

Nevada Department of Taxation

2016 Instructions for Commerce Tax Return

General instructions

Purpose of the form

Use Commerce Tax Return Form to report the gross revenue from engaging in business in Nevada and deductions of a business entity to arrive to the amount of Nevada Commerce Tax for 2016 taxable year.

Who must file

Each business entity, including sole proprietorships, that is engaged in business in Nevada, unless specifically excluded by the law, has to file the Commerce Tax return. The Commerce Tax return must be filed even if there is no tax liability due.

Specifically excluded by the law from filing requirements:

- Natural person, unless engaged in a business and files Schedule C, E (Part 1) or F with the federal tax return;
- Governmental entity;
- IRC section 501(c) or NRS 82 or NRS 84 non-profit organization;
- Credit Union;
- Certain non-business trusts, including REITs and REMICs as defined in IRC;
- Passive entities;
- Entity that solely manages intangible investments;
- Entity participating in exhibition in Nevada and is not required to obtain a business license pursuant to NRS 360.780.

Taxable year

The taxable year is July 1, 2015 through June 30, 2016. If the business entity ceases to exist before the end of the taxable year, input the date the entity ceased to exist in the second box of line "For the taxable year... through". The box "Final return" should also be checked.

When to file

The Commerce Tax return is due on August 15, 2016.

Where to file

Return can be filed electronically or on a hard copy.

To file electronically go to: <http://tax.nv.gov/>

Accounting method

The accounting method for the purposes of determining the amount of the Commerce Tax must be the same as the method used for federal income tax purposes.

Recordkeeping

Each person responsible for maintaining the records of a business entity shall:

- Keep such records as may be necessary to determine the amount of the liability of the business entity for Commerce Tax.
- Preserve those records for 4 years or until any litigation or prosecution pursuant to the Commerce Tax law is finally determined, whichever is longer; and
- Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.

Amended return

If you later realized you made a mistake in the originally filed Commerce Tax return, you must file an amended return. The box "Amended return" should be checked.

Extension to file

You may apply in writing to the Department for a 30-day extension, if you have good cause. No penalties or late charge will be imposed for failure to pay the Commerce Tax at the time required, but the interest at the rate 0.75% per month will be charged on the late payment unless otherwise provided in NRS 360.232 or 360.320.

Who must sign

The return must be signed by the business entity's authorized representative. Indicate the name, the title, and the contact phone number of the authorized representative.

NAICS code

The NAICS code is selected on the first return the business entity files. Use the North American Industry Classification System website to determine your NAICS code at <http://www.census.gov/eos/www/naics/>.

If your business is engaged in multiple business activities, the NAICS category code is based on the category in which the highest percentage of its Nevada gross revenue is generated.

Match your NAICS code selected to the NAICS category codes/Tax rates chart on page 7 of the Instructions.

Once the NAICS code is selected, it may be changed only upon obtaining permission from the Department. Refer to section 3 of the Proposed regulations for the details.

Use of estimates

For the calculation of the uncompensated care amounts refer to section 6 of the Proposed regulations.

If you rely on the most recent federal income tax return for calculation of revenue for the Commerce Tax, check the box "Estimates used".

However, you will have to file an amended return, once the true amounts become available.

Alternative situsing method

If the situsing rules of the Commerce Tax law or Proposed regulations do not fairly represent the extent of the business conducted in Nevada, the business entity may utilize an alternative method of situsing. The alternative method should be reasonable, consistent, uniformly applied and supported by the records.

Check the box "Alternative situsing method", if you used an alternative method to situs the revenue.

Revenue

Do not include in revenue:

