



Nevada Tax Notes

The Official Newsletter of the Department of Taxation

Issue No. 183 July 2013

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Office Closures

Independence Day
Thursday – July 4, 2013

Labor Day
Monday – September 2, 2013

Nevada Day
Friday – October 25, 2013

Call Center
(866) 962-3707

Hours:
Monday through Friday
8:10 am to 11:50 am
1:00 pm to 4:45 pm
Pacific Time

Industry Spotlight:

Salons, Day Spas, and Barbers

Salons, day spas, and barber shops offer services like haircuts, massages, hair waxing, skin treatments, hair extensions, and weight loss treatments. Additionally, many shops, salons, and spas offer retail sales of hair, skin, and weight loss products sold to their customers.

When products are sold to the customer, sales tax is due on the sale. If a product held for resale is taken out of the inventory for use, then it is subject to use tax on the cost. If a product is given away, then it is also subject to use tax on the cost as the business is no longer holding it for resale.

Examples: Three bottles of shampoo are purchased for resale for \$4 each. No sales tax was paid to the supplier when purchased because a resale certificate was given stating the shampoo is intended for resale. 1. A customer buys a bottle for \$6. That bottle of shampoo should have sales tax collected on the \$6. 2. A bottle that is pulled off the shelf for use on customers is subject to use tax on the cost of \$4. 3. The last bottle that was given to a relative is subject to use tax on the \$4.

A distinction is noted between products that leave with the customer (hair extensions) and products consumed during the service (shampoo, hair dye,

etc.). Per [NAC 372.045](#), the combination of a service and a taxable item (leaving with the customer) for one price would not be taxable if the taxable item's worth is small compared to the value of the service. There are two ways to determine this:

- If the cost of the item is more than 10% of the total cost of the item and service performed or
- If the price of the taxable item is more than 10% of the total price of the item and service performed.

Examples: 1. A small strand of synthetic hair is sold at retail for \$2, and the salon charges the customer \$25 for services rendered which includes attaching the strand. Use tax would be due from the salon on the cost of the strand as the price of the strand does not exceed 10% of the total price. 2. A customer gets hair extensions that cost the salon \$200. The labor to apply the extensions cost the salon \$50. If the salon charges the customer one price of \$300 for the extensions, then the entire \$300 would be taxable.

As with other businesses, all equipment, furniture, and supplies used in the business should have sales tax collected by the vendor or use tax remitted to the Department if the vendor is not registered to collect sales tax in Nevada.

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Government Exemptions

Pursuant to [NRS 372.325](#) sales to the following are granted exemption from sales and use taxes for purchases or sales:

- the United States,
- its unincorporated agencies and instrumentalities
- the State of Nevada,
- its unincorporated agencies and instrumentalities
- any county of Nevada
- any city of Nevada
- any district of Nevada
- other political subdivision of this state

An exemption letter from the Nevada Department of Taxation is not required for a governmental organization to be exempt. A governmental organization that purchases tangible personal property with a **governmental** credit card, purchase order, or check are exempt but only if it is a direct sale to the governmental organizations.

An employee of the government buying lunch with a governmental credit card does not make the transaction exempt.

Vendors should retain copies of the government credit card and purchase order for their records in case of audit.

This exemption does not apply to room / lodging tax. Room / lodging tax are administered by each individual county. States other than Nevada purchasing personal tangible property in Nevada are not exempt.

ORIGINAL ART WORK VS. FIRST RENDERINGS

There is no exemption for art in Nevada however regulations provide an exemption for 'First Renderings' under [NAC 372.227](#) for Designers, [NAC 372.330](#) for Photographers, and [NAC 372.365](#) for Producers.

If an artist enters into a contract with a customer or assignment for the **development** of original art, sales tax does not apply as this constitutes the sale of professional services. The tangible personal property is incidental to the performance of a service. This exists when the value of the materials used are small compared to the value of the creative service.

This situation may occur with photographic proofs or original art work like a sculpture or painting. If the artwork is not taxable all the supplies used to create the artwork are taxable to the artist when purchased.

Any replication of the original piece of artwork is taxable as a regular retail; sale of tangible personal property.

Many people have been confused thinking it is the piece of art not the transaction that is exempt.

