

NEVADA TAX COMMISSION MEETING  
MINUTES

Nevada Legislative Building  
401 S. Carson Street, Room 2135  
Carson City, Nevada 89701

*Video Conference*

Legislative Counsel Bureau  
Grant Sawyer State Office Building  
555 E. Washington Ave., Room 4412  
Las Vegas, Nevada 89101

March 9, 2020  
9:00 a.m.

Members Present:

James DeVold, Chairman  
Sharon Rigby, Commissioner  
Craig Witt, Commissioner  
Ann Bersi, Commissioner  
Tony Wren, Commissioner  
Randy Brown, Commissioner  
Francine Lipman, Commissioner (Telephonic)

Members Absent:

George Kelesis, Commissioner

Chairman DeVold called the meeting to order.

I. Public Comment.

Mona Lisa Samuelson – Nevada’s first Cannabis Patient Advocate and Community Activist. Ms. Samuelson stated she has been coming to these meeting for years and asked for the Commission’s help. With this new industry, help with the regulations is needed. As patients, we needed protection. Ms. Samuelson stated she attends these meetings to share the passion and desperation of the medical patients in the community. The patients still need protection. Instead of bringing in the last ten lists and public comments that she presented, Ms. Samuelson stated she is going to contact each one of the commissioners and will be sending public comment in written form. She asked that the Tax Department take the medical patients’ needs into consideration for legislative protection and to not look at this just to make money. Ms. Samuelson stated, she thinks the role in this, as part of the regulators, shouldn’t be that you simply become “Yes Men”, and that is what we have seen so far. So far, the Tax Department has become the worst enemy of the cannabis patients in the state of Nevada.

Krystal Saab – Nevada Organic Remedies, a vertically integrated company in Nevada, stated they are in support of the Tax Commission to negotiate and approve settlements.

Leighton Koehler – General Counsel on behalf of MM Development dba Planet 13, stated he is in support of the delegation to the Department of Tax.

Dr. Nick Spirtos stated he has been in front of the Commission a number of times with regard to litigation and the cannabis industry; and that Mr. Chairman said it was his position that this needs to be settled in court. Dr. Spirtos stated the Chairman has cut him off from conversations on at least two occasions. Dr. Spirtos asked why the Tax Commission is now changing its position, and not settling in Court.

Director Young Administered an oath to all parties testifying.

Commissioner Lipman joined the meeting telephonically.

II. Meeting Minutes:

A. Consideration for Approval of the January 27, 2020 and February 13, 2020 Nevada Tax Commission Meeting Minutes.

Commissioner Brown made a motion to approve the January 27, 2020 and February 13, 2020 Nevada Tax Commission meeting minutes. Commissioner Wren seconded the motion. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
  - a) DBC International Inc.
  - b) Lokal Salon-Boutique LLC

B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax, Modified Business Tax and/or Commerce Tax):

- 1) Polymer Logistics Inc.
- 2) Athlete Performance Solutions
- 3) Carolina Products Inc.
- 4) Charlotte's Web, Inc.
- 5) NTH Degree Acquisition Inc.
- 6) Fenty Beauty LLC
- 7) Kat Von D Beauty, LLC
- 8) Printfly Corporation dba thedealrack.com/rushordertees.com
- 9) Old Dominion Freight Line, Inc.
- 10) Kendo Holdings, Inc.
- 11) Eargo Hearing Inc.
- 12) Storage Systems Unlimited Inc.
- 13) VMR Products LLC
- 14) Canadian Posters International Inc. dba PI Fine Art

C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) CF Arcis X Holdings LLC
- 2) Insomniac Holdings LLC dba Electric Daisy

- D. Approval of Refund/Credit Request in Excess of \$250,000:
  - 1) Core-Mark International Inc.
  - 2) Panda Express
  - 3) ACI Worldwide Corp.
  
- E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use Tax, Modified Business Tax and/or Commerce Tax)
  - 1) Chandelier Banquet Hall, LLC
  - 2) C&H Limited Series LLC dba Just Play
  - 3) Century Communities of Nevada LLC
  - 4) Valru Power, Inc. dba Las Vegas Auto Parts & Salvage
  
- F. Consideration to Appoint Terri Upton, Deputy Executive Director, as a Delegate to the Streamlined Sales Tax Agreement Governing Board pursuant to NRS 360B.110(5).

