

MINUTES

of the meeting of the

NEVADA DEPARTMENT OF TAXATION

REGULATION WORKSHOP FOR LCB FILE NO. R002-17

July 16th, 2018

The Nevada Department of Taxation held a public meeting on July 16th, 2018, beginning at 10:00am at the following locations:

- Nevada Legislative Building
401 S Carson Street, Room 2135
Carson City, NV 89701
- Via Video Conference:
Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E Washington Ave., Room 4412
Las Vegas, NV 89101

1. **Call to order** - The meeting was called to order by George Hritz , Management Analyst for the Department of Taxation, at 10:05 a.m. Also present were, Shellie Hughes, Chief Deputy Executive Director for the Department of Taxation, and Andrea Nichols, Senior Deputy Attorney General of the Attorney General's Office. Bill Anderson, Executive Director of the Department of Taxation was present in the audience.

Those present in Las Vegas were, Paulina Oliver, Deputy Director for the Department of Taxation, Bill Steves, the Audit Tax Manager for the Department of Taxation, and Vivienne Rakowsky, Deputy Attorney General of the Attorney General's Office.

Members of the public were asked to sign in, and the sign-in-sheet is attached to the original minutes as Exhibit A

2. **Public Comment** – No public comments were given at this time.
3. **Department Draft of Second Revised Proposed Regulation R002-17** – George Hritz read the Department Draft of Second Revised Proposed Regulation R002-17 in its entirety. A copy of this document has been attached to the minutes as Exhibit B
4. **2nd Period of Public Comment and Discussion** – Joshua Hicks with the McDonald Carano law firm, commented that the regulation has gotten better through its revisions but he still had

some concerns. Mr. Hicks then drew attention to section 372.101 1(a) of the proposed regulation, specifically a line that talks about "...a charge for the transportation or shipping...", and suggested that this be altered to include the word postage. Mr. Hicks' concern was that the words transportation, shipping, and postage were used together earlier in the proposed regulation but postage was subsequently dropped off. He suggests that throughout the proposed regulation, all three words be used together.

Mr. Hicks' next comment pertained to the last sentence of section 372.101 1(a). He gave an example of a dump truck dropping off property at a delivery site and posed the rhetorical question of if that would be construed as assembling, preparing, or manufacturing. He expressed that the dump truck scenario doesn't seem like it would fall under assembling, preparing, or manufacturing but he suggested a change to the wording in order to clarify that this portion of the regulation is pertaining to something beyond purely transportation or shipping. An example he suggested would be to alter the last sentence to read "...**actively** made ready for use..."

Mr. Hicks' final concern pertains to section 372.101 2. He felt that the "... any other location..." language may be too open ended. He expressed that this section might need a little more discussion or clarity.

No other public comment was presented.

5. Meeting Adjourned

Exhibit A

Workshop on Proposed Regulation R002-17
Nevada Legislative Building
401 S. Carson Street, Room 2135
Carson City, Nevada

SIGN IN SHEET

July 16, 2018

PLEASE PRINT NAME, ADDRESS AND TELEPHONE NUMBER
(PROVIDE BUSINESS CARD IF TESTIFYING)

PUBLIC
COMMENT
YES/NO

Michael Pelham
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Josh Hicks
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Bill Anderson
Name

TAXATION
Representing

Email Address

Address

Sarah Glaney
Name

Taxpayers.com
Representing

Email Address

Address

Telephone/Business Telephone

**PLEASE PRINT NAME, ADDRESS AND TELEPHONE NUMBER
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PUBLIC
COMMENT
YES/NO

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Name

Representing

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Address

Telephone/Business Telephone

Name

Representing

Email Address

Address

Telephone/Business Telephone

Name

Representing

Email Address

Address

Telephone/Business Telephone

Workshop on Proposed Regulation R002-17
Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E Washington Avenue, Room 4412 Las Vegas, NV

