

Nevada Tax Commission Meeting  
MEETING MINUTES

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

Video Conference

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

June 27, 2016  
9:00 a.m.

Members Present:

James DeVold, Chairman  
Craig Witt, Commissioner  
Francine Lipman, Commissioner  
George Kelesis, Commissioner  
Tony Wren, Commissioner  
Ann Bersi, Commissioner (call-in)  
Thomas Sheets, Commissioner (call-in)

Members Absent:

John Marvel, Commissioner

Chairman DeVold called the meeting to order and welcomed Commissioner Tony Wren to the Nevada Tax Commission.

Director Contine administered an oath to all parties testifying in today's meeting.

I. Public Comment.

There was no public Comment.

II. Consideration for Approval of the May 16, 2016 Nevada Tax Commission Meeting Minutes.

Commissioner Kelesis made a motion to approve the May 16, 2016 Nevada Tax Commission Meeting Minutes. Commissioner Lipman seconded the motion. Commissioner Wren recused himself from the vote. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
  - a) Tessa D. Snider
  - b) Kimchi Las Vegas Inc.
  - c) NMT Enterprise LLC
  - d) Wei Zhao

- e) Barnard Griffin Inc.
  - f) ITCO Corporation
  - g) Spalding Fly LLC
  - h) Spalding Laboratories Inc.
  - i) Aurelian Cindea
  - j) Watkin BC LLC
  - k) ISSEL Corporation
  - l) Ortiz Gonzalez Corporation Inc.
  - m) Action Garage Company Inc.
- B. Standard Direct Sales Organization Agreements (date as indicated):
- 1) Magnolia & Vine Inc.
  - 2) Ruby Ribbon Inc.
- C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:
- 1) American Piping Services, Inc.
  - 2) Chicken Bonz of Nevada, Inc.
  - 3) Henderson Hyundai Superstore, Inc.
  - 4) Ideal Mechanical, Inc.
  - 5) Interblock USA L.C.
  - 6) Las Vegas Color Graphics, Inc.
  - 7) L.T. Bond Inc.
  - 8) National Securities Technologies, LLC
  - 9) SLS Forest Products
  - 10) State Restaurant Equipment, Inc.
  - 11) Absolute Exhibits, Inc.
- D. Approval of Refund/Credit Request in Excess of \$250,000:
- 1) Prudential Insurance Company of America
  - 2) Dorr Oliver Eimco USA Inc.
- E. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):
- 1) Dash America
  - 2) Coherus Biosciences, Inc.
  - 3) NAVEX Global, Inc.
  - 4) Dita, Inc.
  - 5) Centria
  - 6) On Center Software, Inc.
  - 7) HomeVestors of America, Inc.
- F. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (civil penalties)
- 1) Core-Mark International Inc. Las Vegas

Commissioner Sheets requested to pull Item C. 11. Absolute Exhibits, Inc.

Commissioner Witt made a motion to approve the Consent Calendar as a whole, excluding Item C. 11. Absolute Exhibits, Inc. Commissioner Lipman seconded the motion. All in favor. Motion carries.

Commissioner Lipman made a motion to approve Item C. 11. Absolute Exhibits, Inc. Commissioner Witt seconded the motion. Commissioner Sheets and Commissioner Kelesis recused themselves from the vote. No opposed. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

DIVISION OF LOCAL GOVERNMENT SERVICES:

Locally Assessed Properties Section:

- A. Taxpayer's Appeal of the Assessor's Denial of Waiver of Penalty and Interest per NRS 361.4835 for Fiscal Year 2015 - 2016 (Clark County):  
1) Henderson Quail Air Center, LLC, Account Numbers 183157, 183158, 183647, 183648, 183649, and 183650

Terry Rubald, Deputy Director, was present on behalf of the Department of Taxation. Ms. Rubald provided an overview of the Henderson Quail Center, LLC matter for the Commission.

An additional document was presented to the Commission by Henderson Quail Air Center, LLC. Chairman DeVolld agreed to accept the document for the record.

Tina Hoff was present on behalf of the Clark County Assessor. Ms. Hoff reviewed the Assessor's response to the Appeal for the Commission.

Roger Croteau, Esq. and Laurie LaRoche, Controller of Henderson Quail Air Center, LLC, were present on behalf of the Taxpayer. Mr. Croteau reviewed the Taxpayer's Appeal for the Commission.

