

# NEVADA DEPARTMENT OF TAXATION



# NEVADA TAX NOTES

*Official Newsletter of the Department of Taxation*

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## DEPARTMENT OF TAXATION OFFICES

CALL CENTER NUMBER 1-866-962-3707

### MAIN OFFICE

1550 College Parkway  
Carson City, Nevada 89706

Phone: (775) 684-2000

Fax: (775) 684-2020

### LAS VEGAS DISTRICT OFFICE

Grant Sawyer Office Building  
555 E. Washington Avenue, Suite 1300  
Las Vegas, Nevada 89101

Phone: (702) 486-2300

Fax: (702) 486-2373

### HENDERSON FIELD OFFICE

2550 Paseo Verde Parkway, Suite 180  
Henderson, Nevada 89074

Phone: (702) 486-2300

Fax: (702) 486-3377

### RENO DISTRICT OFFICE

Kietzke Plaza  
4600 Kietzke Lane Building L, Suite 235  
Reno, Nevada 89502

Phone: (775) 687-9999

Fax: (775) 688-1303

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## **DEPARTMENT OF TAXATION AMNESTY PROGRAM 2010**

The 26<sup>th</sup> Special Session of the Nevada Legislature enacted AB 6, which provides for a **“one time penalty and interest waiver”** Amnesty Program beginning July 1, 2010, and ending September 30, 2010. It is for businesses and individuals who owe taxes that were due before July 1, 2010 and have not been paid. The Amnesty Program will allow penalty and interest to be waived provided the outstanding tax debt is paid in full during the amnesty period.

The taxes included in the Amnesty Program are Sales & Use Tax; Modified Business Tax; outstanding Business License liabilities from registered businesses for periods beginning prior to October 1, 2009; Cigarette Tax; Other Tobacco Products Tax; Liquor Tax; Bank Branch Excise Tax; Insurance Premium Tax; Tire Tax; Live Entertainment Tax; Short Term Lease Tax (Passenger Car); Exhibition Facilities Fees; Property Taxes that are Centrally Assessed; and Net Proceeds of Minerals Tax. The outstanding tax debt must have been due prior to July 1, 2010. The debt may be a result of not filing tax returns, the filing of returns without payment, a past audit, an untaxed purchase, an error found in prior tax returns, or a business that should have been registered before July 1, 2010.

Beginning July 1, 2010, you must send a completed Amnesty Application to the Department of Taxation along with any unfiled tax returns and your payment. The tax must be paid in full during the period of July 1, 2010, through September 30, 2010. If you are an individual or business who purchased an aircraft, vessel, automobile or other tangible personal property, you must provide a copy of the bill of sale, or purchaser's agreement and pay the tax. Be advised there will be **no** extension of the time period for this Amnesty.

Mail the Amnesty Application, documents, and payment to the Department's Carson City District Office address – 1550 College Parkway, Suite 115, Carson City, NV. 89706-7937. “AMNESTY” must be clearly written on the outside of the envelope and should also be shown on all tax returns submitted. Amnesty payments cannot be paid online. Taxpayers may also go to their nearest District office to take advantage of the Amnesty Program or call 866-962-3707 if you have any questions.

**Do not mail the Amnesty Application to the Department's P.O. Box.**

The Amnesty Program does not apply to any person or business that has entered into a compromise or settlement agreement with the Department or Nevada Tax Commission regarding an unpaid tax, fee or assessment, and it does not apply to a person or business that is not able to pay the outstanding tax in full. It does not apply to the Lodging Tax (Room Tax), Real Property Transfer Tax, or Property Tax that is Locally Assessed.

Be sure and don't miss out on this one time opportunity.

### **ELKO FIELD OFFICE CLOSED**

The Department of Taxation's Elko Field Office closed effective July 1, 2010 due to the State's ongoing budget crisis. We want to sincerely thank our Elko office staff for their dedication and service to the Department and wish them all the best in their new endeavors.

