



STATE OF NEVADA  
DEPARTMENT OF TAXATION

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Posted 11/03/22

NOTICE OF INTENT TO ACT UPON A TEMPORARY REGULATION

Notice of Hearing for the Adoption of **LCB File No. T004-22**

**Nevada Tax Commission**

The Nevada Tax Commission will hold a Public Hearing at **9:00 a.m. on Monday, December 5, 2022**. The purpose of the hearing is to receive comments from all interested parties regarding the adoption of the temporary proposed regulation that pertains to LCB File No. T004-22.

You may attend this meeting at either of the following physical locations:

Nevada Department of Taxation  
700 E. Warm Springs Road, 1st Floor  
Las Vegas, Nevada 89119

Nevada Department of Taxation  
4600 Kietzke Lane, Suite L235  
Reno, NV 89502

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Need and purpose of the proposed regulations or amendments

The need and purpose of the temporary proposed regulation (T004-20) concerns cannabis excise tax; and provides other matters properly relating thereto.

Existing law imposes an excise tax on each wholesale sale of cannabis by a medical cannabis cultivation facility or adult-use cannabis cultivation facility to another cannabis establishment and imposes an excise tax on each retail sale of cannabis or cannabis products by an adult-use cannabis retail store. (NRS 372A.290) Existing law also imposes an excise tax on sales of cannabis and cannabis products made by a cannabis consumption lounge. (AB 341, 2021)

This regulation clarifies how the excise taxes shall be collected and reported to the Department, what records need to be retained by the cannabis establishment and how a claim for refund can be filed on any overpayment of excise tax on cannabis.

2. How to obtain the approved or revised text of regulations prepared by LCB

You may obtain a copy of the temporary proposed regulation by writing to the Nevada Department of Taxation, 1550 College Parkway, Ste 115, Carson City, Nevada 89706; or by calling the office at (775) 684-2059. The temporary proposed regulation is also available for review and download on the Department of Taxation website at <https://tax.nv.gov/> or on the Nevada Legislature website at <https://www.leg.state.nv.us/>.

3. Methods used in determining the impact on a small business

The agency used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes, which includes its own analysis by considering the extent of the regulatory provisions contained in LCB File No. T004-22. The Department prepared a small business impact questionnaire that was forwarded to the Interested Parties List which is maintained by the Department.

The Department will continue to accept input on the impact of the temporary proposed regulation on small businesses through the regulatory process. No respondents indicated that this regulation would have a direct and significant economic burden upon a small business.

The Department will hold a workshop on November 17, 2022 for concerned members of the public to state their concerns and submit correspondence regarding the regulation. The public meeting for the Workshop has been separately noticed.

4. Estimated economic effect of regulation on businesses and the public

a. Adverse and beneficial effects

The temporary proposed regulation does not present any reasonable, foreseeable or anticipated adverse economic effects on small businesses.

b. Immediate and long-term effects

Same as above.

5. Cost for enforcement of the regulations

The temporary proposed regulation does not present any significant, foreseeable or anticipated cost or decrease in costs for enforcement.

6. Overlap or duplication of other state or local governmental agencies

The temporary proposed regulation does not overlap or duplicate any regulation of other state or local governmental entities.

7. Regulation required by federal law

Not Applicable

8. More stringent than federal regulations

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. New or increases in existing fees

The temporary proposed regulation does not include new fees or increase an existing fee.

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Persons wishing to comment on the proposed action of the Nevada Tax Commission may appear at the above scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Tax Commission, 1550 E. College Parkway, Suite 115, Carson City, Nevada 89706, or may send via email to [tpadovano@tax.state.nv.us](mailto:tpadovano@tax.state.nv.us). Please send all submissions at least two weeks prior to the above scheduled public hearing.

Under NRS 233B.064(2), when adopting any regulation, the Agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporation, and its reason for overruling the consideration urged against its adoption.



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Yvonne Nevarez-Goodson, Chief Deputy Executive Director  
November 3, 2022

Members of the public who are disabled and require accommodations or assistance at the meeting are requested to notify the Department of Taxation in writing or by calling 775-684-2096 no later than five working days prior to the meeting.

**A copy of the Notice and the temporary proposed regulation to be adopted is on file and has been posted at the following location:** The Department of Taxation - 1550 College Parkway, Ste 115, Carson City, Nevada.

Members of the public may inspect these documents during regular business hours at the above location. Additional copies of the notice and temporary proposed regulation to be adopted are available at the below locations.

