

September 11, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Hello Commissioners,

Enclosed, you will find the following:

1. Public comments on explaining why the admission fee charged by Blackout Inc is not subject to Nevada sales tax.
2. An excellent excerpt from a writing done by the "The Business Advisory Council" that was directed toward the Governing Board of the Streamlined Sales Tax Agreement. Very informative.
3. Public comments on the New Nevada Business Registration (NBR) form.
4. Public comments about completing the Nevada Sales and Use Tax Return. What is a Sales Tax Audit?
5. Public comments on Technical Bulletins
6. Public comments on the August 2023 Nevada Tax Notes.

Thank You and Be Safe!

Ron Voigt
702-321-9245

AAA Team Sales Tax, LLC

September 11, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Subject: Why the admission fee charged by Blackout Inc is not subject to Nevada sales tax?

Hello Commissioners,

NRS 372.105-Imposition and Rate (see enclosure) specifically states sales tax is imposed on gross receipts/total retail sales price. Also refer to **NRS 372.025** (see enclosure), **NRS 372.050** (see enclosure) and **NRS 372.085** (see enclosure). The Nevada Supreme Court was very clear in the Sparks Nugget vs the Nevada Department of Taxation and the Western Nevada Supply vs Nevada Department of Taxation that sales tax is imposed on gross receipts/total retail sales price.

Nevada sales tax is assessed only on the sales of tangible personal property; sales of services are excluded from sales tax. However, when services are associated with the sale of tangible personal property, "The total amount of the taxable sales or lease or rental price includes any services that are part of the sales (**NRS 372.025**) or any charges by the seller for any services necessary to complete the sale (**NRS 360B.480(1)(c)**)- (see enclosure). Please focus on the word **or** for the Blackout Inc case.

For the members of the Commission who voted yes, it sounded like you used **NRS 360B.480(1)(c)** as support for your conclusion. The Department and Hearing Officer **did not use** **NRS 360B.480(1)(c)** as support for their conclusion. The Department considers **NRS 360B** the equivalent of **NAC 372**. It has been a long standard audit procedure of the Department to ask the retailer if the service was mandatory or optional in relation to the separately taxable retail sale of the tangible personal property. Instead of the word "mandatory", the Nevada Legislature used the word "necessary". It is interesting that when the Streamlined Sales Agreement **does not** fit their script, the Department does not mention it. Often the Department complains when Commission considers information not considered by the Hearing Officer. Were they purposely being deceitful to the Taxpayer and the Commission? This question needs to be asked! If so, something needs to be done!

This question is directed at the Certified Public Accountant (CPA) and the UNLV accounting professor on the Commission who voted yes. How do you think the Financial Accounting Standard Board (FASB) would vote? Remember, you allowed two separately stated sales transactions to be considered as one transaction. Do you record it like that in the general ledger? In your defense, again, I do think you were using **NRS 360B.480(1)(c)** in making your decision. Again, the question needs to be asked "Why od the Department not use it as support? I think they knew it weaken their conclusion. I think they hoped you would notice the omission of it.

NRS 372.065 defines "wholesale sales price" while **372.060** defines "manufacturing sale price". Since there are very few small dairy farmers around anymore, I would discuss the large dairies who are considered the "producer/processor". In reference to **NRS 372.060**, I think the intent of the Nevada Legislature was the dairy farmer is considered the first consumer of the milk and then the dairy farmer produces and processes the milk into finished products such as pasteurized milk, butter, cheese, and ice cream. Similar to a construction contractor. This intent could also be applied to car manufacturers, furniture manufacturers and etc. The dairy farmer sells the finished products to a wholesale supplier. The sale is considered the "manufacturer's sales price". The wholesale supplier then sells to the retailer (example convenience store). This sale is considered the "wholesale sales price". The retailer sells to the customer (end-user). That price is called the "retail sales price".

NRS 372.025 defines "gross receipts/total retail sales price while **NRS 372.050** defines "retail sale". I am getting a retailer to put new grab handles on my new 2023 Shelby Mustang. For safety reasons, I am also requiring the retailer to tightly secure the grab hands on the vehicle. On the retailer's sales invoice, there is a total retail sale price for the grab handles and a total retail price for a "service fee". The service fee is for "fabrication labor services".

