

# NEVADA DEPARTMENT OF TAXATION



# NEVADA TAX NOTES

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## DEPARTMENT OF TAXATION OFFICES

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### **LAS VEGAS DISTRICT OFFICE**

Grant Sawyer Office Building  
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Las Vegas, Nevada 89101

Phone: (702) 486-2300  
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2550 Paseo Verde Parkway, Suite 180  
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### **RENO DISTRICT OFFICE**

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## **NEW MINIMUM SALES TAX SECURITY DEPOSITS**

In order to conduct retail or wholesale sales activities in the State of Nevada, businesses and/or individuals are required by law to register with the Nevada Department of Taxation and post security. Pursuant to requirements of the Nevada Revised Statutes, NRS 372.510 — accounts registered with and authorized by the Department of Taxation to collect Nevada sales tax, were required to maintain a security deposit for the sales tax account for at least 3 years. Required sales tax security amounts varied from a minimum of \$100.00 on up; the amount of security required is calculated from and based on, the business' *taxable monthly sales* or an estimate . There are several types of sales tax security acceptable to the Department of Taxation including: Cash, Surety Bonds, Lien(s) on Property and Irrevocable Letters of Credit.

Effective November 1, 2010, newly registered businesses and/or individuals who conduct retail or wholesale sales activities in the State of Nevada will only be required to post security if the calculated security amount is in excess of \$1,000.00. If the new business estimates that their taxable monthly sales would not be high enough to result in a security amount in excess of \$1,000.00, the business will not be required to post security at that time. The Department of Taxation may re-examine the amount of security required after a business has been in operation for at least 6 months to determine if the original estimated average tax due is accurate. This could result in an adjustment to the amount of security that the business must provide.

If a new business that had not been required to post security becomes habitually delinquent, that business shall be required to post security even if the security amount is not in excess of \$1,000.00. Any business that had previously posted security must wait 3 years before requesting a waiver regardless of whether or not the existing security amount is in excess of \$1,000.00.

After 3 years of sales tax reporting, during which time there is not more than one late sales tax return or late payment, a business **may** qualify to have the security requirement waived by the Nevada Tax Commission. In order for a security waiver request to be granted the taxpayer/business entity requesting the waiver must comply with the Nevada Tax Commission terms and conditions, such as the signing of personal guaranties by corporate officers. Waiver of the sales tax security requirement after a three year reporting history is established is not automatic. Taxpayers must submit security waiver requests to the Department in writing. Contact the Department for additional information.

## **PENALTY FOR NEGLIGENCE**

Pursuant to NRS 360.330, the Department must impose a 10% penalty on a deficiency resulting from negligence or intentional disregard of the requirements set forth in Title 32 (Revenue and Taxation) or the authorized regulations of the Department. Negligence is defined in Blacks Law Dictionary as "The omission to do something which a reasonable man, guided by those ordinary considerations which ordinarily regulate human affairs, would do, or the doing of something which a reasonable and prudent man would not do". The negligence penalty is imposed over and above any penalties imposed for failure to file a return pursuant to NRS 360.300(4) or a penalty for failure to pay pursuant to NRS 360.417. Examples of circumstances which may require the application of a negligence penalty include without limitation:

- When a Taxpayer fails to file more than one return
- When a Taxpayer collects but (substantially) under-reports sales tax
- When a Taxpayer does not implement the changes recommended in an audit and the same reporting problems are revealed in a subsequent audit
- When a Taxpayer fails to keep records as required by NRS 372.735
- When a Taxpayer improperly gives a resale card to a vendor so as to avoid the payment of the tax

**M/S DHANRAJ INTERNATIONAL AND MONT PAZ CIGARETTE BRANDS DELISTED  
FROM THE NEVADA TOBACCO DIRECTORY**

M/S Dhanraj International's, Rook, Castle, Connect, Dhyan Bidis, Dynasty, Lady Bloom, Marks, Ms. Ceo Cigarettes and Monet Paz's Blue Print, Milestone, Ocean, Prinson, and Rumba cigarette brand families were DELISTED from the Nevada Tobacco Directory effective January 1, 2011. Any product stamped after January 1, 2011 is considered **contraband** by the Department and subject to seizure. **Wholesale dealers are given until March 5, 2011 to sell any existing inventory and retail dealers are given until May 5, 2011 to sell their existing inventory.**

**FABRICATION LABOR, ALTERATIONS, ENGRAVING AND EMBROIDERING –  
CLARIFICATION OF PRIOR ARTICLES**

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 labor. For example: Engraving a trophy, jewelry or any other tangible personal property, or alteration charges for clothing, embroidery of towels, pillow slips, or similar articles are charges subject to the sales tax if they are included in the sales transaction of the trophy, jewelry, clothing, etc.

