Each business entity engaged in business in Nevada is required to file the Commerce Tax return regardless of whether there is tax due or not.

**Q: What entities are exempt from Commerce Tax?**

A: The list of entities exempt from the Commerce Tax is limited to:

- Certain Real Estate Investment Trusts
- Credit union
- Entity, which only owns and manages intangible investments, such as investments in other entities, bonds, patents, trademarks
- Estate of a natural person
- Governmental entity
- Grantor trust
- Natural person NOT engaged in business
- Non-Profit IRC §501 (c), or NRS 82, or NRS 84 organizations
- Participant in an exhibition NOT required to obtain state business license (NRS 360.780)
- Passive Entity
- Real Estate Mortgage Investment Conduit

- Q: What is the \$4,000,000 threshold?**
- A: \$4,000,000 is a standard amount a business entity is allowed to deduct from its Nevada gross revenue before the Commerce Tax is imposed. It reduces the business entity's revenue subject to tax but it does NOT exempt the business entity from the filing requirement.
- Q: I am a sole proprietor and I am exempt from the Nevada Business License. Am I exempt from the Commerce Tax?**
- A: No. The fact, that you are not required to obtain a Nevada Business License does NOT exempt you from the Commerce Tax filing requirement.
- Q: I am a small business owner and my revenue is less than \$4,000,000. Do I have to file the Commerce Tax return?**
- A: Yes. However, there will be no Commerce Tax due.
- Q: I received a Form 1099-MISC from the company I work for here in Nevada. Am I a business entity?**
- A: Yes. Your company treats you as an independent contractor. Independent contractors are subject to Commerce Tax. If you file Schedule C with your Federal tax return, you must file a Commerce Tax return.
- Q: I have a rental property in Nevada. Am I a subject to the Commerce Tax?**
- A: Yes. According to the Commerce Tax law, rent is NOT passive income.
- Q: I am registered with the Nevada Secretary of State but my corporation makes \$0. Do I have to file the commerce tax return?**
- A: Yes. Commencing business in Nevada includes registering your business with the Nevada Secretary of State. Unless your entity is specifically exempted by the Commerce Tax law, you are required to file the Commerce Tax return.
- Q: My Nevada business closed during the year. Do I have to file the Commerce Tax return?**
- A: Yes. To close the Commerce Tax account with the Department of Taxation you have to file a final Commerce Tax return for your business.
- Q: My business is incorporated outside of Nevada. Does it have a Commerce Tax filing requirement?**
- A: For businesses located outside of Nevada, a minimum connection with Nevada is necessary in order for them to be subject to Commerce Tax. Please review section 16 of the [Commerce Tax Regulations](#). The Department also developed a [nexus questionnaire](#) to help out-of-state businesses to determine their filing requirement.
- Q: Our Nevada company has subsidiaries in Nevada and in other states. It files a consolidated Federal tax return. Can it file a consolidated tax return for the Commerce Tax?**
- A: No. Each entity has to determine its own filing requirement and file its own return, if a filing requirement exists.