Commissioner Kelesis made a motion to uphold the penalty. Commissioner Lipman seconded the motion. Roll Call: Commissioner Bersi – No; Commissioner Wren – No; Commissioner Witt – No; Commissioner Sheets – No; Commissioner Lipman – Yes; Chairman DeVolld – Yes; Commissioner Kelesis - Yes.

Commissioner Sheets made a motion to approve the Taxpayer's Appeal. Commissioner Bersi seconded the motion. Roll call: Commissioners Bersi – Yes; Commissioner Sheets – Yes; Commissioner Witt – Yes; Commissioner Wren – Yes; Commissioner Lipman – No; Commissioner Kelesis – No; Chairman DeVolld - No. Motion carries by majority.

- B. Discussion and Consideration for Approval for the 2017-2018 Personal Property Manual as authorized under NRS 361.227 and NAC 361.1365.

Terry Rubald, Deputy Director, was present for the Department of Taxation. Ms. Rubald reviewed the 2017-2018 Personal Property Manual for the Commission. The Personal Property Manual is published annually.

Commissioner Sheets made a motion to approve the 2017-2018 Personal Property Manual. Commissioner Bersi seconded the motion. All in favor. Motion carries.

Local Government Finance Section:

- A. Certification of Ad Valorem Tax Rates for Fiscal Year 2016-2017 pursuant to NRS 361.4547

Terry Rubald, Deputy Director, was present for the Department of Taxation. Ms. Rubald reviewed the “Red Book” for the Commission.

Commissioner Lipman made a motion to approve the Certification of Ad Valorem Tax Rates for Fiscal Year 2016-2017. Commissioner Kelesis seconded the motion. All in favor. Motion carries.

- B. Review and Consideration of Approval of Extension of the Residential Construction Tax pursuant to NRS 387.332:
  - 1) Nye County School District

Terry Rubald, Deputy Director, was present on behalf of the Department of Taxation.

Raymond Ritchie was present on behalf of Nye County School District.

Commissioner Sheets made a motion to approve the extension of the Residential Construction Tax pursuant to NRS 387.332 for Nye County School District. Commissioner Bersi seconded the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

- A. Department’s Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
  - 1) Dean S. Kentris

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-In-Compromise for the Commission.

The Taxpayer was not present.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise of Dean S. Kentris. Commissioner Sheets seconded the motion. All in favor. Motion carries.

- 2) Selina and Katricia Kelly

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of Selina and Katricia Kelly for the Commission.

Selina and Katricia Kelly, Taxpayers, were present.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise of Selina and Katricia Kelly. Commissioner Lipman seconded the motion. All in favor. Motion carries.

- 3) Lucille Montesano

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of Lucille Montesano for the Commission.

Lucille Montesano, Taxpayer, was present.

Commissioner Sheets made a motion to approve the Offer-In-Compromise of Lucille Montesano. Commissioner Kelesis seconded the motion. All in favor. Motion carries.

4) Rodney J. and Kristina L. Beber

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of Rodney J. and Kristina L. Beber for the Commission.

Rodney J. Beber, Taxpayer, was present.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise of Rodney J. and Kristina L. Beber. Commissioner Lipman seconded the motion. Commissioner Witt – No; Commissioner Wren - No. Chairman DeVold - Yes. Motion carries by majority.

5) Kevin and Theresa Gulbranson

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of Kevin and Theresa Gulbranson for the Commission.

Matt Pruitt was present on behalf of the Taxpayers, Kevin and Theresa Gulbranson. Theresa Gulbranson, Taxpayer, was also present.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise of Kevin and Theresa Gulbranson. Commissioner Sheets seconded the motion. Commission Wren - No. Chairman DeVold - Yes. Motion carried by majority.

6) Mitchell Gold

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of Mitchell Gold for the Commission.

Commissioner Witt made a motion to approve the Offer-In-Compromise of Mitchell Gold. Commissioner Kelesis seconded the motion. All in favor. Motion carries.

7) John G. Barton

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of John G. Barton for the Commission.

John G. Barton, Taxpayer, was present.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise of John G. Barton. Commissioner Lipman seconded the motion. All in favor. Motion carries.

8) William Bratton

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of William Bratton for the Commission.

Commissioner Sheets made a motion to approve the Offer-In-Compromise of William Bratton. Commissioner Kelesis seconded the motion. All in favor. Motion carries.

B. Department's Recommendation to the Commission for Denial of an Offer-In-Compromise pursuant to NRS 360.263:

1) George Petculescu

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation. Ms. Arceo reviewed the Offer-in-Compromise of George Petculescu for the Commission.