The text of the temporary proposed regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

**Notice has been EMAILED/MAILED for posting at the following locations:** Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno, Nevada; Department of Taxation - 700 E. Warm Springs Rd, Ste 200, Las Vegas, Nevada; The Legislative Building - Capitol Complex, Carson City, Nevada; The Nevada State Library -100 Stewart Street, Carson City, Nevada; The County Public Library's, Interested Parties Group, and the Mailing List maintained by the Department. Notice of this meeting was posted on the Department of Taxation website at

<https://tax.nv.gov/>, on the Legislative website at <https://www.leg.state.nv.us/>, and the Nevada Public Notice Website at <https://notice.nv.gov/>.

**TEMPORARY PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. T004-22**

November 1, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 360.090, NRS 372A.050, Assembly Bill (AB) 341 (2021).

A REGULATION relating to taxation; concerning cannabis excise tax; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law imposes an excise tax on each wholesale sale of cannabis by a medical cannabis cultivation facility or adult-use cannabis cultivation facility to another cannabis establishment and imposes an excise tax on each retail sale of cannabis or cannabis products by an adult-use cannabis retail store. (NRS 372A.290) Existing law also imposes an excise tax on sales of cannabis and cannabis products made by a cannabis consumption lounge. (AB 341, 2021)

This regulation clarifies how the excise taxes shall be collected and reported to the Department, what records need to be retained by the cannabis establishment and how a claim for refund can be filed on any overpayment of excise tax on cannabis.

**Section 1.** Chapter 372A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive of this regulation.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 27 have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Adult- use cannabis establishment” means:*

- 1. An adult-use cannabis independent testing laboratory;*
- 2. An adult-use cannabis cultivation facility;*
- 3. An adult-use cannabis production facility;*
- 4. An adult-use cannabis retail store;*

*5. An adult-use cannabis distributor;*

*6. A retail cannabis consumption lounge; or*

*7. An independent cannabis consumption lounge.*

*Sec. 4. “Adult-use cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.025.*

*Sec. 5. “Adult-use cannabis-infused product” has the meaning ascribed to it in NRS 678A.050.*

*Sec. 6. “Adult-use cannabis product” has the meaning ascribed to it in NRS 678A.055.*

*Sec. 7. “Adult-use cannabis retail store” has the meaning ascribed to it in NRS 678A.065.*

*Sec. 8. “Adult-use edible cannabis product” has the meaning ascribed to it in NRS 678A.070.*

*Sec. 9. “Cannabis” has the meaning ascribed to it in NRS 372A.015.*

*Sec. 10. “Cannabis Consumption lounge” means:*

*1. A retail cannabis consumption lounge; or*

*2. An independent cannabis consumption lounge.*

*Sec. 11. “Cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.090.*

*Sec. 12. “Cannabis establishment” has the meaning ascribed to it in NRS 678A.095.*

*Sec. 13. “Cannabis product” has the meaning ascribed to it in NRS 678A.120.*

*Sec. 14. “Cannabis production facility” has the meaning ascribed to it in NRS 678A.125.*

*Sec. 15. “Cannabis sales facility” has the meaning ascribed to it in NRS 678A.130.*

*Sec. 16. “Excise Tax on cannabis” has the meaning ascribed to it in NRS 372A.220.*

*Sec. 17. “Independent cannabis consumption lounge” means a business that:*

*1. Is licensed by the Cannabis Compliance Board pursuant to NRS 678B.250;*

*2. Is not attached or immediately adjacent to an adult-use cannabis retail store; and*

*3. Allows single-use cannabis products or ready-to-consume cannabis products to be consumed on the premises of the business by persons 21 years of age or older.*

*Sec. 18. “Medical cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.170.*

*Sec. 19. “Medical cannabis dispensary” has the meaning ascribed to it in NRS 678A.175.*

*Sec. 20. “Medical cannabis-infused product” has the meaning ascribed to it in NRS 678A.195.*

*Sec. 21. “Medical cannabis product” has the meaning ascribed to it in NRS 678A.200.*

*Sec. 22. “Medical edible cannabis product” has the meaning ascribed to it in NRS 678A.210.*

*Sec. 23. “Purchase” has the meaning ascribed to it in NRS 372.045.*

*Sec. 24. “Ready-to-consume cannabis product” means an adult-use edible cannabis product that is:*

- 1. Prepared on the premises of a cannabis consumption lounge;*
- 2. Presented in the form of a foodstuff or beverage;*
- 3. Sold in a heated or unheated state; and*
- 4. Intended for immediate consumption; or*
- 5. Further defined by the Cannabis Compliance Board by regulation.*