Do I think this service fee (fabrication labor) is subject to sales tax? Absolutely! Although it is not part of the total retail sales price for the grab handles, the fabrication labor is a service necessary for the seller to complete the sale of the grab handle (NRS 360B.480(1)(c)). Before anyone in the Department wants to bring up installation labor, there is a clear exemption in NRS 372.025 for installation labor charges. What makes the fabrication labor different than installation labor? It is the effort required to separate the two tangible personal property items. With installation labor, it is very easy to separate the two tangible personal property items without any major damage to either item. With fabrication labor, it is nearly impossible to separate the two tangible personal property items. If you do separate the two items that have been fabrication, there is so much damage done to where the item cannot be sold for what it is intended to be sold for. Selling it as scrap does not count.

Is comparing sales receipts that contained an admission charge and a meal charge vs the sales receipts that only contained an admission charge a good audit procedure? On the surface, it looks like a good audit procedure. To a person who has over thirty (30) year of audit experience, this procedure is not a good audit measure. Why you ask? Ordering online is a convenience. In fact, it is just like you walking up to the business, purchasing the admission ticket, and then deciding to buy the meal. You may not know it but that is the buyer's thought process. In the Wayfair vs South Dakota opinion by the United States Supreme Court, an important quote in that opinion was by Justice Clarence Thomas who made the deciding vote and that quote is "In today's world, shopping online is just like actually begin in the storefront and shopping". With that thinking, he changed his vote from an early vote that he made in the Quill vs North Dakota case where he also was the deciding vote that made it the rule of the land that a business had to have a storefront in the State for the sales made in that State to be subject to that State's sales tax.

There was comment made by one Commissioner that he thought the Taxpayer should had requested written advice from the Department. I would ask that Commissioner when was the last time he knew of a Taxpayer receiving written advice from the Department. Since leaving the Department in January 2021, I do know of one that has received written advice from Department. There are Taxpayers that I know that have been waiting since 2021 for a written advice. Even if Blackout Inc had received a written advice from the Department, I believe it would be wrong advice. Looking at their conclusion in the Blackout Inc audit, they probably would not mention NRS 372.105, NRS 372.025, NRS 372.050, NRS 372.085, or NRS 360B.480(1)(c) which I think would be an injustice.

Although I don't think it was your intention, but with your decision, you have pretty set up a gross receipts tax. I don't think that is the intention of the Nevada Legislature or the Nevada Supreme court. If there is any bright side, Gross Receipts defined by NRS 372.025 does not include such as but not limited to wholesale sales, construction contractor sales (progress payments), personal chef services, eyeglasses furnished by an optometrist (NRS 372.055), dry cleaning services, and knitting and sewing services. The sad thing is that that not every small business will have the time or can afford the cost to take the Department through the appeal process. I do think this will eventually be cleared up, just like the food comps issue was very settled, but think about the all cost and time that will be wasted not only by the Department but more importantly the Taxpayers who actually create the revenue for the State. It will be interesting it see if the Department goes after the movie theatres and sports stadiums in the near future. If that happens, Raiders, A's, Golden Knights, and Aces give me a call.

The Nevada Taxpayers' Bill of Rights allows you to decide in favor of the Taxpayer if you are not sure of your decision. I do think one or two of the Commissioners used this material in arriving at what I consider is the correct vote which is that the separately admission fee is not subject to sales tax. You sense that something did not smell or feel right. As a Taxpayer, I appreciate your effort in using that material.

Thank You and Be Safe!

Ron Voigt
702-321-9245

NRS 372.105

NRS 372.105 Imposition and rate. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 2 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on or after July 1, 1955.

[19:397:1955]

NRS 372.025

NRS 372.025 "Gross receipts" defined.

1. "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Tax Commission may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property before making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property before its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Tax Commission that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

[12:397:1955]—(Amended in 2006. Proposed by the 2005 Legislature; adopted by the people at the 2006 General Election, effective January 1, 2007. See Statutes of Nevada 2005, p. 2494.)

NRS 372.085

NRS 372.085 “Tangible personal property” defined. “Tangible personal property” means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

NRS 360B.480

NRS 360B.480 "Sales price" construed.