Commissioner Rigby requested to pull Item III. B. 12) Storage Systems Unlimited for further discussion.

Commissioner Wren made a motion to approve the consent calendar, excluding Item III. B. 12). Commissioner Brown seconded the motion. All in favor. Motion carries.

Item III. B. 12) Storage Systems Unlimited:

Melissa Gardner was present on behalf of the Nevada Department of Taxation.

Commissioner Rigby mentioned the documents state that until recently management was unaware that installation services created nexus in the state. What they are claiming isn't installation services because that is exempt based on NRS 362.382.

Ms. Gardner, Audit Manager, stated the business is also selling equipment in the state and has some mandatory installation that is taxable with the sale.

Commissioner Rigby made a motion to approve Item III. B. 12) Storage Systems Unlimited. Commissioner Lipman seconded the motion. All in favor. Motion carries.

#### IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

##### A. Local Government Services:

- 1) Review and Consideration for Approval of the Assessor's Handbook of Rural Building Costs for 2021-2022, as authorized under NAC 361.128(a).

Cheryl Erskine, Coordinator of Assessment Standards for Local Government Services, was present on behalf of the Department of Taxation.

Commissioner Wren asked how many companies are looked at to analyze the data.

Ms. Erskine answered that she tries to look at least three, sometimes more, to be sure it is a good sample of the economy.

Commissioner Rigby commented that she appreciates the executive summary. It saved a lot of time and it is helpful to know the sources.

Commissioner Brown disclosed that on pages 84 and 85, the handbook describes prefabricated telecom communications equipment. Commissioner Brown stated that he works for AT&T and this information does not affect AT&T any different than anyone else.

Commissioner Witt disclosed that there are photos of his barn and shoots in the manual.

Commissioner Witt made a motion to approve the Assessor's Handbook of Rural Building Costs for 2021-2022. Commissioner Rigby seconded the motion. All in favor. Motion carries.

2) Review and Consideration for Approval of Exemption(s) as authorized under NRS 361.068(2) where Administrative Costs Exceed Revenue from Tax on Personal Property for application in FY 2019 - 2020.

Shannon Silva, Locally Assessed Supervisor, was present on behalf of the Department of Taxation. Ms. Silva stated that the Department recommends that the personal property bills of ten dollars or less be exempt from taxation for the upcoming year.

Commissioner Rigby made a motion to approve the exemptions as authorized under NRS 361.068(2) where Administrative Costs Exceed Revenue from Tax on Personal Property for application in FY 2019 – 2020. Commissioner Brown seconds the motion. All in favor. Motion carries.

3) Discussion and Consideration for Granting the Waiver to remain on Guaranteed Status for Supplemental City-County Relief Tax pursuant to NRS 377.057(2):  
a) Lander County

Kevin Williams, Management Analyst II, and Kelly Langley, Budget Analyst II, were present on behalf of the Department of Taxation.

A representative from Lander County was not present.

Commissioner Witt moved to grant Lander County the waiver to remain on guaranteed status for supplemental city-county relief tax. Commissioner Rigby seconds the motion. All in favor. Motion carries.

b) White Pine County

Kevin Williams, Management Analyst II, and Kelly Langley, Budget Analyst III, were present on behalf of the Department of Taxation.

Elizabeth Frances, Finance Director, was present telephonically on behalf of White Pine County. White Pine County has serious concerns with being removed from guaranteed status. A majority of funds are being generated through the mining process. One of the county's largest employers and largest producer is a copper mine. Copper is plummeting. Should this mine close, the county would be in a serious situation. Ms. Frances stated the county is working to diversify the economy. The county now has a hemp farm that has started production this year and they have discussed

opening a production facility in conjunction with this. The county is also working on a renewable energy project. Ms. Frances stated the county is working to diversify, although at this time the County Commission is requesting to remain on guaranteed status until we have a firmer footing on what the county is working toward.