Examples:

1. A person or business commissions an artist for an original painting. The artist retains ownership of the painting until it is sold. This transaction is exempt as the customer is paying the artist for a creative service.

2. An art gallery purchases the original painting from an artist. The gallery then resells the painting to a customer. This transaction is taxable as the customer is not paying the gallery for a creative service.

3. An art gallery sells copies of the original painting for an artist on commission. As only the sale of the first rendering is exempt, all copies sold are taxable even if the original artist creates the copies.

4. A photographer sells a set of proofs viewed electronically. The photographer then creates a set of photos from the proofs. The proofs are exempt from sales tax, but the photos created from the proofs are not.

This also applies to artwork that is applied to taxable items such as customized vehicles. Examples:

1. A customer takes his van to an artist to have a design painted on the side. As the customer is paying for the service of the original rendering, the separately stated price for the painting is exempt.

2. An artist paints a design on the side of a van, and then sells the van to a customer. As the artist is the owner of the van, the labor is considered fabrication labor per [NAC 372.380](#) as it is a step in the process to create the final product for sale. The entire cost of the van, including the artwork, is taxable

Another regulation [NAC 372.045](#) regarding Bundled Transactions is also relevant here as the value of the materials (van) is substantial compared to the labor involved in creating the painting on the van.

Unfortunately, [NAC 372.045](#) and [NAC 372.380](#) would also make the \$100,000 custom built motorcycle or custom created jewelry taxable even if purchased directly from an individual who created it.

Legislative Changes:

FOOD COMPS

Effective immediately, [Assembly Bill 506](#) states that food comps (food given away for free) including non-alcoholic beverages, and employee meals provided by the employer at no cost to the employee, will not be subject to any tax. Alcoholic beverages and paper goods associated with the beverage will still be subject to use tax. Paper goods include, but are not limited to, stir sticks, cocktail napkins, to go plastic glasses, toothpicks to hold garnishments, etc. In addition, other retail items given away, like souvenirs and cigarettes are still subject to use tax.

CRAFT DISTILLERIES

During the 2013 Legislative session, [Assembly Bill 153](#) added language to [Nevada Revised Statute 597](#) allowing for the licensing of Craft Distilleries. Craft distillery means an establishment which manufacture distilled spirits from agricultural raw materials through distillation.

As part of this licensing and in **limited quantities**, Craft Distilleries can now:

- Manufacture and export their spirits.
- Serve samples of spirits manufactured by the Craft Distillery.

- Sell the spirits they have manufactured for consumption on or off premise.

For those interested in becoming a Craft Distillery, contact the Department for an application. Applications are approved by the board of county commissioners in the county in which the applicant maintains their principle place of business, upon receipt of the approved application, along with the \$75.00 licensing fee, the Department will review the application and the approval, and if no other objections are presented or known, the Department will issue the license.

WHOLESALE PRICE ON "OTHER TOBACCO PRODUCTS"

During the 2013 Legislative Session, [Senate Bill No. 8](#) was enacted. This bill clarifies the definition of the "wholesale price" which the excise tax liability is to be levied upon. This change is meant to clarify that the measure of the OTP tax is the price the wholesale dealer who first brings it into Nevada pays for the OTP, irrespective of whether the wholesale dealer purchases the products from the manufacturer or any other person. The effective date of the bill is July 1, 2013.

As of July 1, 2013, Nevada Revised Statute (NRS) 370.440(1) (5) (a) has been amended to:

"Wholesale price" means: Except as otherwise provided in paragraph (b), the established price for which a product made from tobacco, other than cigarettes, **is sold** to a wholesale dealer before any discount or other reduction is made.

The excise tax on products made from tobacco other than cigarettes (OTP) is to be paid by the first Nevada licensed wholesale dealer who first brings or causes the OTP to be brought into this state. The tax is to be paid by the wholesaler when the product has been sold by the wholesaler to a Nevada licensed retailer or to another Nevada licensed wholesaler. The excise tax will be based on the price that the first Nevada licensed OTP wholesaler paid for the OTP.

Modified Business Tax Change

[Senate Bill 475](#) of the 2013 Legislative Session becomes effective July 1, 2013. The changes under this bill extend the 0% rate on Tier 1 of the MBT to June 30, 2015. Additionally, the Tier 1 threshold is increased from \$62,500 to \$85,000.