- Cash discounts taken by customers
- Value of complimentary goods or services provided to customers
- Value of property or services donated to the IRC §501(c)(3) nonprofit organizations
- Amounts indirectly realized from a reduction of an expense or deduction
- Interest or dividends received, except for the interest on credit sales or from loans to customers (see instructions for line 4)
- Distributions from corporations and distributive or proportionate share of receipts and income from partnerships or single member LLCs
- Revenue from hedging transactions as defined by IRC §1221 or FAS No.133, unless the title to real or tangible personal property is transferred in such transactions
- Revenue received from another member of an affiliated group (50% or more direct or indirect ownership, control or possession of a business entity)
- Proceeds attributable to the repayment, maturity or redemption of the principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument
- The principal amount received under a repurchase agreement or on account of any transaction characterized as a loan.
- Proceeds from the issuance of the business entity's own stock, options, warrants, puts or calls, from the sale of the treasury stock
- Contributions to a corporation or a partnership (IRC §118 and §721)
- Amounts realized in corporate liquidations (IRC §331 and §336)
- Amounts realized from liquidation of subsidiaries by a corporation (IRC §332 and §337)
- Amounts realized from certain corporate acquisitions (IRC §338)
- Amounts realized from transfer of assets to a corporation in exchange for stock (IRC §351)
- Amounts realized from corporate modifications and reorganizations (IRC §355 and §368)
- Distributions from a partnership (IRC §731)
- Amounts realized in like-kind exchanges (IRC §1031)
- Amounts realized from the sale of an account receivable
- Amounts realized from the sale, exchange, disposition or other grant of the right to use trademarks, trade names, patents, copyrights and similar intellectual property
- Receipts from sale, exchange or other disposition of the capital assets (IRC§ 1221 or 1231)
- Amounts realized from involuntary conversions (IRC §1033)
- Insurance policy proceeds, except for the proceeds received for the loss of business revenue (see instructions for line 6)
- Damages received as a result of litigation, except for the damages received for loss of business income (see instructions for line 5)
- Revenue that is not subject to tax pursuant to the Constitution or laws of the United States or the Nevada Constitution
- Amounts that are not considered revenue under generally accepted accounting principles.

Deductions

Deductions are allowed to the extent they are included in the gross revenue.

Line-by-line instructions:

LINE #	INSTRUCTIONS	EXAMPLES
Line 1	<p>Sale of inventory</p> <p>Include sitused to Nevada revenue from the sale of inventory. The inventory is the property that is held for sale in the ordinary course of business. It may consist of tangible property, real property, securities, etc.</p> <p><u>Situsing:</u></p> <ul style="list-style-type: none"> • Tangible personal property: if the sale is deemed to take place in Nevada, revenue from sale of such property is sitused to Nevada (similar to the Nevada sales & use tax rules; refer to NRS 360B.360). • Real property: if real property is located in Nevada, revenue from sale of such real property is sitused to Nevada. • All other inventory: the situsing is based on the physical location of the purchaser, or an alternative method can be used. 	<p><u>Situsing of personal tangible property sales revenue example :</u></p> <p>Barbary Coats, Inc. sells raincoats at their Las Vegas store and through the company's website.</p> <p>For the year they generated \$4,800,000 in sales. Out of state sales consisted of the following:</p> <ul style="list-style-type: none"> • Oregon Sales \$2,200,000 • Washington Sales \$2,500,000 <p>Total Sales \$ 4,800,000 - Oregon Sales \$2,200,000 - Washington Sales \$2,500,000 = Sitused to Nevada Gross Revenue \$ 100,000.</p>
Line 2	<p>Service performance</p> <p>Include sitused to Nevada revenue from the performance of services.</p> <p><u>Situsing:</u></p> <ul style="list-style-type: none"> • Transportation: revenue is sitused to Nevada when both origin and destination of the trip are located in Nevada. • All other services: in general, the situsing is based on the location of purchaser's use or benefit from service. For specific situsing rules for services refer to section 10 of the Proposed regulations. 	<p><u>Situsing of service revenue example :</u></p> <p>Beagle, Inc. is a mobile dog groomer located in Mesquite, NV. Several times a month the owner travels to St. George, UT to provide services at the customers' homes. The company has \$27,000 in total revenue, \$12,000 of which was earned on the trips to Utah.</p> <p>Total Service Revenue \$ 27,000 - Revenue from Utah customers \$12,000 = Sitused to Nevada Gross Revenue \$ 15,000.</p>
Line 3	<p>Rents, royalties and leases</p> <p>Include sitused to Nevada revenue from rents, subrents, royalties, leases and subleases.</p> <p><u>Situsing:</u></p> <ul style="list-style-type: none"> • Real property: if real property is located in Nevada, revenue from rents and royalties is sitused to Nevada. • Tangible personal property: if rent or subrent, lease or sublease of tangible personal property is to take place in Nevada, the revenue from such rent, or subrent, lease, or sublease is sitused to Nevada (see NRS 360B.365 and 360B.370). • If a lease or sublease, rental or subrental of real property or tangible personal property is treated as a sale for federal income tax purposes, then the receipts from the transaction are sitused in the same manner as a sale. 	<p><u>Situsing of tangible personal property rent revenue example:</u></p> <p>Tahoe Rentals, Inc. is located in Carson City, NV. It rents paving equipment to one of the customers. The customer is paving the road between Reno, NV and Sacramento, CA. It uses Tahoe's equipment paving a two mile stretch of road in Truckee, CA. Tahoe Rentals receives \$4,500,000 for the equipment rental during the year.</p> <p>Total Rental Revenue \$ 4,500,000 - Property used in CA \$4,500,000 = Sitused to Nevada Gross Revenue \$0.</p>
Line 4	<p>Interest income from credit sales and loans</p> <p>Include sitused to Nevada interest income from credit sales and loans.</p> <p>The situsing is based on the location of purchaser's use or benefit from service, or an alternative method can be used.</p>	<p><u>Situsing of interest income from loan example:</u></p> <p>Best rates, LLC is located in Long Beach, CA. It makes car loans to the customers in California and Nevada. During the year the total interest revenue on the loans equaled to \$10,000,000, including \$5,000,000 from Nevada customers. Hence, \$5,000,000 is sitused to Nevada.</p>
Line 5	<p>Damages received from litigation for loss of business income</p> <p>Include sitused to Nevada damages received as result of litigation for loss of business income.</p> <p>Situsing is based on the type of business activity from which the revenue would be otherwise generated. See situsing rules for lines 1-4.</p>	<p><u>Damages received from litigation example:</u></p> <p>Burgers, Inc., a Nevada restaurant, sues Bernie's Grills, Inc. for supply of defective equipment. Burgers, Inc. wins the case and is awarded \$1,000,000 for the cost of the defective equipment and \$2,000,000 for the lag in business. The \$2,000,000 damages from lag in business are reportable for Commerce Tax revenue.</p>