1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

- (a) The seller's cost of the property sold;
- (b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges which are not stated separately pursuant to subsection 1 of NRS 360B.290 and excluding any installation charges which are stated separately pursuant to subsection 2 of NRS 360B.290; and
- (d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

- (a) Any delivery charges which are stated separately pursuant to subsection 1 of NRS 360B.290;
- (b) Any installation charges which are stated separately pursuant to subsection 2 of NRS 360B.290;
- (c) Any credit for any trade-in which is:
 - (1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and
 - (2) Stated separately pursuant to subsection 2 of NRS 360B.290;
- (d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;
- (e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to subsection 2 of NRS 360B.290;
- (f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to subsection 2 of NRS 360B.290; and
- (g) The complimentary portion of any food, meals or nonalcoholic drinks provided on a complimentary basis, in whole or in part, to the employees, patrons or guests of a retailer.

3. The term includes consideration received by a seller from a third party if:

- (a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
- (b) The seller has an obligation to pass the price reduction or discount through to the purchaser;
- (c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
- (d) Any of the following criteria is satisfied:
 - (1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.
 - (2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.
 - (3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

(Added to NRS by 2005, 1771; A 2007, 2308; 2009, 586; 2011, 2754; 2013, 3734)

AAA Team Sales Tax, LLC

September 11, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Subject: An excellent excerpt from a writing done by the "The Business Advisory Council" that was directed toward the Governing Board of the Streamlined Sales Agreement. (see enclosure)

Hello Commissioners,

The enclosed article is an excellent article that make clear the following facts:

1. The heart of Nevada's state sales tax is Nevada Revised Statute (NRS) 372. Because of the workings of the Nevada's Constitution and its sales tax law being enacted via a voter referendum, changes to NRS 372 are all subject to voter approval.
2. NRS 360B is nothing more than a Nevada Administrative Code (NAC) to NRS 372. It was not passed by the great folks of Nevada so is it is not sales tax law.
3. The "Business Advisory Council" of the SSUTA ready did not like that Nevada had passed NAC 372.038 that stated NRS 372 prevails in a conflict with NRS 360B. Now, that is crazy, NRS 372 will prevail over NRS 360B every time because it was passed by the people. NRS 372 will always prevail even if it is not stated in the NAC. I do not think that the Nevada Legislature intent was for the NRS 360B to be used in a way to do away with an NAC.
4. Also, the "Business Advisory Council" of the SSUTA did not like that NAC 372 that allowed the Taxpayer to always have the option to pay sales tax or report use tax on the purchase price of renal equipment instead on the rental stream.
5. The Nevada Tax Commission needs to decide does if Nevada Administrative Code (NAC) 372 over-rides NRS 360B. My answer is yes because it is the codified, administrative regulations of the Executive Branch. It is based on NRS 372 while NRS 360B is not. In the April 2023 meeting, the Tax Audit Manager stated Nevada is not in compliance with SSUTA. Ok, have we seen any monetary lost to the State? No, I don't think so. I think that Wayfair vs South Dakota opinion by the United States Supreme Court has resolved any issues that SSUA was attempting to resolved. It is not needed.
6. Section 5 on page 3 of writing states the following: This lack of uniformity creates serious doubts on how Nevada will administer is sales and use tax. More importantly, there is serious doubt as to how the tax will be interpreted in tax disputes before the Nevada Tax Commission and other tribunals. They are saying in a nice way that NTC decisions vary depending on the makeup of the members.
7. Note 4 on page 3 of the writing needs to be very concerning to each Nevada Resident. When does the Executive Director of the Nevada Department of Taxation set tax policy?

Thank You and Be Safe!

Ron Voigt, 702-321-9245

**Business Advisory Council
Petition For Resolution and Reconsideration**

**Nevada Is Not In Substantial Compliance
With The Streamlined Sales And Use Tax Agreement**

Hearing Requested

Petition For Resolution

Pursuant to Rule 905 of the Streamlined Sales and Use tax Agreement (“SSUTA”) and Subsections (B), (C) and (F) of Section 1002 of the SSUTA, petitioner, the Business Advisory Council (“BAC”), formally petitions the Governing Board to invoke the issue resolution process from the Governing Board’s action of not finding Nevada out of compliance with the SSUTA and not initiating the sanctions process under Section 809 by proposing a resolution to sanction Nevada. As required by Rule 1001.A.2, the BAC hereby states it is not aware that this matter is pending in any state or local administrative or judicial process and the BAC requests a hearing with regard to this petition.

