



Nevada Tax Notes

The Official Newsletter of the Department of Taxation

Issue No. 187 July 2015

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Visit the Department Website at

<http://tax.nv.gov>

Office Closures

Labor Day

Monday – September 7, 2015

Nevada Day

Friday – October 30, 2015

Veterans Day

Wed. – November 11, 2015

Thanksgiving

Thursday & Friday
November 26, 27, 2015

Christmas Day

Friday – December 25, 2015

Call Center

(866) 962-3707

Monday through Friday

8:00 am to 5:00 pm

2015 Legislative Summary

Five Major Changes for Taxpayers

1. The Commerce Tax

- The Commerce Tax is a gross revenue tax on each business in this State whose Nevada gross revenue in a fiscal year exceeds \$4,000,000.
- The taxable year is the State's fiscal year and begins on July 1, 2015.
- The tax is collected annually with the first return and payment due on August 15, 2016 for July 1, 2015-June 30, 2016.
- The tax is based on Nevada Gross Revenue as defined in **section 8** of SB 483, situated to Nevada pursuant to **section 22** and has various adjustments to that amount pursuant to **section 21** of the bill.
- The rate is based on the industry in which the business entity is primarily engaged based on a company's NAICS code. There are 26 different rates ranging from 0.0151% to 0.331%.
- Businesses subject to the Commerce Tax will be entitled to a credit toward their Modified Business Tax (MBT) liability equal to 50% of their Commerce Tax liability beginning the first quarter after the first payment of the Commerce Tax is made. They have 4 quarters to use up the 50% credit.

2. Modified Business Tax

- Along with the credit mentioned above, the tax rate for MBT-General Business is raised to 1.475 percent (up from 1.17%) on wages that exceed \$50,000 per quarter (down from \$85,000).
- SB483 requires businesses that are subject to the Net Proceeds of Mines to pay at the 2% level without a deduction, the same as Financial Institutions.

- SB103 removes Insurance Agents whose primary revenue is Insurance commissions from the Financial Institution category. They must certify that at least 50% of their revenue is from insurance commissions.
- AB389 makes the employee leasing company's clients the employers of the leased employees instead of the employee leasing company.

3. Live Entertainment Tax

- Effective October 1, 2015, a single 9% tax rate replaces the two previous rates. The tax must be charged on all admission fees to venues with live entertainment and occupancy over 200.
- Now includes escort services providing the person does not advertise, solicit or offers to provide acts of sexual conduct to the patron. The tax is computed on the amount charged for the service times the 9% rate.
- Food, beverages, and merchandise are no longer taxed.
- Many exemptions have been eliminated, including the exemption for Disc Jockeys. Go-Go dancers are exempt.
- Live entertainment for exempt 501(c) organization will become taxable if more than 7,500 tickets are sold. If the Live Entertainment provided is by patrons the event becomes taxable if over 15,000 tickets are made available for sale.
- NASCAR is only exempt if it has two races a year.
- Outdoor events are taxable.

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Modified Business Tax Veteran Deduction

Sections 2 and 3 of AB71 authorize financial institutions and other employers to deduct from the total amount of wages reported and upon which the payroll tax is imposed any wages paid to a newly hired full-time employee during the first 4 full calendar quarters next following the hiring of the employee, and 50 percent of all wages paid to the employee during the 5th through 12th full calendar quarters next following the hiring of the employee, if:

- (1) the employee is a veteran of certain specified military service;
- (2) at the time of hiring the employee has been unemployed for a continuous period of not less than 3 months and receiving unemployment compensation;
- (3) the employee is employed in a full time position for the entire quarter;
- (4) the employee provides to the employer documentation to verify the employee meets the qualifications;
- (5) The employer submits to the Department an affidavit signed under penalty of perjury that the employee meets all the qualifications and was not hired to replace another who did not leave voluntarily.

