

NEVADA DEPARTMENT OF TAXATION



NEVADA TAX NOTES

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DEPARTMENT OF TAXATION OFFICES

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TAXATION'S NEW EXECUTIVE DIRECTOR

The Department is pleased to announce the Governor's appointment of our new Executive Director William Chisel effective September 12, 2011. Bill comes to us from heading the Division of Internal Audits as Chief; and was Senior Auditor over the Nevada Gaming Control Board Audit Division's northern research and development department. He is a graduate of the University of Nevada, Reno and is a Certified Public Accountant. The Governor advised that his experience at both Agencies has uniquely prepared him for this latest leadership position because of his accounting expertise and an in-depth understanding of the State's budget, management and operations, and his ability to lead the Department to efficiently collect revenues while working closely with taxpaying businesses.

Welcome to the Department Bill!!!

DROP SHIPMENTS

In light of Nevada's membership in the Streamlined Sales Tax initiative and the changes stemming from the enactment of NRS 360B, there have been some changes regarding third party drop shipments. All parties involved in drop shipments are still encouraged to register with the Department of Taxation, so that the flow of tax liability involved can properly pass to the actual retailer of the tangible personal property. One major change is that it is now allowable for a third party drop shipper to accept an out of state resale certificate, or a Streamlined Sales Tax Exemption Certificate from a retailer in state or out of state who is selling to the end user in the State. Additional information concerning drop shipments is available from the Department upon request. (NRS 372.135, NRS 372.155, NRS 372.225, NRS 360B.200)

WHEN IS A COMP NOT A COMP?

When the venue is **NOT OWNED** by the hotel/casino, the 'comp ticket' allows the guest patron to purchase an item up to the value of the ticket. The owner of the independent venue then bills the casino on a periodic basis for the 'comp tickets' that were used in its venue. To the owner of that venue, the comp ticket is just a sale and sales tax must be charged. The hotel/casino will pay the bill received from the independent venue, and cannot reduce the value any further, as the amount the hotel/casino pays to the independent venue IS the hotel/casino's cost. So for each side of the transaction, there is **NO** comp. What has occurred is a retail sale subject to tax, and an expense, including tax that needs to be paid.

CHRISTMAS TREE VENDORS

Christmas tree vendors are required to register with the Department and can register as a "seasonal filer." New vendors to our State are required to complete the Nevada Business Registration form and pay a \$2.00 deposit for every tree they anticipate selling. Existing Christmas tree vendors, already registered with the department are also required to make a deposit of \$2.00 for every tree they anticipate selling. Deposits received are applied to their December Sales Tax return. Accounts with remaining balances due must pay the additional tax owed when filing the December Sales Tax return. If there is an overpayment/ over assessment resulting in a credit, the taxpayer must request to have their credit refunded after filing the December Sales Tax return.

TAXABLE DELIVERY CHARGES

Assembly Bill 403 from the 75th Session of the Nevada State Legislature, effective May 22, 2009 made a change to the taxability of delivery charges by a retailer. AB 403 did not make all delivery charges exempt. Under current statutes and regulations, passage of title is no longer relevant for determining the taxability of charges for the delivery, shipment or transportation of goods. The seller's charge for shipping or transporting the goods to the purchaser is not subject to taxation if the charge is separately stated on the invoice to the purchaser. The charge must be clearly labeled as a charge for "shipping," or "transportation". Charges for "handling" or "shipping and handling" will be subject to taxation regardless of whether they are separately stated on the invoice. This is because "handling" often includes preparation, assembly, or packaging which occurs prior to the sale, or which involves the transfer of tangible personal property such as boxes and packaging materials. When the charge refers to "shipping and handling", the two components become indistinguishable and are therefore treated as a single taxable item. Likewise, charges for "packaging" or "crating" are subject to taxation regardless of whether they are separately stated on the purchase invoice

AIRCRAFT DEALERS — SALES FOR OUT-OF-STATE USE

A ruling by the Nevada Tax Commission requires that an aircraft must actually be delivered out-of-state in order for the sales transaction to qualify for exemption from Nevada sales tax. The change was based in part on a purchaser receiving

credit towards Nevada use tax for tax legally paid to another state. Therefore, unless another statutory exemption applies, all deliveries of aircraft to a buyer within the State of Nevada are subject to sales tax.

Aircraft actually delivered out-of-state and brought to Nevada, must have use tax paid on it unless the use tax was paid in the state it was purchased. Proper documentation of these transactions must be maintained. Examples of acceptable proof of out-of-state delivery include, but are not limited to: (1) a notarized affidavit signed by the purchaser and executed at the time of delivery, or (2) a customer's purchase order showing how and where the merchandise is to be delivered out-of-state. For further information on proof of out-of-state delivery or to obtain a copy of NAC 372.712 contact the Call Center at 866-962-3707.

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).

RESALE CERTIFICATES VS. SALES TAX PERMITS

The Department of Taxation would like to clarify the ***difference*** between a Resale Certificate and a Sales Tax Permit. The Department is receiving an increasing number of phone calls from Nevada sellers/retailers, stating that many vendors/wholesalers from whom they purchase inventory for resale, are requesting copies of purchasers' Sales Tax Permits; not copies of purchasers' Resale Certificates. **This is not correct as Sales Tax Permits are not interchangeable with, and may not be used in lieu of, Resale Certificates.**

Nevada vendors/wholesalers selling tangible personal property for resale in this State must take care when obtaining Resale Certificates from customers claiming to be exempt from paying sales tax because the purchaser must re-sell the merchandise/property on which sales tax is not paid.