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: Mending 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)

**WINDOW TINTING –  
CLARIFICATION OF PRIOR ARTICLES**

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, the operator must pay sales or use tax on the materials used in the window tinting process.
2. When billings are rendered to the customer breaking out charges for material and charges for labor, only the material is taxable.

**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.

**FEDERAL INCOME TAX**

The Department of Taxation receives an enormous amount of inquiries regarding Federal Income Tax issues. The State of Nevada does not participate in the administration of Federal Income Tax and **does not** levy a **State** personal, business or corporate income tax of its own. The Nevada Department of Taxation **does not** require informational copies of Nevada residents' Federal Income Tax returns or forms. **But** the Federal Income Tax Return is still utilized by Nevada in the audit process of a business. Federal Income Tax inquiries may be researched at the official IRS website, [www.irs.gov](http://www.irs.gov).

## **WHAT IS “USE TAX”???**

Perhaps the most misunderstood and confusing tax for businesses in Nevada is “Use Tax.” Many businessmen and bookkeepers have seen the “Use Tax” section on their Sales and Use Tax Returns, but don’t know what it is, so they either ignore that section or assume it does not apply to their businesses. In reality, almost every business is periodically subject to “Use Tax.”

Every business in Nevada is required to report and remit “Use Tax” on the storage, use or consumption in the State of Nevada of any tangible personal property purchased from any retailer who did not charge Sales Tax on the purchase transaction. (*NRS 372.185, 374.190, 377.040, 377A.030 and 377B.110*) This includes any purchase of tangible personal property that is not held for resale. To further define “Use Tax,” it is also imposed on all personal property which was acquired from an out-of-state supplier in a transaction that would have been a taxable sale if it had occurred within this State. Every business in Nevada that purchases any tangible personal property such as equipment or supplies must be registered with the Nevada Department of Taxation and report and remit “Use Tax” on all such transactions and purchases if no sales tax was paid to its vendor. (*NRS 372.220*) “Use Tax” is calculated at exactly the same rate as the sales tax rate in your county.

Examples of “Use Tax” transactions:

1. An accountant purchases a new desktop computer from a catalog computer warehouse in New Jersey that does not assess and collect Nevada Sales Tax on the invoice when it is received. In this case the accountant should report and remit “Use Tax” on this computer’s purchase price.
2. A shoe store owner removes a pair of shoes from his store inventory for his own personal use and makes a general ledger entry to adjust inventory for the removal of the shoes. In this case the store owner should declare and remit “Use Tax” on the wholesale value of these shoes.
3. A furniture store owner decides to give away a sofa & loveseat combo for promotional purposes at its grand opening. In this case the store owner should declare and remit “Use Tax” on the wholesale/cost value of the furniture being given away.
4. A casino operator decides to give a free beverage to some of the guests who are regular slot machine customers. The casino should declare and remit “Use Tax” on each drink that is given away at the acquisition or wholesale cost of that drink since it will not be sold at retail.
5. A newly graduated dentist from the UNLV Dental School buys a complete set-up of dental office equipment for his new office from a wholesaler in California that does not charge Nevada Sales Tax on the invoice. In this case the dentist should report and remit “Use Tax” on the purchase price of the equipment being shipped into Nevada.

Exceptions to the Use Tax law could include items purchased and personally picked-up out of state for which sales tax was legitimately paid to that state. If the product was purchased specifically for use in Nevada, and the tax rate in the state where you purchased the product is less than the rate in Nevada, you may also be responsible to pay the difference between the two rates. If the paid tax rate is greater than ours, you have no further tax burden. Any entity holding a valid Nevada Sales Tax Exemption letter would not be required to pay “Use Tax.”

Most service only businesses operating in Nevada will register with the Department for a “Consumer Certificate.” This account allows them to report any use tax obligation they incur on a monthly, quarterly or annual basis – depending on the size of the business.

One of the most common errors found by the State tax auditors at many Nevada businesses is the failure to report and remit “Use Tax.” You are encouraged to acquaint yourselves with the “Use Tax” statutes and requirements to avoid costly penalties and interest that could be assessed to your business because you did not properly report and remit “Use Tax.” Additional information can be found at the Department’s website at <http://tax.state.nv.us/> or you may sign up for one of our free “Ask the Advisors” training classes.

## **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.

## **GOVERNMENTAL SALES AND USE TAX EXEMPTIONS**

Pursuant to NRS 372.325, sales to the United States, its incorporated agencies and instrumentalities; the State of Nevada, its unincorporated agencies and instrumentalities; and any county, city or district or other political subdivision of this State are granted exemption from sales and use taxes for purchases or sales. **An exemption letter from the Nevada Department of Taxation is not required for a governmental organization to be exempt.** But when requested, we do provide them with Exemption Certificates.

