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State of Nevada  
Department of Taxation

Joshua J. Hicks, Partner  
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Reply to: Reno

April 25, 2016

Deonne Contine  
Director  
Nevada Department of Taxation  
1550 College Parkway, Suite 115  
Carson City, NV 89706

Re: Recent Department Requests for Information

Director Contine,

As you know, this firm represents a variety of Nevada taxpayers and has been actively involved in the review of regulations and forms pertinent to the Commerce Tax. It has come to our attention that taxpayers are currently receiving correspondence from the Department of Taxation ("Department") asking taxpayers to update taxpayer information with the Department.

Among the information for which an update is requested is a NAICS code. Pursuant to Senate Bill 483, and pursuant to the pending regulations (LCB File No. R123-15), a taxpayer is required to select the appropriate NAICS code on their first Commerce Tax return, filed in August of 2016. See LCB File No. R123-15 (March 11, 2016), Sec. 79. Thereafter, the taxpayer must submit a request to the Department if the taxpayer wishes to change its NAICS code. *Id.* However, the current correspondence from the Department lists a NAICS code apparently on file with the Department, and informs taxpayers that they must "submit a written request" to the Department in order to change that NAICS code.

Additionally, we have been unable to ascertain where the Department actually obtained the existing NAICS codes. It appears those codes were selected by the Unemployment Insurance Division of the Department of Employment, Training and Rehabilitation rather than selected by a taxpayer.

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We ask that you please provide a response to the following questions:

- (1) Does the Department intend to use NAICS codes on file for a taxpayer, even if assigned by another state agency, as any kind of legal precedent for the appropriate NAICS code for that taxpayer for Commerce Tax purposes?
- (2) Where has the Department obtained the NAICS codes it considers to be part of a taxpayer's current account?
- (3) Does the Department require a taxpayer to seek permission from the Department to select a NAICS code prior to the filing of the first Commerce Tax return, as seems to be suggested by recent correspondence from the Department? If the answer is affirmative, please provide a citation to the legal authority justifying such a position.

Thank you for your consideration of these matters and we look forward to the Department's response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua J. Hicks', written over a horizontal line.

JOSHUA J. HICKS