

ISSUE NO. 196 | AUGUST 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 date:

Monday, September 4
Labor Day

Return of Ask the Advisor

The Department is pleased to announce that it will again be hosting a modernized, virtual version of its Ask the Advisor classes. The Ask the Advisor class is offered to all taxpayers wherein the Department provides general information about Sales and Use Tax and Modified Business Tax. The Department may also host guest presenters from other state and federal agencies, as well as provide small business resources in Northern and Southern Nevada. The first class will be held on Tuesday August 15, 2023, at 9:00 a.m. in a new online format to reach more taxpayers. Please visit <https://NevadaTax.as.me/AsktheAdvisor> to sign up for the class. These classes will be offered on the third Tuesday of each month, except in November and December.

THE 2022-2023 COMMERCE TAX RETURN IS DUE AUGUST 14, 2023

The Commerce Tax is an annual tax imposed on businesses with a Nevada gross revenue exceeding \$4,000,000 in the taxable year.

The Commerce Tax return information related to Commerce Tax can be found at: <https://tax.nv.gov/comtax/>

New Taxation Laws (2023 Legislature)

The 82nd Legislative Session concluded on June 5, 2023. However, the Legislature twice reconvened in June for two Special Sessions (34th Special Session and 35th Special Session). The following bills affect the Department of Taxation:

82nd (2023) Session

AB53 - Revises provisions relating to sales of tobacco products.

Assembly Bill 53 increases the penalty for an employee or agent of a licensee who sells, distributes or offers to sell cigarettes or other tobacco products to any person under the age of 21 years old. For violations which occur within a 24-month period at the same premises, a licensee is liable for a civil penalty of: (1) \$2,500 for a first violation; (2) \$5,000 for a second violation; (3) \$7,500 for a third violation; and (4) \$10,000 for a fourth and any subsequent violation. The effective date of the bill is January 1, 2024.

AB232 - Revises provisions governing the taxation of other tobacco products.

Assembly Bill 232 reduces the tax imposed on the receipt, purchase and sale of premium cigars to not more than 50 cents or less than 30 cents for each premium cigar. The Bill defines “premium cigar” as a cigar that is rolled by hand, has a wrapper made of whole tobacco leaves and does not have a filter or mouthpiece. The effective date of the bill is July 1, 2023 and expires by limitation on June 30, 2027.

AB430 - Revises provisions relating to cannabis.

Assembly Bill 430 revises the excise tax on the wholesale sale of cannabis to apply the tax only to the first wholesale sale and to provide that the tax is at the rate of 15 percent of: (1) the fair market value at wholesale for sales made to an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility; or (2) the sales price, if the sale is made to a cannabis establishment that is not an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility. The effective date of the bill is January 1, 2024.

AB448 - Revises provisions governing the real property transfer tax.

Assembly Bill 448 relates to the imposition of taxes on transfers of real property or the real property transfer tax (RPTT). Existing law provides that certain transfers are exempt from the RPTT if the transfer is between certain affiliated business entities. This bill provides that an exemption does not apply if a transfer of real property is made to a business entity formed for the purpose of evading the RPTT. This bill became effective upon passage and approval.

AB455 - Authorizes the imposition of a civil penalty by the Department of Taxation for certain violations relating to contraband tobacco products.

Assembly Bill 455 allows the Department to impose a civil penalty up to the amount of actual costs for the seizure, storage, transportation and destruction of contraband tobacco products. The effective date of the bill is July 1, 2023.

SB29 - Revises provisions related to refunds of overpayments of taxes.

Senate Bill 29 prohibits interest on a refund of any tax which was over-collected by a taxpayer and which the taxpayer is required to refund the person from who the tax was collected. The effective date of the bill is July 1, 2023.

SB50 - Revises provisions governing the sales tax holiday for certain members of the Nevada National Guard and certain relatives of such members.

Senate Bill 50 revises the manner in which a member of the Nevada National Guard or a relative of a member claims an exemption during the sales tax holiday that occurs over Nevada day and immediately following weekend. To stay in compliance with the streamlined sales and use tax agreement, the bill removes the requirement that to claim the exemption, the person must provide a copy of the letter of exemption to the retailer. Instead, this bill requires: (1) a retailer to collect the tax on the purchase of tangible personal property that qualifies for the exemption under existing law; and (2) the person who claims the exemption to submit to the Department a request for a refund of the tax, a copy of the letter of exemption issued to the person and the receipt issued to the person by the retailer indicating that the person paid the tax. Under this bill, the Department is required to issue a refund of the tax to a person who submits the required information. The effective date of the bill is July 1, 2023.

SB124 - Revises provisions relating to the tax upon the net proceeds of minerals and royalties of mining operations.

Senate Bill 124 provides for the early expiration regarding the imposition and advance payment of a portion of the Net proceeds of minerals tax and royalties. The bill became effective upon passage and approval.

SB259 - Revises provisions relating to alcoholic beverages.

