



# Nevada Tax Notes

The Official Newsletter of the Department of Taxation

Issue No. 188 January 2016

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Visit the Department Website at <http://tax.nv.gov>

## Office Closures

### New Year's Day

Friday – January 1, 2016

### Martin Luther King Day

Monday – January 18, 2016

### President's Day

Monday – February 15, 2016

### Memorial Day

Monday – May 30, 2016

### Fourth of July

Monday – July 4, 2016

## Call Center

**(866) 962-3707**

Monday through Friday

8:00 am to 5:00 pm

## 2016 Important Updates



### Nevada Tax Filers

The Department of Taxation has recently changed payment processors for online payments through Nevada Tax. **Check with your bank** before setting up or making a debit payment. If you have an ACH Fraud Filter or any other type of debit block on your account, you will need to work with your bank to pre-authorize debits from Nevada Tax. In order to pre-authorize your tax payment, please provide the below information to your bank.

**Company Identification Number: 8860000130.**

If you do not provide this information, your bank could return the payment as an unauthorized debit and reject the payment.

## Clark County Tax Increase

# 0.05%

Effective Jan 1, 2016

New Rate 8.15%

Effective January 1, 2016 the Sales and Use tax rate for Clark County will increase from 8.1% to 8.15%.

Those who collect and remit sales and use tax will need to make changes to business processes as necessary in order to collect tax at the new rate. Businesses should be sure to file the most recently updated tax return forms. Filing online is the best option to take advantage of the most up to date tax rates. Tax Returns are can be located on our website at <http://www.tax.nv.gov>. If you have questions or require further information, please contact our Call Center.

### MAIN OFFICE

Carson City  
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

## 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 non-technical 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 Bulletin is:

SUT 15-0002 Shipping Delivery and Handling.

## IRS Releases

### Tax Security Tips

The Internal Revenue Service (IRS) has released the first in a series of tips intended to increase public awareness of how to protect personal and financial data online and at home. A new tip will be available each Monday through the start of the tax season January, and will continue through the April tax deadline.

The first tip focuses on seven simple steps to secure your computer when conducting business online. US\_CERT encourages users and administrators to review IRS Security Awareness [Tax Tip Number 1](#) for additional information.

## Prosthetic Devices, Medicine, Durable Medical Equipment and Mobility Enhancing Equipment



**Prosthetic Devices** are exempt from tax if prescribed by a healthcare provider for human use. Prosthetic devices are defined as a replacement, corrective or supportive device, including any repair or replacement parts, worn on or in the body. Prosthetic Devices are attached to or implanted in the body and do not interfere with mobility.

Some examples include breast implants, feeding catheters, medicine delivery catheters, insulin pumps, cochlear implants, orthodontic devices, and amalgams, ceramics, porcelain and gold, silver and other metal alloys to fill teeth. They do not include corrective eyeglasses, contact lenses or hearing aids. (NRS 360B.475, NAC 372.027, NRS 372.283)

The exemption is also applied to appliances and supplies relating to an ostomy and products for hemodialysis.

**Medicine** is exempt from tax if prescribed for the treatment of a human being by a person authorized to prescribe medicines, such as a physician, dentist or hospital, and dispensed on a prescription and filled by a registered pharmacist.

For purposes of NRS 372.283 and 374.287 the definition of medicine is a substance or preparation commonly recognized as having a use in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body. In other words, the term "medicine" must fit within our common understanding of what constitutes medicine. Medicine is limited to a "substance" that is ingested or absorbed through the skin or other bodily tissues. Bandages, pads, compresses and dressings are considered a "preparation" and therefore included in the exemption statute. The term "dressings" presumably encompasses gauze, sutures and staples, lubricants, skin cleansers and other things that are not necessarily absorbed by the body.

The term medicine does not include objects or instruments such as wound closure devices, drains or suction devices, trach tubes, urine bags, restraints, skin markers, oxygen supplies, syringes or other delivery devices. These items do not fall within our common understanding of the term medicine. A pre-filled syringe, however, qualifies for the exemption because it is first and foremost a "container" for medicine and meets the exemption requirements found in NRS 372.290(1)(b).

**Durable Medical Equipment** and **Mobility Enhancing Equipment** While prosthetic devices, medicine and bandages, pads and compresses are exempt from tax, instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment are specifically excluded from the exemption in NRS 372.283 and therefore taxable. Some items included in this definition are orthotic pillows, anesthesia ventilators, eternal bone growth stimulators and kidney dialysis machines. Additional examples of durable medical equipment include, but are not limited to, oxygen concentrators, continuous positive airway pressure devices (CPAP); nebulizer machines and enteral feeding pumps. (NRS 372.283, NAC 372.020). Mobility enhancing equipment is primarily used to provide or increase the ability to move from one place to another. The equipment is generally not used by people with normal mobility and does not include any motor vehicle normally provided by a manufacturer of motor vehicles. (NAC 372.024, NRS 372.283) Mobility enhancing equipment is also taxable.

