

**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY  
NRS 233B.0608**

**LCB File No. R002-17**

**1. Background**

Delivery is an umbrella term that includes of a variety of charges and multiple components. Under existing law: (1) When separately stated on applicable invoices or billing documents for the sale of the tangible personal property, the portion of the delivery charge that is solely transportation, shipping or postage is excluded from the taxable measure; and (2) a handling charge and charges for similar components of delivery are subject to sales and use taxes, whether or not the charge is separately stated on applicable invoices or billing documents for the sale of the tangible personal property.

The Department of Taxation has drafted Proposed Regulation R002-17, to provide clarity as to when a delivery charge will be considered part of the taxable measure. Under this regulation: (1) if any manufacturing, assembling or preparing of tangible personal property occurs during the transportation or shipping of the property to a location designated by the purchaser, a charge for the transportation or shipping is deemed to be a handling charge and is subject to sales and use taxes unless the retailer includes on applicable invoices or billing documents a separately stated charge for handling and a separately stated charge for only transportation or shipping; and (2) a charge which is separately stated on applicable invoices or billing documents as a charge for transporting or shipping tangible personal property to the retailer's place of business or any other location from which the tangible personal property will be subsequently delivered to the purchaser is subject to sales and use taxes.

**2. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

The Department of Taxation prepared and disseminated a questionnaire seeking information from small business regarding the possible impact of LCB File No R002-17 in its original form. The proposed language and questionnaire was dispersed to the following:

- Emailed by the Department to 223 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content of the responses can be summarized into the following major themes:

- 2 responses express concern of the ambiguity of what is a reasonable or customary markup charge.
- 1 response asked for transportation, shipping and delivery to be defined.

- 2 responses asked for manufacturing, assembling and preparing to be defined.
- 2 responses feel that the proposed regulation run contrary to NRS 360B.480.

Anyone interested in obtaining a copy of the summary of responses can contact:

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Nevada Department of Taxation  
1550 College Parkway Carson City, NV 89706  
Phone: (775) 684-2030  
Fax: (775) 684-2020  
[scrowley@tax.state.nv.us](mailto:scrowley@tax.state.nv.us)

The Department submitted a Department Draft of Second Revised Proposed Regulation R002-17 dated May 23, 2018 addressing the issue “of what is a reasonable or customary markup charge” by removing it from the proposed regulation.

**3. The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small business.**

The Department analyzed the questionnaires received and used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes.

While the responses from the questionnaires did not indicate an impact on small businesses, the responses did seek further clarification on terms used in the regulation. The Department revised the language of the proposed permanent regulation to address these responses. The Department has determined that these revisions will not impact small businesses.

**4. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate:**

**Direct and indirect adverse effects**

The Department finds that there is no reasonably foreseeable or anticipated direct or indirect adverse economic effect on small business.

**Direct and indirect beneficial effects**

The Department finds that there is no reasonably foreseeable or anticipated direct or indirect beneficial economic effect on small business.

- 5. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse impact to small business; therefore no efforts were required to reduce the impact on small businesses.

- 6. The estimated cost to the agency for enforcement of the proposed regulation.**

The proposed permanent regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

- 7. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed permanent regulation does not include new fees or increase an existing fee.

- 8. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

The proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

- 9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The Department has determined that there will be no adverse impacts to small businesses based on its analysis of comment received.

**I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared and the information contained herein is accurate.**



**William D. Anderson, Executive Director**

June 26, 2018