Five Major Changes for Taxpayers

(cont. from page 1)

4. Passenger Transportation Tax

- Affects taxicabs, common motor carriers, and transportation network companies such as Uber.
- 3% tax on all fares which includes any service charges, even credit card charges
- All 3 of these types of business are or will be licensed by either the Transportation Authority or the Taxicab Authority in Clark County.
- For taxicabs and common motor carriers of passengers the tax is effective August 28, 2015. For the Transportation Network Companies it is effective when they are licensed by the NTA and accept their first fare.



5. Click-Through-Nexus

- AB380 creates a presumption of nexus for an out of state retailer that is part of a controlled group of corporations that has a component member with physical presence in this State and that component member engages in certain activities that relate to the ability of the out of state retailer to make sales to residents in this State.
- It also creates a presumption of nexus if an out of state retailer enters into an agreement with an instate retailer in which the instate retailer gets consideration for referring customers to the out of state retailer thru a link on the instate retailer's Internet website. The cumulative gross receipts to the out of state retailer must be over \$10,000 during the preceding four quarters.
- It includes a method to rebut the presumption.
- It requires the Department to submit a report to LCB if there is ever a finding, ruling, or agreement that a retailer does not have nexus even though that retailer or an affiliate owns a warehouse, distribution center or fulfillment center in this State.



Alternative Nicotine Product and Vapor Product

SB 79 of the 2015 Legislative session is an act that defines alternative nicotine products and vapor products. The Bill does not tax the products.

Section 1.3 defines “Alternative nicotine product” as any noncombustible product containing nicotine that is not a vapor product, derived from nicotine, or classified as a drug.

Section 1.7 Defines “Vapor product” as any product containing nicotine that employs some mechanical means to produce a vapor from solution or a container of nicotine solution intended for such a product and is not classified as a drug.

Section 4.5 alters the definition of “Other tobacco product” to not include Alternative Nicotine Product” and “Vapor Product”.

EMERGENCY REGULATION
NEVADA TAX COMMISSION
 Provisions of

Senate Bill No. 376 of the 2015 Legislative Session



The 2015 Legislature enacted a 3% excise tax on passenger transportation applying the tax to transportation network companies, common motor carriers and taxicabs. The effective date for the tax is August 28, 2015 for common motor carriers and taxicabs and the effective date for transportation network companies was upon passage and approval. The final bill requiring the Department of Taxation to collect the tax was signed on June 9, 2015.

While providing for the tax and requiring the Department to collect the tax, the legislation did not contain provisions related to filing returns or the timing of collection. An emergency regulation was necessary to give taxpayers the information for the process of filing and paying the tax and to allow the Department to collect the tax.

Sec. 1. Definitions. As used in this regulation, unless the context otherwise requires, the words and terms defined herein have the meanings ascribed to them in those sections.

"**Excise tax on passenger transportation**" defined. "Excise tax on passenger transportation" means the tax imposed by Sections 28, 51 and 52 of Assembly Bill No. 175 of the 2015 Legislative session as amended in Sections 35, 36 and 37 of Senate Bill No. 376 of the 2015 Legislative session.

"**Taxpayer**" defined. "Taxpayer" means those entities designated in section 16 of Senate Bill No. 376 of the 2015 Legislative session.

"**Common motor carrier**" defined. "Common motor carrier" has the meaning ascribed in section 12 of Senate Bill No. 376 of the 2015 Legislative session.

"**Taxicab**" defined. "Taxicab" has the meaning ascribed to it in section 15 of Senate Bill No. 376 of the 2015 Legislative session.

"**Transportation Network Company**" defined. Transportation Network Company has the meaning ascribed to it in section 19 of Assembly Bill No. 176 of the 2015 Legislative session.

Sec 2. Registration of Taxpayer.

The Department shall use the best information available to identify the taxpayer and shall register and notify the taxpayer of its requirement to pay the excise tax. Failure to notify or register a taxpayer does not eliminate the requirement to pay the excise tax on passenger transportation.

Sec. 3 Date tax due. The excise tax on passenger transportation is due and payable to the Department monthly on or before the last day of the month next succeeding each month.