Line 6	Insurance proceeds received for loss of business revenue	
	<p>Include insurance proceeds received for the loss of business revenue.</p> <p>Situsing: If the business entity is located in Nevada, the insurance proceeds for loss of business revenue are situated to Nevada.</p>	<p><u>Insurance proceeds received for loss of business revenue example:</u> Tony, a sole proprietor and Nevada resident, is unable to run his business due to a short term disability. The insurance company pays him out on his business interruption insurance policy \$350,000. This amount is includable for the Commerce Tax.</p>
Line 7	Forgiven debt	
	<p>Include debt transferred or forgiven as consideration. Do not include discharge of indebtedness as a result of a bankruptcy proceeding.</p> <p>Situsing: If the business entity is located in Nevada, forgiven debt is situated to Nevada.</p>	<p><u>Forgiven debt revenue example:</u> Swift&Smart, Inc. decides not to pay its business credit card debt of \$50,000. Because it does not have any valuable assets and due to the cost of litigation, the bank does not pursue to bankrupt it, but rejects Swift&Smart, Inc. as a client and sends it the form 1099-C. The amount of cancelled debt is includable for the Commerce Tax.</p>
Line 8	Other revenue	
	<p>Include any other revenue from engaging in business in Nevada not otherwise listed above and subject to the Commerce Tax. Provide a description in the designated field.</p>	<p><u>Example of other revenue:</u> Cost of uncompensated care previously deducted on the Commerce Tax return for which payment was later received by the healthcare provider.</p>
Line 9	Total Gross Revenue	
	Add lines 1 through 8 and input sum on line 9.	
Line 10	Less \$4,000,000 Threshold	
	No data input needed	
Line 11	Adjusted Gross Revenue	
	<p>Subtract \$4,000,000 from line 9:</p> <ul style="list-style-type: none"> If the result is zero or less, input zero on line 11, go to line 29 and input zero. If the result is more than zero, continue on line 12. 	
Line 12	Returns and refunds to customers	
	Deduct the amount of returns and refunds to customers	
Line 13	Bad debts	
	Deduct the bad debt write off amount. The amount should conform to IRC §166 treatment.	
Line 14	Distributions required by law or fiduciary duty	
	<p>Deduct required by law or as described in NRS 162 fiduciary duty distributions to another person or governmental entity, including:</p> <ul style="list-style-type: none"> the distributions of damages to a claimant by the claimant's attorney; amounts subject to lien or other contractual obligation arising out of legal representation of the client, other than fees for legal services; amounts subject to subrogation interest or other 3rd party contractual claim; amounts for legal services paid to another attorney not affiliated with your business entity. 	
Line 15	Distributions under certain written contracts	
	<p>Deduct the following amounts distributed to another person or entity:</p> <ul style="list-style-type: none"> sales commissions reported on 1099-MISC; tax basis of underwritten securities; payments under contract or subcontract to provide services, labor or materials for actual or proposed design, construction, remodeling, remediation or repair of improvements on real property or the location of the boundaries of real property. <p>The distribution shall be mandated by a contract or subcontract.</p>	

