

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

**LCB File No. R038-17**

**1. Background**

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.

The Department of Taxation has drafted Proposed Regulation R038-17, to establish: (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 an edible bouquet business who makes a delivery for another florist or edible bouquet business.

**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 R038-17. The proposed language and questionnaire was dispersed to the following:

- Emailed by the Department to 224 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:

- Businesses that responded to the questionnaire reported no negative or adverse effects to their small business.
- **Positive Effects:** A small business reported that the selling of fruit arrangements and fruit gift baskets is in direct competition with the florist industry and thus should face equal tax burden. In addition, small business reported that their franchise POS software is based on the florist model and if the regulation was adopted it would eliminate tax burdens on the reporting and collecting process for sales of edible gift baskets.

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

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[ghritz@tax.state.nv.us](mailto:ghritz@tax.state.nv.us)

**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 used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes.

In the questionnaire, respondents were asked to identify any direct adverse impacts, direct beneficial impacts, indirect adverse impacts, and indirect beneficial impacts. The Department analyzed the 2 responses collected to determine the likely impact of the proposed regulation on small businesses, and there wasn't any indication there would be a negative impact on small business.

**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 direct or indirect adverse economic effect on small business.

The proposed permanent regulation presents no reasonably foreseeable or anticipated direct or indirect adverse economic effect to the public.

**Direct and indirect beneficial effects**

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

The proposed permanent regulation presents no reasonably foreseeable or anticipated direct or indirect beneficial economic effect to the public.

The Department received correspondence in favor of the regulation because of the unification of tax between the florist model and a basket, box or other arrangement containing prepared food that is intended for immediate consumption

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 beyond what is provided for in NRS 372.284 and 374.289.

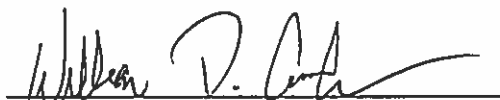
8. **If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

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 comment received. Conversely, the Department has determined that there will be a beneficial impact to small businesses based on the unification of tax between the florist model and a basket, box or other arrangement containing prepared food that is intended for immediate consumption.

**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

March 14, 2018