

***REVISED* PROPOSED REGULATION OF THE**

NEVADA TAX COMMISSION

LCB File No. R038-17

January 29, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets [omitted material] is material to be omitted.

AUTHORITY: §1, NRS 360.090 and 372.725.

A REGULATION relating to sales and use taxes; adopting provisions governing the application of sales and use taxes to amounts charged for an order for the delivery of a basket, box or other arrangement containing food that is prepared for immediate consumption; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts food for human consumption from the sales and use taxes imposed in this State, but excludes from that exemption prepared food intended for immediate consumption. (NRS 372.284, 374.289) This regulation adopts provisions governing the application of sales and use taxes to amounts charged for an order for the delivery of a basket, box or other arrangement containing prepared food that is intended for immediate consumption. Under this regulation: (1) amounts charged for such an item are treated in the same manner as amounts charged by a florist for an order for the delivery of flowers; (2) the sales and use taxes apply to the entire amount charged for the delivery of the basket, box or other arrangement, including delivery charges other than separately stated transportation, shipping or postage charges; and (3) the sales and use taxes do not apply to separate charges made for a telegram or amounts received by a ~~non-edible~~ *food* bouquet business who makes a delivery for another florist or ~~edible~~ *food* bouquet business.

Section 1. NAC 372.230 is hereby amended to read as follows:

372.230 1. The tax applies to the entire amount charged by a florist *or a* ~~an edible~~ *food bouquet business* who receives an order from a customer for the delivery of flowers, *a* ~~an edible~~ *food bouquet* or other tangible personal property, including any charges for the delivery except charges for transportation, shipping or postage which are stated separately on the applicable invoice or other billing document. The tax applies to the florist *or* ~~edible~~ *food*

bouquet business whether or not:

(a) ~~[He or she]~~ *The florist or [edible] food bouquet business* instructs another ~~[florist]~~ *person* to make the delivery.

(b) The order is to be delivered in Nevada.

2. The tax does not apply to:

(a) A separate charge made for a telegram.

(b) The amount received by a florist *or a [an edible] food bouquet business* in Nevada who makes a delivery pursuant to instructions received from another florist ~~[,]~~ *or [edible] food bouquet business*, whether or not the other florist *or [edible] food bouquet business* is located in Nevada.

3. As used in this section:

(a) “[~~edible~~] *food bouquet*” means a basket, box or other arrangement containing prepared food, including, without limitation, fresh fruit or fresh fruit covered in chocolate, that is intended for immediate consumption.

(b) “[~~edible~~] *food bouquet business*” means a retailer who sells at retail a ~~[an edible]~~ *food bouquet*.