Senate Bill 259 authorizes a winery that has been issued a wine-maker's license on or after October 1, 2015, to also sell at retail or serve by the glass, at one other location in addition to its premises, wine produced, blended or aged by the winery. The bill also increases the limit that a winery is authorized to sell at retail or serve by the glass from 1,000 cases to 2,000 cases and additionally authorizes such a winery to sell at retail or serve by the glass not more than 150 barrels of cider produced by the winery per calendar year. The effective date of the bill is Oct 1, 2023.

SB277 - Revises provisions relating to cannabis.

Senate Bill 277 deems each adult-use cannabis establishment to be a dual licensee and authorizes the establishment to engage in activities relating to the medical use of cannabis to the same extent as if the adult-use cannabis establishment held a medical cannabis establishment license of the same type. The bill also exempts from the excise tax imposed on retail sales of cannabis or cannabis products by an adult-use cannabis retail store any sale of cannabis for the medical use of cannabis or a medical cannabis product to the holder of a registry identification card or letter of approval by an adult-use cannabis retail store deemed to be a dual licensee. The effective date of the bill is January 1, 2024.

SB428 - Proposes to exempt sales of diapers from sales and use taxes and analogous taxes upon approval by the voters.

Senate Bill 428 provides for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from sales and use tax for child and adult diapers. This tax exemption becomes effective on January 1, 2025, and expires by limitation on December 31, 2050, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2024.

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

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1550 College Parkway, Ste 115
Carson City, Nevada 89706
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35th (2023) Special Session

SB1 - Revises provisions governing economic infrastructure projects.

Senate Bill 1 from the 35th Special Session is known as the Southern Nevada Tourism Innovation Act. The Clark County Board of Commissioners shall create a sports and entertainment improvement district and shall pledge the proceeds of the following taxes, fees or charges imposed by the State: 1) the sales and use tax imposed in NRS 372 with regard to tangible personal property sold at retail or stored, used or otherwise consumed in the sports entertainment improvement District, 2) the sales and use tax imposed in NRS 374 (Local School Support Tax) with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the sports and entertainment improvement district, 3) the Modified Business tax imposed in NRS 363A and 363B with regard to wages earned by employees located within the sports and entertainment improvement district, 4) the insurance premium tax imposed in NRS 6802B with regard to insurance premiums earned from policies on businesses or assets within the sports and entertainment improvement district, 5) the commerce tax imposed in NRS 363C with regard to gross revenues generated within the sports and entertainment improvement district, 6) the live entertainment tax imposed in NRS 368A with regard to admission to any facility where live entertainment is provided within the sports and entertainment improvement district, 7) the liquor tax imposed in NRS 369 with regard to any liquor purchased or otherwise consumed within the sports and entertainment improvement district, 8) the transportation connection tax imposed in NRS 372B on transportation network companies with regard to fares charged for transportation services for which the point of origin or the destination is in the sports and entertainment improvement district, and 9) the exhibition fee imposed in NRS 360 with regard to the licensing fee for operating a facility at which exhibitions are held within the sports and entertainment improvement district. The distribution of taxes to the Sports and Entertainment District will be very similar to the distribution of taxes to the tourism improvement Districts that currently exist. Regulations will need to be adopted by the Department regarding procedures for the identification and segmentation of the taxes, fees and charges that occur within the Sports and entertainment Improvement district. The Bill requires us to provide commercially reasonable procedures by which such taxes, fees, and charges paid by any business or person operating in the sports entertainment improvement district are to be identified and segmented such that they can be directed to the baseball stadium tax account. The bill also requires the Department to monitor transferable tax credits that can be applied to the MBT or the insurance premium tax. The sections of the bill that pertain to the Department become effective upon passage and approval.

Public Records Requests

The Department of Taxation provides access or copies to public records pursuant to Nevada's Public Records Act (Nevada Revised Statutes Chapter 239). All public records of the Department, the contents of which are not otherwise declared by law to be confidential, will be made available to the public upon request. Pursuant to NRS 239.0107, the Department will acknowledge receipt of a request and provide a status report within five business days, which will include the requested records, denial of the request for confidentiality, or notice of additional time needed to respond.

Due to the high volume of requests, records accessibility, staff availability and legal constraints, it may take the Department additional time to locate, produce or withhold the requested records. Requests for public records and requests for information can be made to the Department's Public Information Officer by email at TaxPio@tax.state.nv.us, postal mail, or through this link: [Information Request \(nv.gov\)](https://tax.state.nv.gov/information-request).

Tax Notes – Legal Disclaimer:

The information expressed in this Newsletter constitutes general guidance regarding the interpretation of the statutes and regulations under the jurisdiction of the Department of Taxation. No reliance should be placed on any information herein for fact-specific purposes not described herein. Any subsequent statutory or administrative rule change or judicial interpretation of the statutes or rules upon which these articles are based may result in contrary interpretations or guidance. The articles in this Newsletter are not binding on any administrative body or court of law, but rather serve as the Department's summaries of applicable statutes, regulations and other rules within its jurisdiction. Nothing contained in this Newsletter should be construed as legal advice.