**Medicare and Medicaid Exemption**, in 2001 a statute was codified that instructed the Department to apply a tax exemption to the sale of medical devices to a governmental entity. In order for the sale to satisfy the requirements of the exemption statute; the medical device must be ordered or prescribed by a healthcare provider within their scope of practice; must be paid by Medicaid or Medicare; and the purchase must be made in accordance with a contract between the governmental entity and the person who sells the medical device.

## ADOPTED REGULATION OF NEVADA TAX COMMISSION

LCB File No. R089-14  
Effective June 26, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets **[omitted material]** is material to be omitted.  
AUTHORITY: §§1-7, NRS 360.090 and 360.2915.



**Section 1.** NAC 360.450 is hereby amended to read as follows:

360.450 1. Except as otherwise provided in **subsection 2 and** NAC **[360.456 and]** 360.460 and subject to the approval of the Director or the Director's designee, the Department may enter into an agreement with a taxpayer,

**Sec. 4.** NAC 360.458 is hereby amended to read as follows:

upon the request of the taxpayer, that allows the taxpayer to pay taxes, interest and penalties in installments over a period of 12 months or less if:

- The taxpayer submits accurate and complete information that the Department requires to determine whether to enter into the agreement;
- The taxpayer agrees in writing **[that he or she will]** to comply with all applicable laws and regulations of the Commission during the period in which the agreement is in effect, including, without limitation, reporting and payment requirements;
- The taxpayer agrees in writing that the agreement may be terminated immediately if the taxpayer fails timely to make any payment required by the agreement or defaults in any other reporting or payment requirement;
- The Department determines that as of the date on which the taxpayer requested to enter into the agreement, the taxpayer is unable to pay the entire amount of taxes, interest and penalties due for financial reasons; and
- The amount owed by the taxpayer on the date on which **[he or she]** **the taxpayer** requested to enter into the agreement does not exceed the amount set by the Commission pursuant to NAC 360.454.

**2. Except as otherwise provided in NAC 360.460, the Director may, for good cause shown, upon the request of a taxpayer who satisfies the requirements set forth in subsection 1, authorize the Department to enter into an agreement with a taxpayer that allows the taxpayer to pay taxes, interest and penalties in installments over a period of more than 12 months.**

**3.** The Department **or the Director, as applicable,** may deny a request to enter into an agreement pursuant to subsection 1 **or 2** if the taxpayer has not complied with a previous agreement with the Department to pay taxes, interest and penalties in installments.

**4. As used in this section, "good cause" includes, without limitation, circumstances that would prevent a taxpayer from paying the taxes, interest and penalties in a period of 12 months or less.**

**Sec. 2.** NAC 360.452 is hereby amended to read as follows:

360.452 1. An agreement to pay taxes, interest and penalties in installments pursuant to NAC 360.450 **[or 360.456]** must:

- Be in writing.
- Except as otherwise provided in this paragraph, contain a personal guaranty by two responsible persons in their individual capacities. If there is only one responsible person, the agreement must contain the personal guaranty of that person in his or her individual capacity. In lieu of or in addition to any personal guaranty required by this paragraph, the Department may require a personal guaranty of any other person agreed upon by the taxpayer and the Department.
- Be accompanied by the initial payment required by the terms of the agreement.

**2.** As used in this section, "responsible person" has the meaning ascribed to it in subsection 2 of NRS 360.297.

**Sec. 3.** NAC 360.454 is hereby amended to read as follows:

360.454 **[The]**

**1. On or before June 30 of each even-numbered year, the** Commission will determine the maximum amount of tax liability that **[a taxpayer may have to enter into]**, **except as otherwise provided in NAC 360.460, may be the subject of** an agreement with the Department to pay taxes, interest and penalties in installments pursuant to NAC 360.450 **.[or 360.456.]**

**2. The Department shall post the amount determined by the Commission pursuant to subsection 1 on the Internet website maintained by the Department within 30 days after the Commission makes its determination.**

360.458 The Commission may review and deny or approve any agreement entered into by the Department pursuant to NAC 360.450 **.[or 360.456.]**