George Petculescu, Taxpayer, was present

Commissioner Kelesis made a motion to continue this matter for sixty (60) days. Commissioner Sheets seconded the motion. Commissioner Lipman - No. Chairman DeVold - Yes. Motion carries by majority.

2) Andrew Cartwright

Diedra Armstrong, Revenue Officer III, was present on behalf of the Department of Taxation. Ms. Armstrong reviewed the Offer-In-Compromise of Andrew Cartwright for the Commission.

Andrew Cartwright, Taxpayer, was present.

Mary Patton, Tax Program Supervisor III, was present on behalf of the Department of Taxation.

Commissioner Lipman made a motion to approve the denial of the Offer-In-Compromise.

Commissioner Sheets made a motion to approve the Offer-In-Compromise offered by Mr. Cartwright. Commissioner Bersi seconded the motion. Commissioner Lipman - No. Commissioner Kelesis recused himself from the vote. Chairman DeVold - Yes. Motion carries by majority.

C. Appeal of Administrative Law Judge Decision pursuant to NRS 360.297:

1) Bennett Medical Services (for possible action)

This appeal includes a request for Closed Hearing Pursuant to NRS 360.247

Commissioner Sheets recused himself from the matter of Bennett Medical Services.

Chairman DeVold recused himself from the matter of Bennett Medical Services.

Chairman DeVold asked that Commissioner Kelesis act as Chairman during the review of this matter.

Josh Hicks of the Law Firm of McDonald Carano Wilson was present on behalf of the Taxpayer.

Doug Bennett and Tyler Bennett of Bennett Medical Services were present.

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

Hearing was closed to the public as requested by Taxpayer.

Commissioner Lipman made a motion to redact any pricing information in the documents marked confidential and requested they remain in the file. Commissioner Bersi seconded the motion. All in favor. Motion carries.

The hearing was opened to the public.

Judicial Notice has been taken in regard to a motion filed by the Department requesting the Commission take judicial notice of an initiative petition.

An overview of the matter was presented to the Commission by the Taxpayer's attorney, Josh Hicks, and David Pope, Senior Deputy Attorney General.

Commissioner Bersi made a motion to uphold the decision of the Administrative Law Judge. Commissioner Lipman seconded the motion. Roll Call: Commissioner Bersi – Yes; Commissioner Wren – No.; Commissioner Witt – Yes; Commissioner Lipman – Yes; Chairman Kelesis - Yes. Motion carries by majority.

D. Discussion and possible action regarding Technical Bulletins:

1) Tax Bulletin SUT 16-0002 Specialized Components for Public Work Projects

Shellie Hughes, Chief Deputy Executive Director, was present on behalf of the Department of Taxation. Chief Deputy Hughes reviewed Tax Bulletin SUT 16-0002 for the Commission.

Commissioner Kelesis made a motion to approve Tax Bulletin SUT 16-0002. Commissioner Lipman seconded the motion. All in favor. Motion carries.

2) Tax Bulletin SUT 16-0003 Property Purchased Outside Nevada for Use In Nevada; and Property Purchased for Use in Interstate Commerce

Shellie Hughes, Chief Deputy Executive Director, was present on behalf of the Department of Taxation. Chief Deputy Hughes reviewed Tax Bulletin SUT 16-0003 for the Commission.

There was no public comment.

Commissioner Sheets made a motion to approve Tax Bulletin SUT 16-0003. Commissioner Bersi seconded the motion. All in favor. Motion carries.

3) Tax Bulletin TCT 16-0004 Transportation Connection Tax

Shellie Hughes was present on behalf of the Department of Taxation. Chief Deputy Hughes reviewed Tax Bulletin TCT 16-0004 for the Commission.

Kimberly Maxton Rushton of Cooper Levenson was present. Cooper Levenson submitted a letter to the Commission.

Commissioner Sheets made a motion to continue this Tax Bulletin for sixty (60) days. Commissioner Bersi seconded the motion. All in favor. Motion carries.

Bryan Wachter of the Retail Association would like to ensure tax bulletins and the purpose of the bulletins be used appropriately by both the Department of Taxation and the interested parties.

Barbara Smith Campbell suggested that she would like to work with the Department further on this matter.

Anna Thornley, Nevada Taxpayers Association, made a suggestion that language for technical bulletins be posted thirty (30) days prior to adoption.

4) Tax Bulletin MBT 16-0005 Employee Leasing Modified Business Tax

Tax Bulletin MBT 16-0005 was pulled from the agenda.