Issues for Resolution and Reconsideration

Section 805 states: “[a] member state is in compliance with the Agreement if the effect of the state’s laws, rules, regulations, and policies is substantially compliant with each of the requirements set forth in the Agreement.” Nevada is not in substantial compliance with each provision of the SSUTA and it should have issued a statement of non-compliance when conducting its annual recertification pursuant to section 803.¹ A brief summary of the compliance issues are as follows:

¹ Nevada’s recertification statement dated July 31, 2008 is posted on the website of the Streamlined Sales Tax Governing Board.

- Nevada recently promulgated an administrative regulation, Nevada Administrative Code (“NAC”) 372.038 (effective 4/17/2008), which directly conflicts with the Nevada Revised Statute (“NRS”) 372.723 (last amended in 2005). The regulation states Nevada’s sales tax law in NRS Chapter 372 (some provisions not compliant with the SSUTA) takes precedent over the SSUTA provisions in NRS Chapter 360B. This violates multiple sections of the SSUTA, including Section 102, the fundamental purposes section of the SSUTA.
- Nevada has several regulations related to leases that directly conflict with SSUTA provisions. This nonconformity violates Sections 310 and 327 of the SSUTA.²
- Nevada’s regulations do not comply with the exemption certificate requirements in Section 317 of the SSUTA.
- It cannot be confirmed that Nevada allows sellers to remit payments using ACH credit as required by Section 319 of the SSUTA.

Pertinent Facts

The pertinent facts are broken down into two areas. First, an overview of the complexity of Nevada’s law is provided. Next, a summary of the annual recertification process used in 2008, focusing on Nevada, is provided.

Complexity of Understanding Nevada’s Law

1. Questions over Nevada’s substantial compliance with all provisions of the SSUTA have been a BAC concern from the date Nevada petitioned for membership to the SSUTA. (See Exhibit A.)
2. Nevada’s sales and use tax is more difficult to comprehend than most other states because it has four taxing chapters.
 - a. The heart of Nevada’s state sales tax is NRS Chapter 372. Because of the workings of Nevada’s constitution and its sales tax law being enacted via a voter

² Other provisions of the SSUTA may also be violated.

referendum, BAC understands that changes to NRS Chapter 372 are all subject to voter approval.

- b. Nevada's local sales tax is contained in NRS Chapter 374 and a city-county relief tax is imposed in NRS Chapter 377.
 - c. First enacted into law in 2001, NRS Chapter 360B contains most of the Nevada's provisions to comply with the SSUTA (which, in contrast to NRS Chapter 372, it does not need voter approval from its residents).
 - d. Adding to the complexity, excluding NRS Chapter 360B, the NRS chapters have counterpart regulations, NAC Chapter 372, NAC Chapter 374 and NAC Chapter 377.
3. While NRS Chapter 360B appears to comply with the SSUTA, many of Nevada's regulations in NAC Chapter 372 have not been amended, or harmonized, to comply with NRS Chapter 360B.³
 4. Making matters worse and giving greater credence those regulations that conflict with the SSUTA trump the provisions in NRS Chapter 360B, NAC 372.038 was recently promulgated in April, 2008 to state NRS Chapter 372 prevails in a conflict over NRS Chapter 360B.
 5. This lack of uniformity creates serious doubt on how Nevada will administer its sales and use tax law.⁴ More importantly, there is serious doubt as to how the tax will be interpreted in tax disputes before the Nevada Tax Commission and other tribunals.

³ BAC received notice on June 23, 2009 that the Nevada Department of Taxation has proposed changes to some regulations that conflict with the SSUTA. (See Exhibit B.)

⁴ While the BAC is pleased to hear that the current Executive Director has indicated he is going to comply with the SSUTA provisions, tax administrators can change their position and policy provisions can change with personnel turnover.

6. Sellers could potentially be subject to taxpayer and/or class action suits as a result of this lack of substantial compliance with the SSUTA.