Commissioner Rigby stated that this is the exact type of type of situation that justifies the waiver and moved to grant White Pine County the waiver to remain on guaranteed status for supplemental city-county relief tax. Commissioner Lipman seconded the motion. All in favor. Motion carries.

c) Pershing County

Kevin Williams, Management Analyst II, and Kelly Langley, Budget Analyst III, were present on behalf of the Department of Taxation.

A representative from Pershing County was not present.

Commissioner Wren moved to grant Pershing County the waiver to remain on guaranteed status for supplemental city-county relief tax. Commissioner Witt seconded the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

A. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:

1) Adam Schwartz

Lizette Arceo, Tax Manager, was present on behalf of the Nevada Department of Taxation.

Adam Schwartz was present.

Chairman DeVold stated he will support the agreement with one caveat. If there is an interruption in the payment stream, the full amount becomes due and payable. Commissioner Wren made a motion to approve the offer-in-compromise of Adam Schwartz. Commissioner Rigby seconded the motion. All in favor. Motion carries.

2) Jerry Colegrove

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

A representative of the Estate of Jerry Colegrove was not present.

Commissioner Witt made a motion to approve the offer in compromise. Commissioner Bersi seconded the motion. All in favor. Motion carries.

3) James W. Williamson and Robert W. Williamson

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

The Taxpayer was not present.

Commissioner Lipman stated her husband's name is James Edward Williamson, with no known relation.

Commissioner Lipman made a motion to approve the offer in compromise of James W. Williamson and Robert W. Williamson. Commissioner Bersi seconded the motion. All in favor. Motion carries.

4) Osnat Binyamin

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Osnat Binyamin was present.

Commissioner Brown stated he planned to support this offer in compromise only because the full amount has almost been paid in full. Commissioner Brown did take note that the taxpayer was not fully truthful and forthcoming with the Department.

Commissioner Rigby made a motion to approve the offer in compromise of Osnat Binyamin. Commissioner Witt seconded the motion. All in favor. Motion carries.

5) Karen D. Newton and Kenneth B. Newton

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

The taxpayer was not present.

Commissioner Bersi made a motion to approve the offer in compromise of Karen D. Newton and Kenneth B. Newton. Commissioner Wren seconded the motion. All in favor. Motion carries.

6) Rocio L. Cuevas

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Rocio L. Cuevas was present.

Commissioner Witt made a motion to approve the offer in compromise of Rocio L. Cuevas. Commissioner Lipman seconded the motion. All in favor. Motion carries.

B. Petition for Reconsideration of Department's Denial of Exemption Status  
iPurposes pursuant to NRS 372.3261 (Sales/Use Tax):

1) Joint Commission Resources, Inc.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Jonathan Geiger was present on behalf of Joint Commission Resources, Inc.

Chairman DeVold disclosed that Joint Commission Resources, Inc. is associated with Renown. Chairman DeVold is the Chairman of the Board of Renown Health Systems. Chairman DeVold stated he will abstain from voting on this matter.

Commissioner Brown disclosed that he serves in a non-governing advisory role to Renown's Audit and Compliance Committee. Commissioner Brown stated that on Page 31 in the application, it specifically says their program benefits members only. Commissioner Brown stated that he agrees with the Department and this is not benefitting the community.

Commissioner Rigby made a motion to uphold the denial of exempt status for Joint Commission Resources, Inc. Commissioner Witt seconded the motion. Chairman DeVold abstained. All in favor. Motion carries.

2) American Gastroenterological Association Institute, Inc.

This matter was withdrawn by the taxpayer.

C. Taxpayer's Appeal of the Department's Decision, issued on December 10, 2019, to Deny the Taxpayer's Request for a Late Filed Petition for Hearing:

1) Alex Towing

George Hritz, Management Analyst III, was present on behalf of the Department of Taxation.

Alex Campos was present on behalf of the Taxpayer. Lizette Arceo translated testimony for Mr. Campos.

Commissioner Rigby moved to uphold the denial of the taxpayer's appeal of the Department's decision of December 10, 2019, wherein the Department denied the Taxpayer's request for a late filed petition for hearing. The motion was seconded by Commissioner Bersi. All in favor. Motion carries.