Line 16	Reimbursement of expenses and advances from client Deduct reimbursements of advances made by your business on behalf of clients, other than with respect to services rendered or goods purchased in ordinary course of business, including legal service expenses specific to claimant, other than general operating expenses.	
Line 17	Taxes collected from 3rd party and remitted to taxing authority Deduct taxes collected from customers and remitted to a taxing authority. Only taxes imposed on a customer are deductible. Taxes imposed on your business are <u>not</u> deductible.	<u>Deductible tax examples:</u> 1. Per NRS 370.077, the Nevada Cigarette taxes are direct taxes imposed on the consumer and although they are precollected and added to the selling price of the cigarettes, they are deductible to the extent the amount is included in the revenue from sale of inventory. 2. The Nevada sales tax is also deductible to the extent it is included in Gross revenue.
Line 18	Other deductions Deduct any other amounts not listed as deductions on lines 12 through 25, but allowed by the Commerce Tax law, to the extent they are included in revenue. Provide a description in the designated field.	<u>Other deductions example:</u> Tax basis of securities and loans sold, if such securities are your inventory.
Line 19	Employee leasing deduction If you are an employee leasing company, deduct wages, payroll taxes on those wages, employee and worker's compensation benefits received from your clients for the leased employees	
Line 20	Gaming deduction If you are required to pay Nevada monthly gaming license fee per NRS 463.370, deduct the gross receipts used to determine that fee	
Line 21	Health care provide deduction If you are a health care provider, deduct the cost of uncompensated care and the amounts received: <ul style="list-style-type: none"> • from Medicaid, Medicare, the Children's Health Insurance Program, the Fund for Hospital Care to Indigent Person per NRS 428.175 or TRICARE; • for worker's compensation claim services; If you are a health care institution, only 50% of the amounts above are deductible.	
Line 22	Insurance deduction If you are an insurance company, deduct: <ul style="list-style-type: none"> • Income derived from direct premiums written and all other consideration for insurance, bail, or annuity reported for Nevada insurance premium tax per NRS 680B; • The amounts excluded from income derived from direct premiums per NRS 680B.025, such as: <ul style="list-style-type: none"> ▪ Premiums on life insurance policies/annuity contracts issued in connection with the funding of a pension, annuity or qualified profit-sharing plan; ▪ Payments received pursuant to section 1876 of the Social Security Act, 42 U.S.C. §1395mm; • Gross premiums upon policies on risks located in Nevada by a factory mutual and amounts deducted from such gross premiums to determine the amount of tax per NRS 680B.027 and NRS 680B.033; • Net direct premiums reported for Nevada captive insurance premium tax per NRS 694C.450; • Premiums reported for Nevada tax on surplus lines per NRS 685A.180. 	

Line 23	Liquor tax deduction If you are required to pay the excise tax per NRS 369, deduct the amount of Nevada Liquor tax paid.	
Line 24	Mining deduction If you are required to pay the tax per NRS 362, deduct the amount of gross proceeds used to determine the amount of the mining tax.	
Line 25	US Armed Forces housing deduction If you operate a housing facility for US Armed Forces members and it is located on property owned or lease by the Federal government, deduct the revenue received from operation of such facility.	
Line 26	Total Deductions Add lines 12 through 25 and input the sum on line 26.	
Line 27	Nevada Taxable Revenue Subtract line 26 from line 11 and input the result on line 27.	
Line 28	Tax rate per NAICS code Determine your tax rate per NAICS category code (see NAICS category codes/Tax rate chart on page 7) and input on line 28.	
Line 29	Commerce Tax due Multiply line 27 and 28 and input the result on line 29.	
Line 30	Plus penalty If you filed your tax return late and did not apply for an extension, calculate the penalty using the worksheet on page 8 of the Instructions and input on line 30.	
Line 31	Plus interest If you had a Commerce Tax liability and did not pay it by the due date, calculate the interest using the worksheet on page 8 and input on line 31.	
Line 32	Plus liability established by Department Enter any amount due for prior reporting periods for which you have received a delinquency notice from the Department of Taxation.	
Line 33	Less credit(s) approved by Department Enter amount due to you for overpayment made in prior reporting periods for which you have received a credit notice from the Department of Taxation. Do not take the credit if you have applied for a refund. NOTE: Only credits established by the Department may be used.	
Line 34	Total amount due and payable Add lines 29 through 32 and subtract line 33, input the result on line 34.	
Line 35	Amount remitted with the return Enter the total amount paid with this return.	