- a. For a transportation network company, the taxes are due and payable monthly beginning the month after the transportation network company receives the authority to operate in the State of Nevada from the Nevada Transportation Authority.
- b. For a common motor carrier and a taxicab the effective date is August 28, 2015 and the first return is due and payable by the end of October 2015 and monthly thereafter.

Sec. 4. Return: Filing requirements; signatures.

On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form and manner as the Department may prescribe. Returns must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 5. Contents of return.

For the purposes of the excise tax on passenger transportation the return must show the total fare charged for transportation as provided in Sections 28, 51, and 52 of Assembly Bill No. 175 of the 2015 Legislative session as amended in Sections 35, 36 and 37 of Senate Bill No. 376 of the 2015 Legislative session for the reporting period.

The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of the excise tax on passenger transportation.

Sec. 6. Computation of amount of taxes due.

In determining the amount of taxes due pursuant to Sections 28, 51 and 52 of Assembly Bill No. 175 of the 2015 Legislative session, the amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

Technical Bulletins

The Nevada Tax Commission has approved several new Technical Bulletins which can be found on the website under "Publications". As previously reported these bulletins are information or guidance concerning specific issues or updates on a specific type of business. They are written in simple nontechnical language and contain easy to understand examples. They are published and revised as needed and posted on the Department website but will also be made available upon request. The new Technical Bulletins are:

SUT 14-0001 Taxation of Leases and Subleases of Tangible Personal Property

SUT 14-0002 Construction Contracts

LGS 14-0003 Severe Financial Emergency

IPT 14-0004 Insurance Premium Tax

SUT 14-0006 Farmers and Agricultural Exemptions from Sales Tax

SUT 15-0001 Taxation of Interstate Retail Sales of Firearms

"Ask The Advisors" Training

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 12:00 p.m.:

Basic Tax Training:

August 18, 2015 October 20, 2015
September 15, 2015 November & December – No Class

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.

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 19, 2015 and October 21, 2015.

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."

How to Report Transfers of Firearms

As reported in our April 2014 edition, under existing law, if an agent of an owner or former owner of tangible personal property delivers property to a final consumer in this State pursuant to a retail sale made by an out-of-state retailer, the delivery is a retail sale in this State by the agent making the delivery. (NRS 372.050) Because, under these circumstances, the delivery of the property by the agent is considered a retail sale by the agent, the agent is required to impose, collect and remit the sales tax to the Department of Taxation. (NRS 372.110, 374.115). During the 78th Legislative session AB316 was introduced to eliminate this requirement but the bill failed and the statute was not changed. The requirement for the Nevada firearm dealer to collect and remit the tax is still law.

To report the transfer of the firearm the Nevada retailer must report the transaction in column A, under "Total Sales". It is understood that the proceeds of the sale were collected by the out of state retailer; however this is the only way to report the transaction on a sales and use tax return. As a reminder the purpose of the sales tax return is only to report sales tax owed and is neither an income return nor a way to prove income.

CIGARETTE ROLLING MACHINES

[Nevada Revised Statutes \(NRS\) 370.0315](#) Section 2 defines a "Cigarette Rolling Machine" as a machine that is loaded with loose tobacco and produces cigarettes for commercial use, is not handheld, employs a power source other than human power, and is operated on premise.

Section 3. Exempts manufacturers from the bill who maintain a registered agent in the state solely due to NRS 370.680 but do not actually perform business within the state.

Section 5. Adds the owner/operator of a cigarette rolling machine to the definition of Manufacturer.

Section 7. Prohibits anyone from operating or permitting any person to operate a cigarette rolling machine without a manufacturer's license.

Section 8 Includes cigarette rolling machine manufacturers in the Department's authority to suspend or revoke licenses.

Section 9. Adds cigarette rolling machines to the list of counterfeit items that may be seized.

Businesses must obtain a TTB license BEFORE they can apply for a manufacturers license with the State.