Nevada's Recertification Process

7. Section 803 requires the member states to recertify that they are compliance with the SSUTA or submit a statement of non-compliance by August 1 each year.
8. Subsequent to August 1, staff members from the Streamlined Sales Tax Governing Board conducted a review of the member states compliance with the SSUTA.
9. In a memo to CRIC from Scott Peterson and Pam Cook dated September 24, 2008 (See Exhibit C) , Nevada was noted to have potential issues with allowing payment by ACH debit and credit and they referenced a compliance letter from the Equipment Leasing and Financing Association (ELFA) dated August 10, 2009. (See Exhibit D with Nevada's response.)
10. Additionally, the BAC conducted a review of the states' compliance with the SSUTA and submitted a letter to CRIC on November 1, 2008. In that letter, the BAC raised issues with Nevada's ability to accept payments by ACH credit and raised an issue with Nevada having conflicting provisions with its retail sale and lease transactions. (See Exhibit E.)
11. In late October and through November, 2008, CRIC held several meetings by telephone to determine if the member states were indeed in substantial compliance with the SSUTA. Several CRIC members stated they were confused on the standards they should use in the review and questioned whether the scope of the review was a state's compliance with the entire SSUTA, or just compliance issues as a result of a new requirement in the SSUTA from the date the state became a member and/or its last recertification.

AAA Team Sales Tax, LLC

September 11, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Subject: Comments on new Nevada Business Registration (NBR) form (see enclosure)

Hello Commissioners,

The current format for the Nevada Business Registration (NBR) form also is wrong. Just because the Department decides to change the definition of gross receipts on the NBR does not change the true definition of gross receipts as defined in NRS 372.025. Trying to combined Gross Receipts as defined by NRS 372.025 and Gross Revenue as defined by NRS 363C for a useful purpose is impossible. The Commerce Tax has been around since 2015 and all of sudden comes up with this great idea. First, it is not a great idea and secondly, makes that amount useless to the sales and use tax audit section and revenue section. It looks like the changes were made to accommodate the Commerce Tax staff and services no purpose for the Sales Tax audit section or revenue section. The commerce tax staff makes up a very small percentage of the workers in the Department.

If you were to use the current instructions to complete line 21 for the total sales amount on the Nevada Sales and Use Tax Return and follow NRS 372 to complete the exempted sales section, you would end up having personal service and wholesale sales subject to sales tax. Which we all know is wrong.

I do find it very interesting that they use the phrase "services to complete the sale" instead of the phrase "any services that are part of the sale" in the instructions page that explains what to put in line 21. Jason, this is why I do not agree with what was presented at the "Ask The Advisors" class in August. The person on who advise you is trying to be tricky.

In closing make it easy, make separate boxes for sales tax purposes and separate boxes for the Commerce Tax.

Thank You and Be Safe!

Ron Voigt
702-321-9245

Nevada Business Registration Form Instructions

Important details are requested on the Nevada Business Registration to aid in the registration process. It is important to respond to all items. Any omission could result in a delay in processing your application.

LINE BY LINE INSTRUCTIONS FOR COMPLETING THE NEVADA BUSINESS REGISTRATION.