We encourage our Elko and northern area taxpayers to enroll, file online and manage your account with NevadaTax at <https://www.nevadatax.nv.gov>

For questions concerning your account, you may contact our Call Center at our toll-free number, **1-866-962-3707** or review additional tax information on this website.

### **CORRECTION REGARDING FIRE SAFE CIGARETTE REQUIREMENTS EFFECTIVE JUNE 3, 2010**

In the April 2010 edition of Tax Notes, we reported that the Fire Safe Compliant Cigarette Requirement was effective July 1, 2010. This information is incorrect; the requirement was effective **June 3, 2010**. However, a wholesale or retail dealer can sell his existing inventory of cigarettes that are not certified as fire safe after June 3, 2010 if the wholesale dealer or retail dealer can establish that Nevada Cigarette Revenue Stamps were affixed to the packages of the cigarettes before June 3, 2010; and verify the cigarettes were purchased by the wholesale dealer or retail dealer before June 3, 2010 in a quantity comparable to the inventory purchased by the wholesale dealer or retail dealer during the same period of 2009.

### **CAROLINA TOBACCO CIGARETTE BRANDS REMOVED FROM NEVADA TOBACCO DIRECTORY**

Carolina Tobacco's Roger and Kingsboro cigarette brand families were delisted from the Nevada Tobacco Directory effective May 17, 2010. Any product stamped after May 15, 2010 is considered contraband by the Department and

subject to seizure. Wholesale dealers are being given until July 15, 2010 to sell any existing inventory, and retail dealers are being given until September 15, 2010 to sell their existing inventory.

### **AFFIDAVITS AND DRIVE-AWAY PERMITS FOR NON-RESIDENTS**

Dealers of motor vehicles/trailers and vessels who claim a Nevada Sales Tax exemption for sales to non-residents that will not use or register the vehicle/trailer or vessel in Nevada, must meet the following criteria per NAC 372.708: (1) for vehicles and trailers, the non-resident must purchase a special "Drive Away Permit" issued by the Department of Motor Vehicles; and (2) the non-resident must execute an affidavit in a form prescribed by the Department of Taxation in which the purchaser affirms under oath that he/she is not a resident of Nevada and will be removing the vehicle/trailer or vessel from the State within 15 days.

For the purpose of defining a "resident," the Department of Taxation will use the criteria set forth in NRS 483.141. It reads as follows: "Resident" includes, but is not limited to, a person: (a) whose legal residence is in this State; (b) who engages in intra-state business and operates in such a business any motor vehicle, trailer or semi-trailer, or any person maintaining such vehicles in this State, as the home State of such vehicles; (c) who physically resides in this State and engages in a trade, profession, occupation or accepts gainful employment in this State; and/or (d) who declares himself to be a resident of this State to obtain privileges not ordinarily extended to non-residents of this State. The term does not include a person who is an actual tourist, an out-of-state student **not using the vehicle in Nevada**, a foreign exchange student, a border state employee or a seasonal resident.

A "vehicle" as defined in NRS 482.135 means "every device in, upon or by which any person or property is or may be transported or drawn upon a public highway". The term does not include: (1) devices moved by human power or used exclusively upon stationary rails or tracks; (2) mobile homes or commercial coaches as defined in Chapter 489 of NRS; or (3) electric personal assistive mobility devices."

A "vessel" as defined in NRS 488.035 means "every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water."

If the dealer has knowledge that the purchaser is a resident of Nevada or will be using the vehicle/trailer or vessel in Nevada, the dealer is expected to exercise due diligence in assuring that a drive away sale has not been transacted with a Nevada resident. (NRS 372.065, NRS 372.7263, NRS 482.3955 and NRS 483.141)

### **I DON'T HAVE ENOUGH MONEY TO PAY MY TAXES !!!**

With the current economic situation and the struggles of many Nevada businesses, the Department sometimes hears the above quote from taxpayers who have become delinquent in reporting and remitting their Sales Tax obligations. Please beware! NRS 372.200 states that tax collected by a retailer is a debt to the State. Taxes are generally due to be remitted to the State monthly or quarterly, on or before the last day of the following month (NRS 372.355). Since retailers or other taxpayers are acting as agents for the State in collecting and remitting this tax, it is the responsibility of the taxpayer to segregate the taxes collected in a separate account so they can be reported and remitted in a timely manner. NRS 372.254 states that taxes collected should be held in a separate account in trust for the State. If you do not keep your collected Sales Tax in a separate account, chances are high that the entrusted funds may be used inadvertently. By separating and segregating your collected taxes from your general operating funds, you can avoid ever having to utter the above phrase.