Blank Resale Certificate forms may be downloaded from this website by going to the Common Forms Link. Blank Resale Certificate forms/cards may also be purchased at most office supply or stationery stores.

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.

ATTENDING OR PROMOTING A ONE-TIME EVENT, TRADESHOW OR CONVENTION

If you are a ***VENDOR*** attending a one-time event, tradeshow or convention in Nevada, please contact your event promoter to obtain your "***One-Time Permit***" to make sales in Nevada. You will be required to remit whatever sales tax is collected, to the promoter at the end of the event. All checks should be made payable to the Nevada Department of Taxation.

PROMOTERS/ORGANIZERS of one-time events, tradeshow and conventions should contact the appropriate Department of Taxation office at least two weeks prior to the scheduled event to obtain promoter instructions, related tax statutes, and the necessary number of "***One-Time Permits***". (NAC 372.180)

Please note that liquor, cigarettes and other tobacco products are subject to special laws and regulations in addition to sales and use tax. If there will be liquor, cigarettes or other tobacco products sold or given away at the tradeshow or convention, please contact the Carson City Taxation office for events that are to be held in the Northern Nevada area and the Henderson office for events to be held in the Southern Nevada region.

Items of tangible personal property are sometimes given away at one-time events, tradeshow, and conventions. Most attendees know that *sales tax* is due on the *sale* of tangible personal property. However, some vendors may not be aware that use tax may be due on tangible personal property that is given without charge unless it does not have

significant value (NRS 372.7275). Tangible personal property, as defined in statute by NRS 372.085, means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

ADMINISTRATIVE HEARINGS INFORMATION AVAILABLE ON THE DEPARTMENT WEBSITE

In an effort to inform and prepare taxpayers who are using the administrative hearing process of the Department of Taxation, or who may want information about the most common types of hearings the Department conducts, information is now available on the Department's website. You can access this information by clicking on the "Hearings" tab. In the "Hearings" section you will find helpful information regarding the hearing process, what you can expect at a hearing, how to prepare for a hearing, and answers to other commonly asked questions. If you have filed a dispute regarding an audit determination or have received a letter from the Department instructing you to appear before a Hearing Officer, the information available on the website will help you to better understand your role in the hearing process. This resource is intended to assist taxpayers without representation and taxpayer representatives such as accountants and attorneys.

PHOTOGRAPHERS

Photographers are consumers of materials, supplies and equipment used in rendering their services and must pay the sales tax on the property at the time of purchase. If sales tax is **not** paid at the time of purchase, the photographer must self-assess **use tax** on the purchase. Use tax must be remitted to the Department by the end of the month following the period in which the untaxed tangible personal property entered the State.

The services performed by a photographer in the creation of a visual image are exempt from taxation. Such professional services include: consultation, set-up, processing, **and** the initial rendering of a visual image. This initial rendering can be in the form of the original proof, compact disc, flash drive or an electronic transfer furnished by a photographer to a customer.

Photographers that sell duplications or enlargements of photographs **will be considered a retailer** and **must collect sales tax** on the gross receipts from those sales. (NRS 372.250, NRS 372.729 and NAC 372.330)

WE ALL OWE IT – USE TAX

The holidays are upon us once again and many of us are shopping online to avoid long lines, get good deals and – not pay sales tax on our purchases? Can that be right? Well, actually it's not correct. Whether you are a business or an individual, if you purchase tangible personal property from a business that does not collect Nevada Sales Tax, you owe the Use Tax (the counterpart to sales tax) when you order something tangible from an out-of-state vendor, have it shipped to Nevada (whether for yourself or to someone else as a gift) and no sales tax is on the vendor's invoice. If you make the purchase as part of a business activity, you simply report the use tax on your monthly or quarterly Sales and/or Use Tax return. If you are not in business, you have a couple of options to pay the use tax you owe. You can stop by one of our District offices as listed on the cover page of this publication or, better yet, you can calculate the tax you owe by multiplying the tax rate in the Nevada county where the property is being delivered by the selling price of the merchandise on your invoice and send the invoice and a check to the Department's Carson City Office. Make your check payable to the Department of Taxation and note on the check that it is for USE TAX. By doing this, you will have met your obligation and legal responsibility, and are helping the State's revenue crisis as well.

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.

"BARTER"

"Sale" or "Purchase" means and includes any transfer of title or possession, exchange, **barter**, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. If a business that normally sells tangible personal property, such as televisions, exchanges a television set for a service such as carpet cleaning, the television would be subject to Sales Tax based on the fair market value of the property or service exchanged. (NRS 372.025, 372.045, 372.060, 360B.480)

ADVISORY FOR FILING TAX RETURNS

Please submit all tax returns for your business in the pre-printed envelope(s) enclosed with your returns. The correct mailing address is also pre-printed on the tax returns where it reads "Mail Original To." Using the correct mailing address will ensure the most efficient processing of your returns and payments.

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.

"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, October 18, 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, October 19, 2011 — Basic Tax Training, and Repairs and Delivery Charges

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 our website by clicking on "Ask the Advisors." 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 fourth Quarter of 2011:

- Friday • October 28, 2011 • Nevada Day
- Friday • November 11, 2011 • Veterans Day
- Thursday • November 24, 2011 • Thanksgiving Day
- Friday • November 25, 2011 • Family Day
- Monday • December 26, 2011 • Christmas Day

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