1. **Check New Business** if the application is being used to start a new business or if you are making changes to an existing entity (adding a location, changing name or address, etc.) please **Check Update Business**.
2. **Check** whether you are applying for a Sales/Use Tax Permit, Consumer Use Tax Permit or a Certificate of Authority.
3. **Check All Boxes that Apply.**
4. **Business Entity Type:** Indicate entity type.
5. **Nevada Business ID Number:** Enter the number shown on your State Business License or exemption issued by the Secretary of State.
6. **Federal Tax Identification Number:** Enter your Federal Tax Identification Number (FEIN). For information regarding an FEIN, contact the Internal Revenue Service (IRS) at 1-800-829-4933 or go to <http://IRS.gov/businesses>. If you have applied for your number and have not received it, write "PENDING". If your FEIN changes, you must complete a new Nevada Business Registration.
7. **State & Date of Incorporation:** Enter the date and state in which you incorporated.
8. **Corporate/Entity Name and Nevada Name (DBA):** Enter your corporate/entity name and fictitious firm name that you are doing business as in Nevada.
9. **Corporate/Entity Address, Corporate/Entity Telephone, Email address:** Enter the complete address of the corporation/entity:
Corporate/Entity telephone number: Email address.
10. **Location of Nevada Business Operations, Location Telephone Number, and Business Fax Number:** Enter the location of your business, Telephone Number associated with this location and Business Fax number.
11. **Location Mailing Address, Modified Business Tax Mailing Address:** Enter the address that will be used to mail any licenses, reports, and correspondence relating to your individual location and/or Modified Business Tax.
12. **Commerce Tax Mailing Address:** Enter the address that will be used to mail any licenses, reports, and correspondence relating to Commerce Tax.
13. **Location of Business Records:** Enter the address that your business records will be kept for the location you are referring to on this application.
14. **List All Owners, Partners, Corporate Officers, Managers, Members, etc.:** Include the full legal name, home address (street, city, state, and zip code), Social Security Number or Individual Taxpayer Identification Number (ITIN) if you have not been assigned a social security number in the United States. Date of birth, title in the company, percentage of business owned, and telephone number. Attach Additional Sheets if needed. **If you are making changes to the existing owners/officers currently on file with the Department, please check the box, the Department will mail you a "Taxpayer Information Update Form".*
15. **Date business started in Nevada, Date location opened in Nevada:** Enter the date that your business started in Nevada: Enter the date the business will begin operations or did begin operating in Nevada. If you are adding a location please put the date of when the new location will start operations.
16. **Do you have employees in Nevada:** If you have employees that will be or have been working in Nevada, please put the approximate amount of employees you will have or currently have. By answering yes to this question you will need to contact the Employment Security Division (ESD) at (775) 684-0350 (Northern Nevada), (702) 486-0350 (Southern Nevada), (888) 890-8211 (Toll-Free Number), if you have not done so already.
17. **Unemployment Insurance # (ESD/UI):** If you have already established your business with the Employment Security Division place your account number that you received that is referred to as a UI number, in this box. If you have applied but have not received your number then please put "PENDING".
18. **Check all boxes that apply.** If you are applying for retail and or wholesale cannabis tax, you must provide proof of licensing with the Cannabis Control Board.
19. **Describe your business, NAICS (Northern American Industry Classification System) Code:** Please describe the nature of your business. Enter the 6 digit code that pertains to what your business classification is. If you are unsure you can visit <https://www.census.gov/naics/> for a list of classification codes.
20. **Have you Acquired this Business, Changed Ownership or Changed your Federal Identification Number?**
Date Acquired/Changed: Put the exact date in which the business was acquired or changed. Acquired/Changed By (Check all that apply): Did you purchase or are you leasing the business? If yes, how much did you purchase the business for or how much are you leasing it for? Please check the Escrow Company box if your transaction to obtain the business went through an escrow company. If other, please specify.
Portion Acquired/Changed: Did you purchase or acquire the assets only, property only, property and assets or the whole business and assets.
Are you keeping the Federal Tax Identification Number: Yes/No. Name of Previous Owner(s), Business Name: Please list all previous owners and the previous business name. Business Address: Please list the address where the business was located under the previous owner. Previous businesses Sales/Use Tax permit number. Previous owners ESD/UI account number.
21. **Estimated total Nevada monthly receipts:** this is the total of all gross receipts from Nevada including wholesale sales, services necessary to complete the sale, exempt sales, etc.
22. **Estimated total Nevada monthly Taxable receipts:** this is the total of taxable sales only of tangible personal property. Do not include wholesale sales, exempt sales, etc.
23. **Reporting Cycle:** Please indicate filing frequency desired. Taxable sales or purchases exceeding \$10,000 per month or \$30,000 per quarter must report monthly. Options may not apply to certain tax types.
24. **Security:** Check the type of security deposited. A Sales/Use Tax permit will not be issued until applicable security is submitted. In order to determine the security requirement, multiply your estimated total Nevada monthly taxable receipts (box 22) by the highest tax rate in Nevada, which is 8.375% as of 01-01-2020. This is your estimated average monthly tax liability. Security is required equal to three times your monthly tax liability for monthly reporting or six times monthly tax liability for quarterly reporting. A security deposit will not be required if the amount calculated does not exceed \$1,000. There is no maximum security. After three full years of perfect reporting, you may apply for a waiver of the security requirement.
25. **Sales Tax Permit Fee:** A \$15.00 permit fee for EACH in-state business location is required. If the business does not have a physical location in Nevada, it must still pay a minimum fee of \$15.00. Total number of locations (box 26) should be multiplied by the Sales Tax fee (example: 3 Nevada Business Locations times (x) \$15.00 fee = \$45.00).
26. **Total Nevada Business Locations:** Number of physical locations in Nevada.

AAA Team Sales Tax, LLC

September 17, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Subject: Completing the Nevada Sales and Use Tax Return.
What is a Sales Tax Audit?