SIGN IN SHEET

July 16, 2018

PLEASE PRINT NAME, ADDRESS AND TELEPHONE NUMBER
(PROVIDE BUSINESS CARD IF TESTIFYING)

PUBLIC
COMMENT
YES/NO

Rachna Oberoi
Name

Taxation
Representing

Email Address

Address

Telephone/Business Telephone

BILL STEVES
Name

TAXATION
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Telephone/Business Telephone

Laura Kelly
Name

Taxation
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Guy Childers
Name

TAXATION
Representing

Address

Email Address

Address

Telephone/Business Telephone

Workshop on Proposed Regulation R002-17
Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E Washington Avenue, Room 4412 Las Vegas, NV

SIGN IN SHEET

July 16, 2018

PLEASE PRINT NAME, ADDRESS AND TELEPHONE NUMBER
(PROVIDE BUSINESS CARD IF TESTIFYING)

Jarman Singh Taxation
Name Representing

Address

Telephone/Business Telephone

Email Address

PUBLIC COMMENT YES/NO

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Exhibit B

**SECOND REVISED PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R002-17

May 23, 2018

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

AUTHORITY: §1, NRS 360.090, 360B.480, 372.025 and 374.070.

A REGULATION relating to taxation; revising provisions governing the application of sales and use taxes to charges for postage or the transportation or shipping of tangible personal property in connection with a sale of that property; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law *does not* exclude~~[s]~~ from sales and use taxes a charge for the delivery of tangible personal property if the charge is part of or included in the sale of the tangible personal property. *(NRS 372.065) 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 ~~[(1) a delivery charge is not included in the sale of tangible personal property and is not subject to sales and use taxes if the charge is separately stated on applicable invoices or billing documents for the sale of the tangible personal property; and (2) a handling charge is]~~ 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.* (NRS 360B.480, 372.025, 374.070; NAC 372.101)

This regulation revises provisions governing the application of sales and use taxes to certain types of charges for postage or the transportation or shipping of tangible personal property in connection with the retail sale of the property. 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.

Section 1. NAC 372.101 is hereby amended to read as follows:

372.101 1. Delivery charges included in the *retail* sale of tangible personal property are subject to sales and use taxes, including, but not limited to, any charges for:

(a) Transportation, shipping or postage which are not stated separately on applicable invoices or other billing documents. ~~[Any]~~ *Except as otherwise provided in this section, any* charges for transportation, shipping or postage which are stated separately on applicable invoices or other billing documents shall be deemed not to be included in such a sale and are not subject to sales and use taxes. *If any manufacturing, assembling or preparing of tangible personal property occurs at the time that the tangible personal property is off-loaded or during the transportation or shipping of tangible personal property to a location designated by the purchaser, a charge for the transportation or shipping shall be deemed not to be a charge for transportation or shipping which is separately stated on applicable invoices or other billing documents and is subject to sales and use taxes, unless the retailer includes on applicable invoices or other billing documents a separately stated charge for the handling of the tangible personal property and a separately stated charge for only transportation or shipping. For the purposes of this paragraph, tangible personal property is manufactured, assembled or prepared during transportation or shipping if the tangible personal property is produced, made ready for use or made through a combination of products during such transportation or shipping.*

(b) Handling, crating or packing, whether or not separately stated.

2. *If a retailer includes on applicable invoices or other billing documents any separately stated delivery charges, including, without limitation, charges for postage or the transportation or shipping of tangible personal property to the retailer's place of business or any other location from which the tangible personal property will subsequently be delivered to*

a location designated by the purchaser, such charges shall be deemed to be included in the calculation of gross receipts for the purposes of paragraph (c) of subsection 1 of NRS 372.025 and are subject to sales and use taxes.

3. A delivery charge that is not connected with the sale of tangible personal property is a charge for a service and is not subject to sales and use taxes.

~~3.~~4. If a shipment of tangible personal property which is sold to a purchaser includes both taxable and exempt property, the seller of the property shall comply with the provisions of NRS 360B.255.