



December 10, 2021

Shellie Hughes, Executive Director
Nevada Department of Taxation
1050 College Parkway, Suite #115
Carson City, NV 89706-7937

Re: LCB File No. R073-20

Dear Director Hughes:

The purpose of this letter is to request further explanation and provide additional comments following the workshop held by your department on November 15, 2021 regarding the draft regulation (LCB File No. R073-20) related to the application of sales and use taxes to the purchase or use of parts necessary to perform a repair pursuant to a warranty. The Nevada Franchised Auto Dealers Association (“NFADA”) respectfully requests this written correspondence be included in the rulemaking record.

As articulated in our Small Business Impact Statement submitted to the Department of Taxation (“Department”) on July 5, 2021 and at the workshop last month, the proposed regulation has been drafted in an ambiguous manner. As drafted, we believe - although we have received no confirmation/guidance during the workshop - the regulation attempts to treat certain “special coverages” of a mandatory warranty in the same manner as “goodwill.” This would result a taxable event to not only our automotive consumers, but to countless consumers who own other types of tangible goods which are covered under a mandatory warranty, when replacement parts are used to repair a product defect. In countless instances, this tax liability will cost Nevada’s consumers hundreds of dollars in unforeseen costs.

Should the proposed regulation become law, NFADA is concerned that customers will be faced with a “Hobson’s choice” when pursuing a warranty repair on their vehicle. Should they decide to move forward with the repair, a significant tax bill maybe due and owing. In the alternative, they might simply decide to forgo the repair because of this cost and continue to operate the vehicle with a known defect. Either way the consumer loses. In other circumstances, consumers may decide to travel to another state to obtain the warranty repair depriving Nevada businesses revenue opportunities.

During the workshop, Senior Deputy Attorney General David Pope suggested that in order to minimize the taxable liability on our consumers, the sales or use tax which is due and owing could be paid by our manufacturer partners. Nevada Revised Statute 372.110 clearly states that sales taxes are to be “collected by the retailer **from the consumer**” (emphasis added). The suggestion that payment by anyone other than the consumer is not only unfair to the manufacturers, it doesn’t comply with Nevada law.

In closing, NFADA would respectfully request that the Department take no action on the proposed regulation because of its ambiguity and the fact that it will have a negative impact on Nevada's consumers through a regulatory-enacted tax increase. However, should you have any questions regarding our comments related to this matter, please do not hesitate to contact us at your convenience.

Kind Regards,

A handwritten signature in blue ink, appearing to read 'Andrew J. MacKay', with a long horizontal flourish extending to the right.

Andrew J. MacKay
Executive Director