

NEVADA TAX COMMISSION MEETING  
MINUTES

Nevada Legislative Building  
401 S. Carson Street, Room 2135  
Carson City, Nevada

Legislative Counsel Bureau  
Grant Sawyer State Office Building  
555 E. Washington Ave., Room 4412  
Las Vegas, Nevada

August 14, 2017  
9:00 a.m.

Members Present:

James DeVold, Chairman  
Tony Wren, Commissioner  
Craig Witt, Commissioner  
George Kelesis, Commissioner  
Thom Sheets, Commissioner  
Ann Bersi, Commissioner (Via telephone)  
Francine Lipman, Commissioner (Via telephone)

Members Absent:

John Marvel, Commissioner

Chairman DeVold called the meeting to order at 9:00 a.m.

Director Contine administered an oath to all meeting participants.

I. Public Comment.

There was no public comment.

II. Consideration for Approval of the June 26, 2017 and July 13, 2017 Nevada Tax Commission Meeting Minutes.

Commissioner Sheets made a motion to approve the minutes of the June 26, 2017 and July 13, 2017 Nevada Tax Commission meetings. Commissioner Lipman seconds. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
  - a) Palletech Inc.
  - b) Sharon Moore Design Group
  - c) Align Technology Inc.

B. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Merck Sharp & Dohme Corp.
- 2) Eldorado Development Corp.
- 3) Save Mart Supermarkets

- 4) McCarthy Building Companies Inc.
  - 5) Clearwater Paper Corporation
  - 6) Fantastic Puppies, LLC
  - 7) Scott's Market LLC
- C. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):
- 1) Keep Memory Alive
  - 2) Monster Energy Company
  - 3) Airlite Plastics Co.
  - 4) Endogastric Solutions, Inc.
  - 5) Kolon Industries, Inc.
  - 6) Rip Toned Fitness LTD
  - 7) Melink Corp.
  - 8) Eco-Products, Inc.
  - 9) Eli Young LLC
- D. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (sales/use and/or modified business tax)
- 1) Xibit Solutions
  - 2) Michael Huyghue (responsible person liability for tax debt of UFL Team Las Vegas, LLC) (MBT)
- E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (civil penalties)
- 1) The Depot, LLC
- F. Consideration for Approval of Payment Plan Request: 12 Month Review (Sales/Use and/or Modified Business Tax):
- 1) Rainbow Catering Inc.

Commissioner Sheets made a motion to approve the consent portion of the agenda. Commissioner Kelesis seconds. All in favor. Motion carries.

#### IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

- A. Consideration for Adoption of Permanent Regulations:
- 1) Adoption of permanent regulations to provide guidance to county assessors in the proper determination of taxable situs in and outside of Nevada for aircraft. In addition, the regulation provides guidance on the proper allocation of taxable value when multiple locations with tax situs exist. The purpose is to improve uniformity in the property tax treatment of aircraft in all Nevada jurisdictions. LCB File No. R019-17

Heather Drake, Deputy Director – Local Government Services, presented the proposed regulation on behalf of the Department of Taxation. Ms. Drake stated this regulation was adopted as a temporary regulation on December 5, 2016.

Public Comment:

Doug Scott stated the Clark County Assessor's Office is testifying in support of this regulation.

Jim Susa, representing MGM Resorts, endorsed the temporary regulation and asked that the permanent regulation be approved.

Commissioner Witt made a motion to approve permanent regulation LCB File No. R019-17. Commissioner Wren seconds the motion. All in favor. Motion carries.

- 2) Adoption of permanent regulations to provide guidance to county assessors in the proper determination of remainder parcels. LCB File No. R021-17

Heather Drake, Deputy Director – Local Government Services, presented the proposed regulation on behalf of the Department of Taxation. Ms. Drake stated that this regulation was adopted as a temporary regulation on May 5, 2017.

Commissioner Sheets suggested adding a space on page three on the first line and a correction to the numbering on page six.

Commissioner Bersi suggested adding a period on page seven.

MaryAnn Weidner suggested adding a period and correcting the numbering on page seven.

Ms. Drake agreed with the suggested corrections.

Public Comment.

Jeff Payson stated that the Clark County Assessor’s Office is in full support of the adoption of this regulation. Mr. Payson thanked the Department and the Tax Commission.

Jim Susa, representing MGM Resorts, expressed support and asked that the permanent regulation be adopted.

Chairman DeVolld thanked Heather Drake for making the regulation easy to read and to understand.

Commissioner Sheets made a motion to approve permanent regulation LCB File No. R021-17 with the suggested corrections. Commissioner Bersi seconds. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

- A. Taxpayer’s Appeal of Administrative Law Judge Decision pursuant to NRS 360.297:
  - 1) Veolia Transportation Services, Inc.

Norman Azevedo, Esq. was present on behalf of the Taxpayer.