NAICS category codes/Tax rate chart

Business category	NAICS category code	Tax rate %	Multiply by
agriculture, forestry, fishing, hunting	11	0.063%	0.00063
mining, quarrying, oil and gas extraction	21	0.051%	0.00051
utilities	22	0.136%	0.00136
telecommunications	517	0.136%	0.00136
construction	23	0.083%	0.00083
manufacturing	31, 32, 33	0.091%	0.00091
wholesale trade	42	0.101%	0.00101
retail trade	44, 45	0.111%	0.00111
air transportation	481	0.058%	0.00058
truck transportation	484	0.202%	0.00202
rail transportation	482	0.331%	0.00331
other transportation	483, 485, 486, 487, 488, 491, 492	0.129%	0.00129
warehousing and storage	493	0.128%	0.00128
publishing, software and data processing	511, 512, 515, 518	0.253%	0.00253
finance and insurance	52	0.111%	0.00111
real estate and rental and leasing	53	0.250%	0.00250
professional, scientific and technical services	54	0.181%	0.00181
management of companies and enterprises	55	0.137%	0.00137
administrative and support services	561	0.154%	0.00154
waste management and remediation services	562	0.261%	0.00261
educational services	61	0.281%	0.00281
health care and social assistance	62	0.190%	0.00190
arts, entertainment and recreation	71	0.240%	0.00240
accommodation	721	0.200%	0.00200
food services and drinking places	722	0.194%	0.00194
other services	81	0.142%	0.00142
unclassified business	99	0.128%	0.00128

Additional resources:

Text of SB 483: <http://tax.nv.gov/uploadedFiles/taxnv.gov/Content/FAQs/SB483.pdf>

Text of Proposed regulations: http://tax.nv.gov/uploadedFiles/taxnv.gov/Content/FAQs/Proposed_Regulation_R123-15.pdf

The Department's website for the Commerce Tax: http://tax.nv.gov/FAQs/Commerce_Tax/

NRS search: <http://search.leg.state.nv.us/NRS/NRS.html>

Contact

For general questions please call or e-mail: 1(866) 962-3707 or comtax@tax.state.nv.us.

Hours of operation are Monday through Friday: 8:00am to 5:00pm Pacific Time.

Interest and penalties worksheet

Penalty charge: If the Commerce Tax return is not submitted/postmarked and taxes are not paid on or before the due date, the amount of penalty due is based on the number of days the payment is late per NAC 360.395 (see table below). The maximum penalty amount is 10%.

Number of days late	Penalty Percentage	Multiply by
1-10	2%	0.02
11-15	4%	0.04
16-20	6%	0.06
21-30	8%	0.08
31+	10%	0.10

Example: the Commerce Tax was due August 15, 2016, but not paid until August 30, 2016. The number of days late is 15 so the penalty is 4%.

Per calendar determine the number of days late the payment is: _____

Determine the appropriate penalty rate from the table above: _____

Penalty calculation: Commerce Tax due (Line 29): _____ multiplied by rate _____ = _____ Enter the result on line 30.

Interest calculation: Commerce Tax due (Line 29): _____ multiplied by 0.75% = _____ Enter the result on line 31.

August, 2016							September, 2016							October, 2016						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6					1	2	3							1
7	8	9	10	11	12	13	4	5	6	7	8	9	10	2	3	4	5	6	7	8
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15
21	22	23	24	25	26	27	18	19	20	21	22	23	24	16	17	18	19	20	21	22
28	29	30	31				25	26	27	28	29	30		23	24	25	26	27	28	29
														30	31					

November, 2016							December, 2016							January, 2017						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5					1	2	3	1	2	3	4	5	6	7
6	7	8	9	10	11	12	4	5	6	7	8	9	10	8	9	10	11	12	13	14
13	14	15	16	17	18	19	11	12	13	14	15	16	17	15	16	17	18	19	20	21
20	21	22	23	24	25	26	18	19	20	21	22	23	24	22	23	24	25	26	27	28
27	28	29	30				25	26	27	28	29	30	31	29	30	31				

February, 2017							March, 2017							April, 2017						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4				1	2	3	4							1
5	6	7	8	9	10	11	5	6	7	8	9	10	11	2	3	4	5	6	7	8
12	13	14	15	16	17	18	12	13	14	15	16	17	18	9	10	11	12	13	14	15
19	20	21	22	23	24	25	19	20	21	22	23	24	25	16	17	18	19	20	21	22
26	27	28					26	27	28	29	30	31		23	24	25	26	27	28	29
														30						

May, 2017							June, 2017							July, 2017						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6					1	2	3							1
7	8	9	10	11	12	13	4	5	6	7	8	9	10	2	3	4	5	6	7	8
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15
21	22	23	24	25	26	27	18	19	20	21	22	23	24	16	17	18	19	20	21	22
28	29	30	31				25	26	27	28	29	30		23	24	25	26	27	28	29
														30	31					