*Sec. 25. “Retail cannabis consumption lounge” means a business that:*

- 1. Is licensed by the Cannabis Compliance Board pursuant to NRS 678B.250;*
- 2. Is attached or immediately adjacent to an adult-use cannabis retail store; and*
- 3. Allows single-use cannabis products or ready-to-consume cannabis products to be consumed on the premises of the business by persons 21 years of age or older.*

**Sec. 26.** *“Retail Sale” has the meaning ascribed to it in NRS 372.050.*

**Sec. 27.** *“Retailer” has the meaning ascribed to it in NRS 372.055.*

**Sec. 28.** *“Seller” means a taxpayer who makes any sale of cannabis or cannabis product.*

**Sec. 29.** *“Single-use cannabis product” means a type of cannabis or adult-use cannabis product, other than a ready-to-consume cannabis product, that the Cannabis Compliance Board has determined to be appropriate for consumption in a cannabis consumption lounge as further defined by the Cannabis Compliance Board by regulation.*

**Sec. 30.** *Cannabis and adult-use cannabis products obtained by a retail cannabis consumption lounge from an adult-use cannabis retail store are not subject to the excise tax on cannabis and should not be included in the taxable measure on the return as provided in NAC 372A.160 until the retail cannabis consumption lounge sells the cannabis or adult-use cannabis products to a consumer.*

**Sec. 31.** *1. Cannabis and adult-use cannabis products purchased by an independent cannabis consumption lounge from an adult-use cannabis retail store to be resold by the independent cannabis consumption lounge are not subject to the excise tax until the adult-use cannabis product is sold by the independent cannabis consumption lounge to a consumer.*

*2. Sales by an adult-use cannabis retail store to an independent cannabis consumption lounge shall be reported by the adult-use cannabis retail store to the Department on a form prescribed by the Department and remitted with the return as provided in NAC 372A.160. These sales shall also be exempted from the taxable measure on the return.*

*3. Cannabis and adult-use cannabis products sold are subject to sales tax when sold at an adult-use retail store, a medical cannabis dispensary, a retail cannabis consumption lounge or an independent cannabis consumption lounge. These cannabis establishments must register*



*with the Department pursuant to NRS 372.125. Sales tax returns and payments must be submitted as provided in NRS 372.354 to 372.395, inclusive.*

**Sec. 32.** *Pursuant to NRS 372A.290, the excise tax imposed on each retail sale of cannabis or adult-use cannabis products by an adult-use cannabis retail store or cannabis consumption lounge is the obligation of the seller, whether an adult-use cannabis retail store or a cannabis consumption lounge. The sellers of cannabis or adult-use cannabis products are not statutorily authorized collection agents and therefore cannot collect this tax from the customer.*

**Sec. 33.** *1. For the purposes of NRS 372A.290, the Nevada Tax Commission will interpret the term “sales price” to mean the total amount for which cannabis or cannabis products are sold, valued in money, whether received in money or otherwise, without any deduction for:*

- (a)The cost to the seller for the cannabis or cannabis products sold;*
- (b)The cost of materials used, the cost of labor or services, interest, losses, costs of transportation to the seller or any other expenses of the seller;*
- (c)Any amount for which credit is given to the purchaser by the seller;*
- (d)Any charges by the seller for any services necessary to complete the sale; or*
- (e)Except as otherwise provided in this subsection, any tax imposed upon the seller or the seller’s predecessors in the supply chain.*

*2. For the purposes of this section, the legal incidents of the excise tax on cannabis is deemed to be on the seller regardless of whether the seller passes the cost of the tax on to the purchaser in the sales price.*

**Sec. 34.** *1. Every cannabis consumption lounge shall keep such records, receipts, invoices and other pertinent papers in such form as required by the Department to determine the amount of the liability of the taxpayer for the excise tax on cannabis.*

*2. Independent cannabis consumption lounges are required to contract with one or more adult-use cannabis retail stores to purchase cannabis and adult-use cannabis products. The records of each such contract must also be maintained and made available to the Department upon request by the Department.*

*3. Each contract must contain language granting the seller the ability to sell, to the independent cannabis consumption lounge, single-use products for resale and granting any such lounge the ability to purchase and prepay for the ready-to-consume products for sale to customers.*

*4. Preserve those records for not less than 4 years or until any proceedings pursuant to NRS 360.300 to 360.400, inclusive, are finally determined, whichever is longer; and*

