



August 12, 2020

To: Nevada Tax Commission
RE: Item 5C: Taxpayer's Appeal of Advisory Opinion 20-006 dated March 12, 2020

Dear Nevada Tax Commission:

I am writing on behalf of Ecig Distributors, Inc. based in Las Vegas, Nevada. Our combined headquarters and distribution facility is also located in Las Vegas. While we employ 61 Nevadans, we have no customers in Nevada. Based on the brief submitted by the Nevada Department of Taxation on Item 5C, 100% of the OTP taxes that our vendors pay on the products that we purchase (all of which we ship out of Nevada) would be subject to refunds or credits.

Nevada wholesale distributors of vaping products cannot maintain a competitive national or global business based in Nevada under the current NAC regulations. NAC 370 requires wholesale distributors to pay taxes on products received in Nevada, regardless of their end destination, and then apply for refunds or credits for the taxes paid when products leave Nevada. Vaping in the United States is a \$9 billion industry; the annual market for retail sales in Nevada is about \$85 million. The Nevada vape market represents less than 1% of the total available business. This industry reality results in some wholesale dealers, like ourselves, declining to sell to Nevada customers. Indeed, the Tax Department has provided a written opinion to confirm that a company with no Nevada customers, like ours, is not required to remit the 30% OTP tax. However, an issue arises when other wholesale distributors sell us OTP products, as they are required to remit the tax even though we do not sell such products to Nevada customers. Our inventory costs will be kept artificially high, and we will not be price competitive with distributors outside of Nevada. This "tax then credit scheme" will not work, and we, together with similarly situated Nevada businesses, will suffer a detriment when participating in interstate commerce.

NAC 370 currently requires that wholesale distributors remit taxes on products received and sold in state then submit shipping information to prove the products were subsequently sold out of state. This will result in Nevada wholesale distributors paying millions of dollars of taxes and requesting millions of dollars in credits each month in order for the State of Nevada to receive net revenue of ZERO dollars but incurring significant administrative costs. Essentially, Nevada wholesale distributors will be forced to make large cash payments (that are effectively loans to the State) that will remain in limbo as credits accrue and new tax liability is generated; while the Tax Department realizes NO tax revenue. Additionally, due to



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the scale of some of Nevada's wholesale distributors, the current process will require these handful of wholesale distributors to submit tens of thousands of shipping and transaction records to the State of Nevada every month, which we strongly believe will overwhelm both the affected businesses, such as our company, and the State's ability to administer this tax.

We don't want to see our company and the State need to add multiple full-time employees to administer a process that results in \$0 in taxes paid when we could model our process after other states, namely allowing us to certify to our vendors that goods will never be for sale in Nevada, thereby eliminating these advances to the state.

Beyond just our company, we have concerns for Nevada's economy. We, like most of the major OTP wholesale distributors in Las Vegas, moved our business from California to Nevada. Over the last three years we have created dozens of new, high-paying jobs in Nevada. If we cannot find an administrative solution to avoid millions of dollars in unnecessary taxes and credits and thousands of pages of tax returns, I fear the majority of wholesale distributors will have no choice but to relocate to states where the regulatory burden is more reasonable.

Thank you for your time and consideration.

Regards,

William Wilson
Chief Executive Officer
eCig Distributors, Inc.