



STATE OF NEVADA
DEPARTMENT OF TAXATION

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Posted 9/1/22

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of

LCB File No. R174-22

Nevada Tax Commission

The Nevada Tax Commission will hold a Public Hearing at **9:00 a.m. on Monday, October 3, 2022**. The purpose of the hearing is to receive comments from all interested parties regarding the adoption of the regulation that pertains to LCB File No. R174-22.

You may attend this meeting at either of the following physical locations:

Nevada Department of Taxation
700 E. Warm Springs Road, 1st Floor
Las Vegas, Nevada 89119

Nevada Department of Taxation
4600 Kietzke Lane, Suite L235
Reno, NV 89502

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Need and purpose of the proposed regulations or amendments

The need and purpose of the proposed permanent regulation (R174-22) revises provisions governing the imposition and collection of sales and use tax for repair work performed pursuant to a contract with the State or a political subdivision; and provides other matters properly relating thereto.

Existing regulations provide that, for the purpose of the imposition and collection of the sales and use tax, a repairer is a retailer of parts and materials furnished in connection with repair work if the value of the parts and materials is substantial in relation to the total charge or if a separate

price is stated for the parts and materials. (NAC 372.390) This regulation provides that, if a repairer enters into a contract with the State or a political subdivision of the State to perform repair or maintenance work, the repairer and any subcontractor of the repairer is the consumer of the parts and materials furnished in connection with such work unless the repairer or subcontractor has a permit, is registered to collect sales and use tax or is required to have such a permit or register pursuant to the contract with the State or political subdivision. As the consumer of such parts or materials, the repairer or subcontractor of the repairer would be required to either pay sales tax at the time the repairer or subcontractor purchases the parts or materials or pay the use tax at the time the parts or materials are used by the repairer or subcontractor in this State. (NRS 372.105, 372.110, 372.185, 372.190, 374.110, 374.111, 374.115, 374.190, 374.191, 374.195)

2. How to obtain the approved or revised text of regulations prepared by LCB

You may obtain a copy of the proposed permanent regulation by writing to the Nevada Department of Taxation, 1550 College Parkway, Ste 115, Carson City, Nevada 89706; or by calling the office at (775) 684-2059. The proposed permanent regulation is also available for review and download on the Department of Taxation website at <https://tax.nv.gov/> or on the Nevada Legislature website at <https://www.leg.state.nv.us/>.

3. Methods used in determining the impact on a small business

The agency used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes, which includes its own analysis by considering the extent of the regulatory provisions contained in LCB File No. R174-22. The Department prepared a small business impact questionnaire that was forwarded to the Interested Parties List which is maintained by the Department.

The Department will continue to accept input on the impact of the proposed permanent regulation on small businesses through the regulatory process. No respondents indicated that this regulation would have a direct and significant economic burden upon a small business.

The Department held a workshop for concerned members of the public to state their concerns and submit correspondence regarding the regulation.

4. Estimated economic effect of regulation on businesses and the public

a. Adverse and beneficial effects

The proposed permanent regulation does not present any reasonable, foreseeable or anticipated adverse economic effects on small businesses.

b. Immediate and long-term effects

Same as above

5. Cost for enforcement of the regulations

The proposed permanent regulation does not present any significant, foreseeable or anticipated cost or

decrease in costs for enforcement.

6. Overlap or duplication of other state or local governmental agencies

The proposed permanent regulation does not overlap or duplicate any regulation of other state or local governmental entities.

7. Regulation required by federal law

Not Applicable

8. More stringent than federal regulations

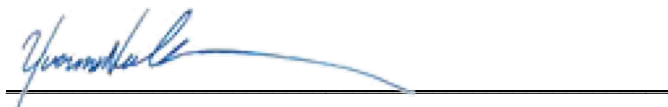
The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. New or increases in existing fees

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

Persons wishing to comment on the proposed action of the Nevada Tax Commission may appear at the above scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Tax Commission, 1550 E. College Parkway, Suite 115, Carson City, Nevada 89706. Written submissions must be received at least two weeks prior to the above scheduled public hearing.

Under NRS 233B.064(2), when adopting any regulation, the Agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporation, and its reason for overruling the consideration urged against its adoption.



Yvonne Nevarez-Goodson, Chief Deputy Executive Director
September 1, 2022

Members of the public who are disabled and require accommodations or assistance at the meeting are requested to notify the Department of Taxation in writing or by calling 775-684-2096 no later than five working days prior to the meeting.