If the sum of all taxable wages, after health care deductions, paid by the employer does not exceed \$85,000 for the calendar quarter, the amount of tax is 0%. If the sum of all the wages paid by the employer exceeds \$85,000 for the calendar quarter, the tax is 1.17% of the amount of the wages that exceeds \$85,000.

For example: if the sum of all wages for the 09/13 quarter is \$101,000 after health care deductions, the tax is \$187.20 ($0.0117 \times \$16,000$ which is the amount exceeding \$85,000). These changes are effective July 1, 2013 and expire June 30, 2015. No changes were made to the definition of Financial Institutions or the tax rate for Financial Institutions which remains at 2%.

A tax return will still need to be filed for any business reporting, even if the taxable wages are less than \$85,000 and tax due is \$0.

"Remember to use the NEW form for 3rd Quarter 2013."

Additional Bills

Insurance Premium Credit:

Senate Bill 357 focuses on enhancing the infrastructure of Nevada and gives a credit on the insurance premium tax in exchange for the insurance companies investing in a qualified community development entity. The purpose of this bill is to provide economic stimulation, particularly to distressed areas of this State.

Bad Debt:

Certain non-retailer businesses affiliated with retailers may now claim a bad debt on contracts in which sales tax has already been reported, in accordance with Senate Bill 152.

Filmmakers:

Filmmakers who produce qualified films in Nevada may receive a tax credit that can be applied against Modified Business Tax, gaming license fees, and insurance premium fees in accordance with Senate Bill 165.

Abatement/Deferrals:

Assembly Bill 1 (special session) revises procedures for businesses seeking a partial abatement or deferment of sales and/or property tax when they agree to hire employees and a minimum capital investment in Nevada for at least five years.

Legislative Changes cont.

SALES TAX RATES

Washoe County:

Assembly Bill 46 will allow the county commissioners of Washoe County to raise their sales tax rate (by a 2/3 vote) with the proceeds earmarked for special needs. Washoe County may increase their sales tax rate by ¼ of 1% (currently at 7.725%) and their property tax rates by 5 cents per \$100 assessed value, and those funds will be directed to the Washoe County School District's Capital Improvement fund, for use in upgrading and repairing their current schools.

Clark County:

Senate Bill 1 (special session) will allow the county commissioners of Clark County to raise their sales tax rate (by a 2/3 vote) with the proceeds earmarked for special needs. Clark County may increase their sales tax rate by .15, bringing Clark County's sales tax rate up to 8.25%, with the funds to be applied to add more police.

New forms will be available on the Department website if either county does vote to increase the sales tax rates.

MARIJUANA DISPENSERIES

Senate Bill 374 governs the fees, procedures, and penalties for the dispensing of medical marijuana.

This bill defines a 'medical marijuana establishment' as an independent testing lab, cultivation facility, facility that produces edible marijuana products or marijuana-infused products, medical dispensary, or a business registered to operate more than one of the above described types of businesses.

Each establishment must be registered with the Health Division of the Department of Health and Human Services for an initial fee of \$30,000.00. Annual renewal fees depend on the type of establishment operated.

There is an excise tax imposed on each sale in this State between the grower and the wholesaler at the rate of 2%. Another 2% from the wholesaler to the retailer and another 2% on each retail sale to the end user, as well as the regular sales tax per county. The excise tax applies to marijuana, edible marijuana products, and marijuana-infused products.

The Department of Taxation will administer the excise tax portion only of this Bill. Any questions regarding establishment registration certificates, medical marijuana cards, or marijuana in general should be addressed to the Department of Health and Human Services. <https://dhcnp.nv.gov/index.htm>

For further information about these and other bills signed by the Governor, please go the Nevada Legislature web site:

2013 Regular Session: <http://leg.state.nv.us/Session/77th2013/>

2013 Special Session: <http://leg.state.nv.us/Session/27th2013Special/>

What's New for You!