David Pope, Senior Deputy Attorney General, was present on behalf of the Department.

Commissioner Kelesis moved to uphold the decision of the Administrative Law Judge. Commissioner Sheets seconds. All in favor. Motion carries.

- B. Petition for Reconsideration of Department’s Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes pursuant to NRS 372.3261 (Sales/Use Tax):
  - 1) Appointed Church Las Vegas

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department of Taxation.

Brian Medley, Pastor and President, was present on behalf of the Appointed Church Las Vegas.

Commissioner Lipman motioned to uphold the Department's denial. Commissioner Bersi seconds. Commissioner Witt and Commissioner Wren Voted No. Motion carries by majority.

2) Ace Foundation, Inc.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department of Taxation.

Michael Muehle was present on behalf of the Taxpayer.

Commissioner Witt moved to support the Department's denial. Commissioner Wren seconds. All in favor. Motion carries.

VI. Informational Items:

- 1) Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- 2) Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

VII. BRIEFING:

A. Briefing to/from the Commission and the Executive Director.

Director Contine stated that the Department had a proceeding and made a determination on the sufficiency of liquor wholesalers to serve the marijuana distribution market. There is a hearing on a temporary restraining order scheduled on Thursday, August 17, 2017. Legal marijuana sales began on July 1, 2017. We have licensed approximately six liquor 369 wholesalers. Two were formed by the marijuana industry, basically to serve their own related interests initially. There were approximately 30 people that testified on Thursday from the industry about not being able to transport product. We will be talking about this on Thursday in court.

Chairman DeVold asked how many applications are currently in the cue.

Director Contine stated there are two other 369 license holders in review right now. One is a related marijuana establishment licensee, and they testified last week that they don't want a closed distribution market, but they did get a 369 license in order to protect their own interests. I believe there is one other that is also in review. By the May 31 deadline, which was invalidated in the first lawsuit, we had received five applications. Since the Judge's Order in June, we have received an additional four applications. We have been trying very hard to get the applicants up and running. I think they still have some barriers of their own.

Commissioner Sheets asked, of the six, how many are operating in Southern Nevada.

Director Contine stated she believes there is one distributor currently operating in Southern Nevada significantly, and that is Black Bird. There may be another transporting from Northern Nevada to Southern Nevada, but they do not have a location in Southern Nevada.

Commissioner Sheets asked what percentage of recreational marijuana sales are occurring in Clark County in comparison to the rest of the state.

Director Contine believes it is likely seventy percent of sales are in Southern Nevada. There are currently four dispensaries in Reno, and Sparks just did their local zoning. Henderson has a moratorium on retail sales right now. The Department's Economist, Kile Porter, did a presentation regarding Colorado's five percent monthly increase that occurred for at least the first eighteen months, and they are still growing now. Not

only do we need to have a robust market right now, but we must have businesses that are scalable and that have the investment and the resources to grow in the market. The second thing was the effect of not having a robust market and distribution, which means the ability to set price. The industry setting the price has consequences, which is the black market. While people are willing to pay more for the regulated legal market, at some point the demand doesn't go down like in other cases. If you don't have the money, you don't buy a car. People are still going to buy their product. They're just going to do it in the black market.

Commissioner Sheets – The Legislature gave the Department the discretion of determining if there are a sufficient number of distributors available to support the recreational marijuana businesses. In your opinion, is one active distributor in Southern Nevada sufficient?

Director Contine - No. People are talking about the problems they are having with distribution and that they do not have product on the shelves. There are workarounds being done. One workaround was they front loaded product going into July 1. Black Bird, under their operation agreement, has approximately 30 employees, 12 vehicles, and they are scalable. I believe they may have agent cards for another ten. They also have working agreements with some other industry folks to use their employees as their agents and to use their vehicles as their vehicles. Everybody is trying to do these workarounds. I would say we need about five businesses with the ability to either increase their operations or increase additional distributors at a minimum of five percent per month because that is how the market is going to grow. This would give choice and alleviate some concerns. Tim Conder from Black Bird, based on his knowledge, thought five or six businesses that are scalable. We have an interest in facilitating a healthy, vibrant market because of the black market concerns, and also some of the safety concerns.

Commissioner Sheets asked about the home delivery issue and where the Department is at this point.

Director Contine stated home delivery is allowed under the medical program. In the temporary regulations we carried over the rules from home delivery on the medical side. In the initial draft of the permanent regulations we started with a prohibition on delivery. There are some different theories on delivery of recreational marijuana. Industry would like to have delivery and they have some valid reasons. Law enforcement doesn't want to come out and support delivery, but I think they would like a highly regulated process if we could put some structures in place that might alleviate some safety concerns. We are working through this now with the permanent regulations.

VIII. Next Meeting Date: October 2, 2017

IX. Public Comment.

There was no public comment.

X. Items for Future Agendas.

XI. Adjourn.