A copy of the Notice and the proposed permanent regulation to be adopted and/or amended is on file and has been posted at the following location: The Department of Taxation - 1550 College Parkway, Ste 115, Carson City, Nevada.

Members of the public may inspect these documents during regular business hours at the above location. Additional copies of the notice and proposed permanent regulation to be adopted and/or amended are available at the below locations.

The text of the proposed permanent regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

Notice has been EMAILED/MAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno, Nevada; Department of Taxation - 700 E. Warm Springs Rd, Ste 200, Las Vegas, Nevada; The Legislative Building - Capitol Complex, Carson City, Nevada; The Nevada State Library -100 Stewart Street, Carson City, Nevada; The County Public Library's, Interested Parties Group, and the Mailing List maintained by the Department. Notice of this meeting was posted on the Department of Taxation website at <https://tax.nv.gov/>, on the Legislative website at <https://www.leg.state.nv.us/>, and the Nevada Public Notice Website at <https://notice.nv.gov/>.

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R174-22

July 22, 2022

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

AUTHORITY: § 1, NRS 360.090, 372.725 and 374.725.

A REGULATION relating to taxation; revising provisions governing the imposition and collection of sales and use tax for repair work performed pursuant to a contract with the State or a political subdivision; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing regulations provide that, for the purpose of the imposition and collection of the sales and use tax, a repairer is a retailer of parts and materials furnished in connection with repair work if the value of the parts and materials is substantial in relation to the total charge or if a separate price is stated for the parts and materials. (NAC 372.390) This regulation provides that, if a repairer enters into a contract with the State or a political subdivision of the State to perform repair or maintenance work, the repairer and any subcontractor of the repairer is the consumer of the parts and materials furnished in connection with such work unless the repairer or subcontractor has a permit, is registered to collect sales and use tax or is required to have such a permit or register pursuant to the contract with the State or political subdivision. As the consumer of such parts or materials, the repairer or subcontractor of the repairer would be required to either pay sales tax at the time the repairer or subcontractor purchases the parts or materials or pay the use tax at the time the parts or materials are used by the repairer or subcontractor in this State. (NRS 372.105, 372.110, 372.185, 372.190, 374.110, 374.111, 374.115, 374.190, 374.191, 374.195)

Section 1. NAC 372.390 is hereby amended to read as follows:

372.390 1. Except as *otherwise* provided in *subsection 4 and* NAC 372.420 and 372.450, repairers are retailers of parts and materials furnished in connection with repair work in which the value of the parts and materials is substantial in relation to the total charge. Those repairers who segregate on invoices and in their records the fair retail-selling price of the parts and

materials from the charges for labor, installation and other service charges must collect the tax on the retail selling price of the parts and materials. If the labor and other service charges are not separately stated, the tax applies to the entire charge made to the customer.

2. The repairers are consumers of parts and materials furnished in connection with repair work in which the value of the parts and materials is insubstantial in relation to the total charge if no separate charge is made for the parts and materials. To be considered a consumer of the parts and materials used in connection with the repair services rendered, the repairer must pay the tax on the purchase and must not give a resale certificate to his or her suppliers. Even though the value of the parts and materials is insubstantial in relation to the total charge, repairers will be considered retailers, and not consumers, if a separate price is stated for the parts and materials.

3. If the method of repairing or reconditioning certain tangible personal property involves commingling property delivered to a repairer or reconditioner with similar property so that the customer received repaired or reconditioned property which may not be the identical property delivered to the repairer or reconditioner but which is exactly the same kind of property or derived from exactly the same kind of property as that so delivered, the tax applies to the amount charged by the repairer or reconditioner for the repaired or reconditioned property.

4. Except as otherwise provided in this subsection, a repairer who enters into a contract with the State or a political subdivision of the State to perform repair work on, or to maintain, property belonging to the State or political subdivision, and any subcontractor of the repairer, is the consumer of any parts and materials furnished in connection with such repair work. If such a repairer or subcontractor has obtained a permit pursuant to NRS 360.5971 or registered pursuant to NRS 360B.200, or is required to obtain a permit pursuant to NRS 360.5971 or register pursuant to NRS 360B.200 pursuant to the contract with the State or

political subdivision, the provisions of subsections 1, 2 and 3, as applicable, apply to the repair work performed pursuant to the contract. As used in this subsection, "political subdivision" means a county, city or other local government as defined in NRS 354.474.