VI. COMPLIANCE DIVISION:

A. Consideration of Exempt Entity Status Form, Commerce Tax Nexus Questionnaire and Additional Information Form.

Paulina Oliver, Deputy Director, and Nadia Vasheko, Tax Manager, were present on behalf of the Department of Taxation. Deputy Director Oliver reviewed the Commerce Tax forms for the Commission.

Public Comment:

Josh Hicks of McDonald Carano Wilson commented on the Additional Information Form and the requirement of listing responsible persons. The statute requires willful conduct for a responsible person determination. Mr. Hicks has concern that this could be considered some kind of a waiver. Mr. Hicks would like there to be clarification as to which forms are voluntary and which are required.

Anna Thornley, Nevada Taxpayers Association, asked that the forms be designated voluntary or required. Ms. Thornley also mentioned concerns with regard to the use of social security numbers.

Bryan Wachter with the Retail Association expressed concern over knowing which forms are voluntary and which are required. Mr. Wachter also suggested making the Additional Information Form two pages, including a Business Entity Worksheet Form. Mr. Wachter shared concern with regard to the mention of physical presence on the Nexus Questionnaire. Mr. Wachter also suggested making the responsible persons consistent with the Secretary of State's responsible person; and questioned the need of social security numbers.

Cody Noble with McDonald Carano Wilson shared concern that the Additional Information Form asks for personal information relating to responsible persons. The responsible persons could include clerical level staff or others.

Robert Armstrong of McDonald Carano commented on the SS-4 Form which does require a responsible person and social security number, but it does not require a date of birth or residential address.

Raymond Barrish shared concern on the fourth bullet point on the Nexus Questionnaire. Mr. Barrish would like this bullet point to be more specific.

Chairman DeVold suggested possibly asking for only the last four digits of the social security numbers.

Paulina Oliver, Deputy Director for the Department, stated social security numbers help the Department identify individuals for collection purposes.

Commerce Tax Additional Information Form:

Commissioner Sheets made a motion to approve the Commerce Tax Additional Information Form with the following changes: The portion that specifies a responsible person be changed to list a contact person should an issue arise, which will include a last name, first name, social security number and title.



Commissioner Lipman asked to amend the motion to include a primary contact address. Commissioner Sheets agreed.

Chairman DeVolld reviewed the amended motion to include: last name, first name, middle initial, primary contact address, social security number, title and percent owned. Commissioner Sheets agreed to amend the motion. Commissioner Bersi seconded the amended motion. All in favor. Motion carries.

**Exempt Entities Status Form:**

Commissioner Lipman made a motion to approve the Exempt Entities Status Form. Commissioner Bersi seconded. Roll Call: Commissioner Witt - Yes; Commissioner Wren – No; Commissioner Bersi - Yes; Commissioner Sheets - No; Commissioner Kelesis - Yes; Commissioner Lipman - Yes; Chairman DeVolld - Yes. The motion is approved by majority.

**Commerce Tax Nexus Questionnaire:**

Commissioner Sheets made a motion to move the box on page two that reads if you answer no to all questions above, you do not have to register for the Commerce Tax to the top of the form; and to change the language to read: if you answer no to all questions above, you do not have to register for the Commerce Tax nor file this form with the Department of Taxation. Commissioner Kelesis seconded. All in favor. Motion carries.

**B. 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).

Informational data was provided to the Commission.

**VII. Consideration for Approval of Adoption of Permanent Regulations:**

- A. Adoption of the proposed regulation relating to the taxation of tobacco products; establishing procedures for the temporary suspension or permanent revocation of licenses issued by the Department of Taxation relating to the taxation of sales of cigarettes; establishing procedures for the removal of the name of a manufacturer of tobacco products and its brand families from the directory maintained by the Department; revising provisions relating to claims for credits filed with the Department by certain wholesale dealers; and providing other matters relating thereto. LCB File No. R146-15.

Shellie Hughes, Chief Deputy Executive Director was present on behalf of the Department of Taxation.

There was no public comment on LCB File No. R146-15.

Commissioner Witt moved to approve LCB File No. R146-15. Commissioner Kelesis seconded the motion. All in favor. Motion carries.

VIII. BRIEFING:

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

IX. Next Meeting Date(s).

August 15, 2016.

X. Public Comment.

David Pope announced Louis Csoka as a new Deputy Attorney General.

XI. Items for Future Agendas.

Chairman DeVolld would like to consider holding a meeting with all commissioners in one location annually.

Chairman DeVolld would like to discuss a possible deadline for submitting material for agenda items.

XII. Adjourn.

Meeting adjourned at 2:11 p.m.