A governmental organization that purchases tangible personal property with a governmental credit card is exempt. The retailer should make a copy of the credit card for its records in the event of an audit by the Department.

This exemption applies only to direct sales to governmental organizations; tangible personal property sold to or used by a government contractor is subject to the Sales/Use Tax unless the contractor is a constituent part of the governmental entity. For example, if a government contractor purchases building materials for use on a public works project, the government contractor must pay Sales/Use Tax on those materials.

This exemption does not apply to the Room/Lodging Tax. Room/Lodging Taxes are administered by each individual County.

States, other than Nevada, purchasing tangible personal property in Nevada **are not** exempt.

## **ADVISORY FOR FILING TAX 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.

## **AIRCRAFT AND MAJOR COMPONENTS OF AIRCRAFT**

Aircraft and major components of aircraft purchased by certain commercial air carriers remain fully subject to sales and use tax.

NRS 372.317 Aircraft and major components of aircraft, was declared unconstitutional in a Nevada Supreme Court decision, *Worldcorp v. State, Department of Taxation* (1997). The Department had requested that the Legislature remove this unconstitutional statute from Chapter 372 based on the Supreme Court finding: "Therefore we conclude that NRS 372.317 must be stricken from our statutory scheme because it runs afoul of the Commerce Clause." Because Chapter 372 may only be amended by a vote of the people, removal of this measure was included as part of Question 4 of the Statewide Ballot Questions for the November 4, 2008, General Election as a housekeeping measure. Although Question 4 was voted down, this does not overturn the Supreme Court decision.

## **SALES TAX IS HELD IN TRUST FOR THE STATE**

Every retailer maintaining a place of business in this State and making sales of tangible personal property shall, at the time of making the sales, collect the tax from the purchaser and give the purchaser a receipt. A retailer shall hold the amount of all taxes collected in a separate account, in trust for the State. (NRS 372.195, 372.354)

## **ANNUAL SALES TAX FILING**

The Department may allow annual filing of Sales Tax returns upon verification that a taxpayer meets the criteria set forth in NRS 372.380. The annual reporting period is a calendar year from January 1 thru December 31; the annual return is due no later than January 31. A taxpayer must present a request, in writing, to be considered for annual reporting. The request must be received by the Department no later than September 30 of the year pre-ceding the year for which the request is intended, i.e. September 30, 2010 for the year beginning January 1, 2011. Requests for annual filing can not be considered until the taxpayer has reported 4 quarterly returns (or 12 months) to the Department of Taxation.

The Department will review the account to verify taxable sales have not exceeded \$1,500 in the preceding 12 months. Once the account has been reviewed and verified, the Department will update the taxpayer's reporting period to annual beginning January 1<sup>st</sup> of the following year and will send notification of this change to the taxpayer.

## CLOSING YOUR ACCOUNT

When you close or sell your business, you must contact the Department. You can cancel your account by contacting us by phone, written correspondence or visiting us at one of our 4 District Offices. However you choose to contact us, certain information will be required in order to expedite the canceling of your account and ensure the timely refund of any security deposit or credits to which you may be entitled. It is important to include complete information when notifying us. The following information must be included:

- Nevada Taxpayer ID Number (TID) of the business to be closed;
- The DBA (doing business as/business name) and location of the business;
- The date the business will be closed or sold;
- The reason you closed the business. If you sold the business, who you sold it to;
- What became of the business assets such as equipment or office furniture, or advise if there are no assets. If the assets were sold, please indicate to whom you sold them and the sales price; and
- What became of any remaining inventory? If there is inventory remaining that you do not intend to resell, you are reminded you must report and pay use tax on the remaining inventory on your final tax return.

Please include your name, your title with the business, and a day-time phone number in the event we need to contact you. Finally, please provide a mailing address for any refund of security and/or credit to which you may be entitled.

## “ASK THE ADVISORS” TRAINING WORKSHOPS

The Department will be presenting Basic Tax Training and Industry-Specific Training throughout the year. The Henderson Office will include additional presentations by the **Internal Revenue Service** – forms and filing requirements; and **SCORE** – resources available for businesses to guide them to success. **SCORE** is a non-profit organization sponsored by the Small Business Administration.

The Reno Office will include presentations by the **Internal Revenue Service**.

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 12:00 p.m.:

[Tuesday, January 18, 2011 — Basic Tax Training](#)

[Tuesday, February 15, 2011 — Basic Tax Training](#)

[Tuesday, March 15, 2011 — 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 12:00 p.m.:

[Wednesday, February 16, 2011 — Basic Tax Training, and Online Registration and Filing](#)

**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 first Quarter of 2011:

Monday • January 17, 2011 • Martin Luther King Jr. Day  
Monday • February 21, 2011 • President’s Day

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