WEBSITE ENHANCED FOR SALES TAX REGISTRATION SEARCHES

Coming soon, the Department of Taxation will implement a new online resource that allows users to validate that a business possesses a current sales tax permit. The anticipated launch of this new resource is mid-July, 2013. This "Search" feature will allow anyone to validate a sales tax permit by allowing the user to search an entity's name, fictitious name, address or Department of Taxation Tax Identification Number (TID). This can be done at the following web page: www.tax.state.nv.us/search (launching mid-July).



Nevada provisions require every retailer that sells tangible personal property for storage, use, or consumption in Nevada to register for a sales tax permit, collect and remit applicable Sales Tax, and maintain adequate records. Distributors or wholesalers can verify their customers possess a sales tax permit with the Department and confirm the TID provided is valid.

In the event a business is not registered or using an improper resale certificate, it should be reported using the Department's new "[Tax Evasion Robs You](#)" program, see below.

WEBSITE ENHANCED TO ACCEPT REPORTING OF TAX EVASION

The Department announces a new enhancement to our website (also launching mid-July) which gives citizens of Nevada a way to report suspected tax evasion and non-compliance issues.



Taxes are a major source of revenue for many cities and counties, which depend on revenues for police and fire services, schools, roads, health care and more. Sellers who do not remit taxes are taking the tax money you paid and using it for themselves. It is taking State revenue directly from you and reducing funding for essential services. They place an additional burden on the shoulders of those taxpayers who do meet their obligations. To protect our businesses and citizens; report non-compliant businesses and individuals by:



- Downloading and completing the form titled 'Tax evasion Tips' at www.tax.state.nv.us/evasion (launching mid-July).
- Automatically submit or email the Tax Tip form with any supporting documentation to investigations@tax.state.nv.us

Technical Bulletins

A technical bulletin will be published periodically by the Department of Taxation beginning in 2013. The bulletin will provide information relating to the taxes administered by the Department per [Senate Bill 7](#). You will be able to find the bulletins on the Department website.

Twitter

The Department has a twitter account @NVTaxDept. If you do not have a twitter account, you can now view the tweets on the Department website.

Spotting Tax Evasion

Some examples of tax evasion that can be reported are:

- Unreported sales
- Alterations to cash receipt journals
- Failure to remit Nevada use tax, Modified Business tax, Tire Tax, Live entertainment tax, Liquor or Tobacco Tax.
- Operating without a sales tax permit
- Vehicle, RV, aircraft or vessel tax evasion including residents with out-of-state license plates.
- Contraband sales of cigarettes, other tobacco products or alcohol.
- Unregistered vendors at special events
- Bar employees in Clark or Washoe counties without an Alcohol Awareness Card.

COMPS VS. DISCOUNTS

'Comps' is a common word in Nevada referring to complimentary drinks or retail items given to customers of a business. The term may have begun as a casino term, but it is now applied to most industries. A comp item typically is used as a tool to get another type of revenue from you. The customer typically does not have to pay for the item. Examples: Free drinks when you gamble, a free toaster when you open a checking account, free t-shirt with a test drive.

Businesses get comps confused with reimbursements and cash discounts. When conditions are attached such as a minimum purchase requirement, or the customer must pay for a portion of the item, then it is considered a cash discount. Examples include: a 2 for 1 coupon or \$5 off a purchase of \$25. Sales tax should be collected on the discounted amount, and no use tax is due on the cost even if alcohol or other taxable items are on the bill. A reimbursement is when another company pays the bill (or part of the bill) for the customer such as a manufacturer's coupon or a casino reimbursement. These transactions are not discounts or comps, they are retail sales. Tax should be collected and remitted to the Department, on the amount received, regardless if the customer or a third party pays the bill.

"Ask the Advisors" Training

The Department will be presenting Basic Tax 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, Streamline Sales and Use Tax, 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.:

Basic Tax Training:

July 16, 2013
August 20, 2013

September 17, 2013

October 15, 2013

The Henderson Office will include additional presentations by the **Internal Revenue Service** (forms and filing requirements), **State Treasury**, **Unclaimed Property** (information on how to report unclaimed property), and **SCORE** (resources available for businesses to guide them to success). **SCORE** is a non-profit organization sponsored by the Small Business Administration.

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.:

Basic Tax Training:

August 21, 2013
October 16, 2013

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

Reservations are required as classes fill up quickly. Please call **(702) 486-2354** for Henderson classes and **(775) 687-9999** 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](#)."