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**NOTICE OF TAXABILITY FOR VAPOR PRODUCTS
(CBD AND HEMP INCLUDED)**

You are receiving this email to help clarify the definition of a “vapor product” and to provide information regarding what is included in that definition.

Pursuant to NRS 370.054, a vapor product:

1. Means any noncombustible product containing nicotine or any other substance that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine or any other substance in a solution or other form, the use or inhalation of which simulates smoking.

2. Includes, without limitation:

(a) An electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device; and
(b) The components of such a product or device, whether or not sold separately, including, without limitation, vapor cartridges or other container of nicotine or any other substance in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device, atomizers, cartomizers, digital displays, clearomizers, tank systems, flavors, programmable software or other similar products or devices. As used in this paragraph, “component” means a product intended primarily or exclusively to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device.

3. Does not include any product:

(a) Regulated by the United States Food and Drug Administration pursuant to subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

(b) Subject to the excise tax on cannabis or cannabis products pursuant to [NRS 372A.200](#) to [372A.380](#), inclusive.

(c) Purchased by a person who holds a current, valid medical cannabis establishment license pursuant to [chapter 678B](#) of NRS.

Any electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device, is a vapor product and is taxable as other tobacco products (“OTP”), whether sold with any substance inside or not.

Additionally, a vapor product includes a product containing “nicotine or any other substance” which will be heated using a noncombustible power source and vaporized. Therefore, vapor products may include **CBD containing less than .3% THC, hemp, essential oils, vitamins, or e-juice with or without nicotine, and the devices intended to be used with these substances**. The only exceptions are set forth in NRS 370.054(3).

Because these products meet the definition of OTP, if these products are found at a location without proper licensing with the Department, the products will be seized as contraband pursuant to NRS 370.025 and will be



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confiscated pursuant to NRS 370.415. Also, the Department may take further action including issuance of civil penalties and possible denial of tobacco licensing in the future.

Retailers **must** purchase these products from a licensed Nevada wholesale dealer. Wholesale dealers are responsible for remitting the OTP tax on these products to the Department. An in-state licensed wholesale dealer owes the tax at the time OTP is received for sale in this State, and an out-of-state wholesale dealer owes the tax at the time it sells these products to retailers and/or consumers in Nevada. If OTP taxes are not paid on these products and are found in a retail location it will be considered contraband and will be confiscated.

If you have any more questions or concerns regarding vapor products and their taxability, please contact the OTP Tax Examiner Kandace Dutton at 775-684-2101 or kdutton@tax.state.nv.us or you can submit an email to taxation-adminMSA@tax.state.nv.us and someone from the Tobacco Enforcement Unit will respond.

Thank you,

The Nevada Department of Taxation