*5. Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.*

**Sec. 35.** *A taxpayer who believes that it has made an overpayment of the excise tax on cannabis may file with the Department a claim for a refund or credit of the amount of the alleged overpayment. The claim must be filed as prescribed by NRS 363B.150 for claims filed pursuant to chapter 363B of NRS. The Department shall process and administer the claim as prescribed by NRS 363B.140 to 363B.230, inclusive, for claims filed pursuant to chapter 363B of NRS.*

**Sec. 36.** NAC 372A.155 is hereby amended to read as follows:

372A.155 1. Cannabis bud must be calculated on the basis of the total weight of all cannabis bud that is sold, excluding the inadvertent inclusion of an inconsequential amount of cannabis bud in a sale of cannabis trim.

2. Cannabis trim must be calculated on the basis of the total weight of all cannabis trim that is sold, including the total weight of an inconsequential amount of cannabis bud which is inadvertently included.

3. Immature cannabis plants must be calculated on the basis of the total number of immature cannabis plants sold.

4. Whole wet cannabis plants must be calculated on the basis of the total weight of the entire whole wet cannabis plant. A cannabis cultivation facility shall maintain records of the time each batch containing whole wet cannabis plants is harvested and weighed which contain the weight of each plant, are in writing and are created contemporaneously with the harvesting and weighing. To determine the total weight of the whole wet cannabis plant:

(a) The plant must not undergo any further processing, including, without limitation, drying the plant and subsequently selling separately the cannabis bud and cannabis trim from the plant, before being weighed; and

(b) The plant must be weighed within 2 hours after the harvesting of the batch containing the plant and without any further processing of the plant, including, without limitation, increasing the ambient temperature of the room in which the plant is held or drying, curing or trimming the plant. If the whole wet cannabis plant is not weighed within 2 hours after the harvest of the batch containing the plant or is subjected to further processing, the fair market value at wholesale of the plant must not be calculated using this subsection and must be calculated using subsection 1 or 2.

5. Cannabis seeds must be calculated on the basis of the total number of seeds sold.

6. *Pre-rolls must be calculated on the basis of the total weight of cannabis sold in each pre-roll, as reported in the seed-to-sale tracking system. As used in this subsection, “pre-roll” means an individual cannabis cigarette or joint that has been prepared by an adult-use cannabis production facility before its intended time of consumption.*

~~6.17.~~ Any other category of cannabis must be determined by the Department on a case-by-case basis.

Sec. 37. NAC 372A.160 is hereby amended to read as follows:

372A.160 1. Each taxpayer *responsible for an excise tax pursuant to subsection 1, 2 or 3 of NRS 372A.290* shall, on or before the last day of the month immediately following each month for which the taxpayer is subject to the imposition of the excise tax on cannabis, file with the Department a return on a form prescribed by the Department and remit to the Department any tax due for the month covered by the return. Each taxpayer shall file a return even if the taxpayer has no liability for the tax.

2. Each taxpayer *responsible for an excise tax on the wholesale sale of cannabis by an adult-use cannabis cultivation facility to another cannabis establishment pursuant to subsection 1 or 2 of NRS 372.290* shall pay the excise tax on cannabis to the Department upon the first sale of cannabis or cannabis products to a cannabis establishment or consumer.

3. If a cannabis cultivation facility sells cannabis to another cannabis cultivation facility and pays to the Department the excise tax *on the wholesale sale of cannabis* imposed by subsection 1 or 2 of NRS 372A.290, as applicable, the excise tax imposed by subsection 1 or 2 of NRS 372A.290 is not required for any subsequent wholesale sale of that cannabis.

4. *Each taxpayer responsible for an excise tax on a retail sale of cannabis or cannabis products by an adult-use cannabis retail store or cannabis consumption lounge pursuant to*

*subsection 3 of NRS 372A.290 shall pay the excise tax on cannabis to the Department upon each retail sale based upon the sales price, as interpreted by Section 33 of this Regulation.*

5. Each taxpayer shall keep all supporting documentation for verification that the excise tax imposed by:

(a) ~~§~~ Subsection 1 or 2 of NRS 372A.290 was paid on the first wholesale sale of cannabis~~§~~; or

(b) *Subsection 3 of NRS 372A.290 was paid upon each retail sale of cannabis.*

~~§~~ 6. The Department may require a cannabis establishment to submit a financial statement as determined to be necessary by the Department to ensure the collection of any taxes which may be owed by the cannabis establishment.

DRAFT