Hello Commissioners,

Column 1-Total Sales is dictated by Nevada Revised Statute (NRS) 372.025-Gross receipts” defined. **“Gross receipts” means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers.** There are types of sales that are not included in this amount and automatically not subject sales tax. For instance, wholesale sales, personal chef services, eyeglasses furnished by an optometrist (NRS 372.055), dry cleaning services, and knitting and sewing services).

Column 2-Exempted Sales- is dictated by (NRS) 372.155-Resale Certificate and NRS 372.260 **“Exempted from the taxes.**

A SALES TAX AUDIT IS NOT A COMMERCE TAX AUDIT. SALES TAX INVOLVES THE RETAIL SALE OF TANGBLE PERSONAL PROPERTY! YOU MAYBE ABLE TO MAKE THE CASE SOME SERVICE CHARGES COULD BE SUBJECT TO SALES TAX BUT THAT SERVICE CHARGE NEEDS TO BE RELATED TO A TAXABLE RETAIL SALE TRANSACTION OF TANIBLE PERSONAL PROPERTY.

Thank You and Be Safe!

Ron Voigt
702-321-9245

AAA Team Sales Tax, LLC

September 11, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Subject: Nevada Revised Statute (NRS) 360.133-Technical Bulletins

Hello Commissioners,

Often you hear the Department say they cannot provide legal advice to the public. The Department has a responsibility to educate the public on Nevada Tax Law. Nevada Revised Statute (NRS) 360.133.1(a) disagrees with their statement. Enclosed is a copy of NRS 360.133.

Thank You and Be Safe!

Ron Voigt
702-321-9245

NRS 360.133 Duty of Executive Director to prepare technical bulletins; requirements for technical bulletins.

1. The Executive Director shall prepare or cause to be prepared technical bulletins to educate the public on:
 - (a) Issues related to their businesses and the taxes administered by the Department; and
 - (b) Written opinions that the Executive Director receives from the Attorney General pursuant to NRS 228.150.
2. The technical bulletins must be written in simple nontechnical language and may include:
 - (a) Information and guidance concerning specific issues or topics;
 - (b) Examples for clarification purposes; and
 - (c) Any other information determined by the Executive Director or Nevada Tax Commission to be beneficial to the public.
3. A technical bulletin must not include advice on a specific fact situation but may include information that is applicable to a specific industry or type of business.
4. The technical bulletins must be published and revised as needed. Each bulletin and revised bulletin must be published and posted on an Internet website maintained by the Department and made available upon request at the offices of the Department.
5. Any technical bulletin published or revised pursuant to this section is intended for informational purposes only.
6. The Executive Director shall submit each proposed technical bulletin and any revisions to a bulletin to the Nevada Tax Commission for approval before publishing the bulletin or revised bulletin.
(Added to NRS by 2013, 158)

September 17, 2023

Nevada Tax Commission
1550 College Parkway, Suite 115
Carson City, NV 89706

Subject: August 2023 Nevada Tax Notes, SB29 revises provisions related to refunds of overpayments of taxes. (see enclosure)

Hello Commissioners,

You would agree that the section on the AB bills and SB bills is not user friendly. Although a Tax Note is not a Technical Bulletin, it still needs to be presented for the general public to understand.

Director Hughes explained the need for changes to NRS 360.2935 before the SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT on February 23, 2023. Her comments were part of the discussion on SB29. She did a very good job because her comments are easy to understand. Below is what she said:

SHELLIE HUGHES (Executive Director, Executive Division, Nevada Department of Taxation):

The Department of Taxation views S.B. 29 as a housekeeping measure. Nevada Revised Statutes (NRS) 360.2935 requires the Department to pay interest to a taxpayer on any refund requested by the taxpayer on an overpayment of taxes. Certain tax types such as sales tax and Live Entertainment Tax (LET) are collected by the taxpayer from their customer and then remitted to the Department. The taxpayer for sales tax purposes is often referred to as the retailer, and the taxpayer for LET purposes is often referred to as the owner or operator of the facility where the activity takes place. With these tax types, we refer to these circumstances as taxes collected from the customer and held in trust by the taxpayer. The sales tax and LET are imposed on the taxpayer, but the taxpayer collects the tax from the customer and then remits the tax to the Department. If a refund is due for the overcollection of taxes, provisions in NRS and Nevada Administrative Code 368A and 372 require the taxpayer to refund the taxes over-collected to its customer prior to the Department issuing a refund to the taxpayer. These statutes do not require the taxpayer refund any interest to the customer. As a result, the Department refunds the interest associated with the overcollection to the taxpayer. This results in a windfall to the taxpayer as the payment of over-collected tax was not made by the taxpayer's funds. This revision is intended to eliminate the refunding of interest to the inappropriate party.