### **GOVERNMENT CONTRACTS**

Construction contractors who perform work for governmental entities, to include the Federal Government, the State of Nevada and its cities, counties, districts, etc., must pay Use Tax on building materials consumed in the performance of their contracts (NAC 372.190-210). The government's exemption from Sales and Use Tax per NRS 372.325 does not extend to contractors who do work for them. An exception to this is a contractor who is considered to be a constituent part of the governmental entity (NRS 372.340). Should you have any questions please call your local Taxation District Office.

### **CREDIT NOTICES**

Each month the Department mails notices to taxpayers advising them they may have a credit on one of their accounts. If you receive a Notice of Credit from the Department, the credit may be applied toward your next return. However, it is advised that prior to taking any credit, you verify that the credit is correct. You may contact our Call Center at 1-866-962-3707 to verify a credit. You may also register to view and maintain your account online which will enable you to confirm any credits or debits you may have. To register online, go to: <https://www.nevadatax.nv.gov>

### **ADVISORY FOR FILING RETURNS**

Due to the monthly and quarterly tax filing requirements, our offices are extremely busy the last few days of the month with people filing their tax returns. It is recommended, whenever possible, that you time your visits to the office for other than the last few days of the month to avoid a long wait.

### **TIPS, TOKES, GRATUITIES OR STIPEND**

Tips given by a customer to a waiter or waitress as a voluntary return for services rendered are not subject to Sales Tax. However, assessments made by the seller to cover a tip for the waiter or waitress, added to the guest check, are considered a part of the sales price and are to be included in the "Sales Price" subject to Sales Tax if the funds are not distributed to the waiter or waitress in the exact amount charged. If the funds are distributed in the exact amount charged, the tip is exempt from Sales Tax as a voluntary return for services rendered.

### **WINDOW TINTING**

If you are in the business of tinting motor vehicle windows, you may report sales/use tax in one of the following two methods; however, reporting must be consistent once a method is chosen. The method of billing will have a direct bearing on how tax is calculated.

1. When a billing is rendered to the customer in total, i.e. \$200.00, tax must be collected on the entire amount and reported as sales tax.
2. When billings are rendered to the customer breaking out charges for material and charges for labor, only the material is taxable.

### **GIFT BASKETS CONTAINING BEER, WINE OR OTHER ALCOHOL**

Florists and other sellers of gift baskets that may contain any alcoholic beverage(s) should be licensed by the city or county in which they are operating as a liquor retailer. It is unlawful to possess, sell or transport liquor without the required license, permit or certificate (NRS 369.490).

Additionally, retailers may only purchase their liquor from state-licensed wholesalers (NRS 369.487). They may not purchase alcohol for resale from another retailer. "Liquor" is defined as beer, wine, gin, whiskey, cordials, ethyl alcohol or rum and every liquid containing one-half of one percent or more of alcohol by volume and which is used for beverage purposes (NRS 369.040).

### **PREPARED FOOD INTENDED FOR IMMEDIATE CONSUMPTION IS TAXABLE**

NRS 372.284 states that food for human consumption is exempt from sales tax but excludes "prepared food intended for immediate consumption" from the exemption making the sale of prepared food taxable.

NRS 360B.460 construes prepared food as:

1. Food sold in a heated state or heated by the seller;
2. Two or more food ingredients mixed or combined by the seller for sale as a single item, unless the food ingredients:
  - (a) Are only cut, repackaged or pasteurized by the seller; or
  - (b) Contain any raw eggs, fish, meat or poultry, or other such raw animal foods requiring cooking by the consumer to prevent food-borne illnesses, as recommended pursuant to the Food Code published by the Food and Drug Administration of the United States Department of Health and Human Services; and
3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. For the purposes of this subsection, "plates" does not include any containers or packaging used to transport food.