**Sec. 5.** NAC 360.460 is hereby amended to read as follows:

360.460 If the Department receives a request for an agreement pursuant to NAC 360.450 **[or 360.456]** from a taxpayer whose tax liability exceeds the amount set by the Commission pursuant to NAC 360.454 or whose proposed period of installment payments exceeds **[24] 36** months, the Department shall review the request and transmit the request and the recommendation of the Department regarding the request to the Commission. The Commission may authorize the Department to enter into an agreement with such a taxpayer pursuant to NAC 360.450 **.[or 360.456.]**

**Sec. 6.** NAC 360.462 is hereby amended to read as follows:

360.462 1. The Department may terminate an agreement entered into pursuant to NAC

360.450 **[or 360.456]** if the Department determines **[:] that:**

- The taxpayer has not complied with the terms of the agreement;
  - The taxpayer provided to the Department incomplete or inaccurate information on which the Department based its determination to enter the agreement; or
  - The financial conditions of the taxpayer have changed such that the taxpayer has the ability to pay the full amount of taxes, interest and penalties owed.
- 2.** If the Department determines to terminate an agreement pursuant to paragraph (b) or (c) of subsection 1, the Department shall provide the taxpayer with written notice of its intention to terminate the agreement at least 10 days before the date on which the Department intends to terminate the agreement. The notice must contain an explanation of the decision of the Department to terminate the agreement.
- 3.** The Department may terminate **[, alter]** or modify an agreement entered into pursuant to NAC 360.450 if mutual consent to terminate **[, alter]** or modify the agreement exists between the Department and the taxpayer.
- 4.** If an agreement is terminated pursuant to this section, the total amount covered by the agreement, including, without limitation, taxes, interest and penalties, is due on the date on which the agreement terminates.

**Sec. 7.** NAC 360.456 is hereby repealed

## Commerce Tax

The Department has been busy working on the implementation of the new Commerce Tax enacted by the 2015 Legislative Session through SB 483. The commerce tax is a tax on Nevada gross receipts and affects all business entities doing business in Nevada. The tax is imposed on the business entities with the gross receipts of over \$4,000,000. The tax rate is based on the type of business the entity is engaged in and uses the businesses' North American Industry Classification System (NAICS) code. It requires a yearly tax return for the period July 1 through June 30 and is first due August 15, 2016.

An information notice has already been sent out to all businesses registered with the Department of Taxation, announcing the tax, and asking all businesses to record on our on-line tax database their Nevada Business ID which they obtained through the Secretary of State Nevada Business License. This is to avoid duplicate registrations. In January another letter will be sent out to all businesses registered with the State to gather more information to finish the Commerce tax registration process.

There have been four regulatory public workshops held by the Department to draft regulations that further explain and augment the bill itself. These regulations encompass:

1. Definitions of terms used in the Bill and the regulations.
2. Who must file a return
3. What is meant by "doing business in Nevada"
4. How to situs (allocate) revenue to Nevada.
5. How to take a credit on the Modified Business Tax return for 50% of the Commerce Tax paid.

The current Draft regulations, R123-15, are posted on the Department website in the Hot Topics area under the Commerce Tax (SB 483) tab.

Under this same tab you will find a copy of SB 483 itself, information and videos of the regulatory workshops, a question and answer section, a Governor's Convention Power point presentation that highlights the significant aspects of the tax, and public comments from industry representatives.

Most importantly, the Department has provided a way for you to ask your own questions. You can access this through the tab "Ask Here" or directly by e-mailing to [COMTAX@tax.state.nv.us](mailto:COMTAX@tax.state.nv.us). The Department has a small group of experts that can help you find your answers. Up to this date we have answered over a hundred questions about the Commerce Tax.

The Department has developed the Commerce Tax return and instructions. The goal of the Department is to make the tax return a one page document, as easy to fill out as possible, especially for the companies with the gross receipts under \$4,000,000. The instructions contain detailed information and examples of what must be reported and what not to report. The proposed drafts of the return and instructions can be found on the Department's website. The Department also intends to implement a pilot project with tax professionals to get feedback on the form and on the process of actually filling out the tax return.

Finally, the Department has been training all Compliance staff on the general aspects of the tax to better provide customer service. We will be offering training workshops to industry groups that are interested in learning more about the tax overall, such as tax professionals. These workshops can be requested through the e-mail address shown above.

## "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:** January 19, 2016, February 16, 2016, March 15, 2016, April 19, 2016, May 17, 2016, June 21, 2016., July 19, 2016; September 2016, and October 18, 2016. 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:** February 17, 2016, May 18, 2016, August 17, 2016. and October 19, 2016.

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."](#)