Thank You and Be Safe!

Ron Voigt
702-321-9245

NEVADA TAX NOTES

The Official Newsletter of the Department of Taxation



Inside This Issue



Ask the Advisor



New Taxation Laws



*Public Records
Requests*

Upcoming Office Closures

The Nevada Department of Taxation will be closed on the following date:

Monday, September 4
Labor Day

Return of Ask the Advisor

The Department is pleased to announce that it will again be hosting a modernized, virtual version of its Ask the Advisor classes. The Ask the Advisor class is offered to all taxpayers wherein the Department provides general information about Sales and Use Tax and Modified Business Tax. The Department may also host guest presenters from other state and federal agencies, as well as provide small business resources in Northern and Southern Nevada. The first class will be held on Tuesday August 15, 2023, at 9:00 a.m. in a new online format to reach more taxpayers. Please visit <https://NevadaTax.as.me/AsktheAdvisor> to sign up for the class. These classes will be offered on the third Tuesday of each month, except in November and December.

THE 2022-2023 COMMERCE TAX RETURN IS DUE AUGUST 14, 2023

The Commerce Tax is an annual tax imposed on businesses with a Nevada gross revenue exceeding \$4,000,000 in the taxable year.

The Commerce Tax return information related to Commerce Tax can be found at: <https://tax.nv.gov/comtax/>

New Taxation Laws (2023 Legislature)

The 82nd Legislative Session concluded on June 5, 2023. However, the Legislature twice reconvened in June for two Special Sessions (34th Special Session and 35th Special Session). The following bills affect the Department of Taxation:

82nd (2023) Session

AB53 - Revises provisions relating to sales of tobacco products.

Assembly Bill 53 increases the penalty for an employee or agent of a licensee who sells, distributes or offers to sell cigarettes or other tobacco products to any person under the age of 21 years old. For violations which occur within a 24-month period at the same premises, a licensee is liable for a civil penalty of: (1) \$2,500 for a first violation; (2) \$5,000 for a second violation; (3) \$7,500 for a third violation; and (4) \$10,000 for a fourth and any subsequent violation. The effective date of the bill is January 1, 2024.

AB232 - Revises provisions governing the taxation of other tobacco products.

Assembly Bill 232 reduces the tax imposed on the receipt, purchase and sale of premium cigars to not more than 50 cents or less than 30 cents for each premium cigar. The Bill defines "premium cigar" as a cigar that is rolled by hand, has a wrapper made of whole tobacco leaves and does not have a filter or mouthpiece. The effective date of the bill is July 1, 2023 and expires by limitation on June 30, 2027.

AB430 - Revises provisions relating to cannabis.

Assembly Bill 430 revises the excise tax on the wholesale sale of cannabis to apply the tax only to the first wholesale sale and to provide that the tax is at the rate of 15 percent of: (1) the fair market value at wholesale for sales made to an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility; or (2) the sales price, if the sale is made to a cannabis establishment that is not an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility. The effective date of the bill is January 1, 2024.

AB448 - Revises provisions governing the real property transfer tax.

Assembly Bill 448 relates to the imposition of taxes on transfers of real property or the real property transfer tax (RPTT). Existing law provides that certain transfers are exempt from the RPTT if the transfer is between certain affiliated business entities. This bill provides that an exemption does not apply if a transfer of real property is made to a business entity formed for the purpose of evading the RPTT. This bill became effective upon passage and approval.

AB455 - Authorizes the imposition of a civil penalty by the Department of Taxation for certain violations relating to contraband tobacco products.

Assembly Bill 455 allows the Department to impose a civil penalty up to the amount of actual costs for the seizure, storage, transportation and destruction of contraband tobacco products. The effective date of the bill is July 1, 2023.

SB29 - Revises provisions related to refunds of overpayments of taxes.

Senate Bill 29 prohibits interest on a refund of any tax which was over-collected by a taxpayer and which the taxpayer is required to refund the person from who the tax was collected. The effective date of the bill is July 1, 2023.