Retailers must maintain records which separately indicate the amount of sales of food items exempt from and subject to the tax.

## **“SUBSTANTIAL USE” AND USE TAX**

Use Tax is a tax imposed on tangible personal property used in Nevada on which Nevada Sales Tax has not been paid per NRS 372.055. Items purchased for use in this State are subject to sales or use tax, but not both. Use Tax is the counterpart of Sales Tax, and as such the tax rates are the same. Any individual, business, corporation or other entity can be liable for Use Tax, when Sales Tax is not collected by the seller. Unless you make a purchase for resale, you will usually pay Sales Tax. Tangible personal property purchased under a resale number will be subject to the Use Tax if the property is not actually resold. There are many situations when Sales Tax is not collected, including mail order, out-of-state purchases, toll-free “800” numbers, and purchases made on the internet. Also, retail inventory converted to business or personal use is subject to Use Tax.

There is one exception to this rule. If the tangible personal property has had “substantial use” in another state, no Nevada tax will be assessed. Many states, including Nevada, may look to intent as well in determining whether or not the Use Tax is due. Also, many states use the “first use” concept, meaning if first use of the tangible personal property is made in that state, the Use Tax will apply.

Credit will be given for Sales Tax legally paid to another state, up to the Nevada tax rate in the county of use. Use Tax can either be reported on the Consumer Use Tax return, or in column F on the Combined Sales and Use Tax return. If you have further questions please contact our Call Center at 1-866-962-3707.

## **FABRICATION LABOR, ALTERATIONS, ENGRAVING AND EMBROIDERING**

Fabrication labor is subject to Nevada sales and use tax. Fabrication labor is labor which results in the creation or production of tangible personal property or which is a step in the process resulting in the creation or production of tangible personal property. In determining whether a labor charge is fabrication, repair or recondition, consider the following:

1. Does the labor result in creating a new product or a product whose use is different from its original form? This is taxable fabrication labor. For example: Fabricating garments, leathers, clothing, drapes, curtains, etc. in connection with the sale of a finished article, makes the entire charge to the customer subject to sales tax. This is true whether or not the materials or goods are furnished by the customer or the person fabricating the finished article.
2. Is the labor a service that becomes a part of the selling price of the product? If so, this is taxable fabrication labor. For example: Engraving a trophy, jewelry or any other tangible personal property, or embroidery charges for clothing, towels, pillow slips, or similar articles are charges subject to the sales tax. This is true whether or not the materials or goods are furnished by the customer or the person fabricating the finished article.
3. Does the labor result in providing a service which repairs or reconditions a product bringing it back to its original form, rather than creating a new product? If so, this is non-taxable repair labor if separately stated on the billing invoice. For example: Altering garments, furs, clothing, etc., in connection with the sale of such property, is further fabrication of such property, and charges for alterations are subject to the sales tax. Altering garments, furs, clothing, drapes, curtains and similar property belonging to the customer and not in connection with the sale of such property is a service and as such charges are not subject to the sales tax.  
(NRS 372.025, NAC 372.380 and NRS 372.060)

## **VEHICLE, WATERCRAFT AND AIRCRAFT TAX EVASION PROGRAM**

If the Department determines that a Nevada resident intended to evade Sales/Use Tax on the purchase of a motor vehicle, watercraft and/or aircraft, by registering the property in a State or jurisdiction which does not levy a Sales/Use Tax or levies tax at a lower tax rate, the resident shall be assessed the applicable Nevada tax, plus a 10% penalty, plus 1% interest per month, and may **also be assessed an additional 300% evasion penalty**. The Department has an ongoing program of tax evasion discovery and receives information concerning possible tax evasion from law enforcement, Department of Motor Vehicles, and Nevada taxpayers.

