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# NEVADA DEPARTMENT OF TAXATION

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## **Tax Bulletin SUT 16-0003**

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## **Property Purchased Outside Nevada for Use In Nevada Property Purchased for Use in Interstate Commerce**

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### **Introduction**

This bulletin provides information regarding the application of use tax on property purchased outside Nevada. It also provides information regarding property purchased for use in interstate commerce.

### **Statutes and/or Regulations referenced**

NRS 372.185; NRS 372.258; NRS 374.190; NAC 360.490; NAC 372.055

### **Use Tax**

Pursuant to NRS 372.185 and 374.190, Nevada imposes a use tax on consumers of tangible personal property who store, use or consume that property in Nevada. The use tax is complementary to sales tax and applies when tangible personal property avoids the imposition of sales tax at the point of purchase outside Nevada and is subsequently brought into Nevada for consumption. Individuals and Businesses who purchase tangible personal property from out-of-state vendors (including catalog purchases, mail order, and internet) for their use in Nevada are subject to Nevada use tax. NAC 372.055 provides that credit will be given for sales tax legally paid in another state up to the Nevada tax rate in the county of use. Use tax applies to all purchases of tangible personal property, including but not limited to: vehicles, off-highway vehicles (e.g., all-terrain vehicles (ATVs), snowmobiles, dirt bikes), watercraft, aircraft, furniture, computer equipment and other office supplies and clothing.

### **Payment of Use Tax**

A Use Tax liability, of a person not in business, may be reported on a one-time return available at any Department of Taxation office. Use Tax liability may also be satisfied by sending a letter or invoice stating the purchase price and submitting the Use Tax payment. Those who regularly incur Use Tax liability should register and obtain a consumer's Use Tax certificate if they don't already have a sales permit. There is no charge for a consumer's certificate. Non-retail businesses that hold a State Business

License must report and remit Use Tax with their yearly or quarterly Consumer Use Tax Return.

### **Tangible Personal Property Not Purchased for Use in this State**

NRS 372.258 provides a presumption that certain property delivered outside Nevada was not purchased for use in Nevada if certain requirements are met. The presumption will apply if:

1. The property was first used in interstate or foreign commerce outside this state; and
2. The property is used continuously in interstate or foreign commerce, but not exclusively in this state, for at least 12 months after the date that the property was first used.

NRS 372.258 defines “interstate or foreign commerce” as the transportation of passengers or property between a point in one state and a point in:

1. Another state;
2. A possession or territory of the United States; or
3. A foreign country; or points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.

Therefore, in order to meet the first requirement of the statute, the taxpayer must show that the property purchased and delivered outside Nevada was first used outside of Nevada to *transport passengers or property for hire from one state to another state, a possession or territory of the United States, or a foreign country.*

In order to meet the second requirement of the statute, NRS 372.258(1)(b) requires continuous use in interstate commerce for at least twelve months. While the statute does not define “continuous,” Black’s Law Dictionary defines “continuous” as:

Uninterrupted; unbroken; not intermittent or occasional; so persistently repeated at short intervals as to constitute virtually an unbroken series. Connected, extended, or prolonged without cessation or interruption of sequence.

Black’s Law Dictionary, 322 (6th E.d 1990) (citation omitted). Thus, as set forth in NRS 372.258, property that is in continuous use to transport passengers or property from one state to another state, possession or territory of the United States, or a foreign country must be met *without cessation or interruption* for at least twelve months.

Ultimately, if the taxpayer can show that the property purchased was first used outside Nevada to transport passengers or property from one state to another state, a possession or territory of the United States, or a foreign country and then was continuously used without cessation or interruption to transport passengers or property from one state to another state (not exclusively in Nevada), a possession or territory of the United States, or a foreign country for 12 months after its first use, then it will be presumed that the property delivered outside Nevada was not purchased for use in Nevada.

### **Use Tax Refunds**

Use tax must be paid to the state as soon as possible after the purchase of tangible personal property. A taxpayer may present facts that meet the requirements of NRS 372.258 and trigger the rebuttable presumption that the property was not purchased for use in Nevada. Because one of the requirements of the presumption cannot be met until twelve months of continuous use in interstate commerce can be shown, taxpayers must pay the use tax and later request a refund if the taxpayer believes that it has triggered the presumption. When submitting the claim for refund, the taxpayer must include evidence that 1) the property was first used in interstate or foreign commerce outside the state; and 2) the property was used continuously in interstate or foreign commerce for at least 12 months after the date the property was first used.