The Department is currently receiving buyer information from surrounding States on sales of off-road vehicles, watercraft, aircraft, motor homes, and other vehicles purchased in their State with the intention of bringing the vehicle/craft to Nevada for storage, use, or other consumption. These vehicles/crafts are taxable in Nevada and the Department is pursuing the buyer for tax, penalty, and interest on these transactions. Holding the vehicle/craft in Nevada for 90 days to avoid

California Sales/Use Tax will make it taxable in Nevada. The State of California shares affidavit/tax information with Nevada. (NRS 360.340, 2)

### **RENO DISTRICT OFFICE HAS NEW TELEPHONE NUMBERS**

Our Reno District Office has joined the State Telephone System as of March 12, 2010. The new main office number is **775-687-9999**. All other numbers have also changed except for the fax number which will remain the same at 775-688-1303.

### **NEW TAXATION CALL CENTER**

The Nevada Department of Taxation has implemented a new Call Center to address the thousands of calls we receive each month. The mission of the Call Center is to help eliminate the frustration taxpayers may experience when contacting the Department's District offices to resolve issues with their accounts or to answer general tax questions. If you have questions regarding Sales Tax, Use Tax, Modified Business Tax, general tax questions or need information on establishing a new account, please contact the Call Center at our toll-free number, **1-866-962-3707**. The Call Center hours are 8:10 am to 11:50 am and 1:00 pm to 4:45 pm Pacific Time. The Call Center is closed for lunch between 11:50 and 1:00 pm Pacific Time. Because the Call Center is not designed to answer all questions, taxpayers may sometimes need to call a District office directly depending on the complexity of the issue.

### **GOING PAPERLESS WITH TAX RETURNS**

Want to receive less paper? Help the environment? On the Home Page of this Website click on "Go Paperless" under Quick Links. You can request that we no longer mail you tax returns for Sales/Use Tax, Use Tax, and Modified Business Tax. You can also file online with NevadaTax at <https://www.nevadatax.nv.gov> or download the forms from this Website by clicking on the "Common Forms" tab.

### **COMMUNICATING BY MAIL WITH THE DEPARTMENT**

If you are writing or sending information to one of the Department's Revenue Officers, Tax Examiners or other staff, please use the **mailing address** of the appropriate District Office. If you are filing a tax return, please use the envelope the Department provided because it is addressed directly to the bank.

### **"ASK THE ADVISORS" TRAINING WORKSHOPS**

The Department will be presenting Basic Tax Training and Industry-Specific Training throughout the year. These **free** workshops include training on Sales and Use Tax, Modified Business Tax, Live Entertainment Tax, collection of taxes, resale certificates, exemptions, how to prepare amended tax returns, how to prepare for an audit, your petition rights, etc.

**SOUTHERN REGION** – The following workshops will be held in the **Henderson Department of Taxation Office** located at 2550 Paseo Verde Parkway, Suite 180, and will begin at 9:00 a.m. and conclude at 11:30 a.m.:

Tuesday, July 20, 2010 — Basic Tax Training  
Tuesday, August 17, 2010 — Basic Tax Training  
Tuesday, September 21, 2010 — Basic Tax Training

**NORTHERN REGION** – The following workshop will be held in the **Reno Department of Taxation Office** located at 4600 Kietzke Lane, Bldg. B, Suite 111, and will begin at 9:00 a.m. and conclude at 12 noon:

Wednesday, July 21, 2010 — Basic Tax Training, and Repairs and Delivery Charges  
Wednesday, September 22, 2010 — Basic Tax Training, and Restaurants, Bars and Comps

**Reservations are required** as classes fill up quickly. Please call (702) 486-2354 for Henderson classes and (775) 687-9961 for Reno classes to reserve seating.

For those not able to attend "Ask the Advisors" training, you may access the Workshop Power Point presentations on this website by clicking on "Ask the Advisors." At this site you may also view the workshops scheduled for the year.

**HOLIDAY CLOSURES**

The Department of Taxation District Offices will be closed the following days in the third Quarter of 2010:

Monday • July 5, 2010 • Independence Day

Monday • September 6, 2010 • Labor Day

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