D. REGULATIONS:

1) Consideration for Adoption of Permanent Regulation LCB File No. R123-18: A Regulation relating to taxation; clarifying, for purposes of the sales tax, provisions concerning certain charges against a person who rents or leases tangible personal property; and providing other matters properly relating thereto.

Shellie Hughes, Chief Deputy Executive Director, was present on behalf of Nevada Department of Taxation.

Chairman DeVold stated that he attended the workshop on February 24, 2020, and no public comment was made.

Commissioner Rigby asked if this language is a result of clarifying the linen issues. Chief Deputy Hughes answered, yes.

Commissioner Rigby made a motion to approve LCB File No. R123-18. Commissioner Lipman seconded the motion. All in favor. Motion carries.

- 2) Consideration for Adoption of Permanent Regulation LCB File No. R056-18: A Regulation relating to taxation; revising provisions governing the determination of whether food sold by a retailer is prepared food intended for immediate consumption for the purposes of the imposition of sales and use taxes on the retail sale of the food; and providing other matters properly relating thereto.

Shellie Hughes, Chief Deputy Executive Director, was present on behalf of Nevada Department of Taxation.

Commissioner Witt stated he attended the workshop on February 24, 2020, and mentioned that the flow chart was helpful.

Commissioner Lipman commented that this is a complicated calculation and the Department has made a herculean effort to make this clear to taxpayers, which is the goal for a regulation. The flow chart helped and the examples are excellent. Commissioner Lipman suggested that the Department supply a worksheet for taxpayers to help with the calculations. The Internal Revenue Service provides worksheets that don't go on the return, but help to calculate and compile the information. This would help businesses, especially the small businesses.

Chief Deputy Hughes agreed with Commissioner Lipman's suggestion.

Commissioner Witt moved to approve LCB File No. R056-18. Commissioner Lipman seconded the motion. All in favor. Motion carries.

VI. Consideration to delegate authority to a member of the Nevada Tax Commission to negotiate and approve settlements and promulgate emergency regulations on behalf of the Marijuana Enforcement Division.

Director Young stated the Department is requesting to modify this request and to table the delegation of the authority to promulgate emergency regulations. The Department is requesting the delegation of authority to a member of the Nevada Tax Commission to negotiate and approve settlements on behalf of the Marijuana Enforcement Division.

Steve Shevorski, Chief Litigation Counsel with the Nevada Attorney General's Office, was present on behalf of the Nevada Department of Taxation.

Chairman DeVold asked if this request was made through the courts.

Mr. Shevorski stated this is a request made by the Attorney General's Office and the Department of Taxation to respond to negotiations that may or may not occur.

Commissioner Rigby asked if the Chairman would be the designated authority. This is something that would help move negotiations along, but the Chairman is then protected because it is within statutory authority.

Mr. Shevorski believes this to be correct.

Commissioner Rigby asked about transparency and if it would then be brought before the Commission for public comment.

Mr. Shevorski stated it would come back before the Commission as an informational item for consideration.

Commissioner Rigby asked if this would satisfy the need for transparency by a public body.

Mr. Shevorski stated he believes that it does.

Commissioner Wren is in favor to give the Chairman the authority to negotiate settlements, but stated he is not in favor to give him the authority to approve settlements without full approval of the Commission.

Chairman DeVolld agreed with Commissioner Wren's suggestion and stated he would accept the responsibility. The Chairman is most concerned about transparency. He stated that he would work with Director Young.

Commissioner Lipman asked to hear from the Tax Commission's counsel and would like to be sure this matter was properly noticed.

Rosalie Bordelove, Senior Deputy Attorney General and Counsel to the Nevada Tax Commission. Chapter 241.0357 is part of the open meeting law and was added in 2019 to allow a public body to delegate this authority. Ms. Bordelove also stated the agenda was posted timely.

Commissioner Rigby moved that the Commission delegate Chairman DeVolld the authority to negotiate settlements involving marijuana enforcement, with the assistance of the Executive Director, and to bring the matters before the Commission for final approval. Commissioner Wren seconded the motion. All in favor. Motion carries.

VII. INFORMATIONAL ITEMS:

- A. Business Tax and Excise Tax (dates as indicated).
- B. Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

There were no questions.

VIII. BRIEFING:

- A. Briefing to/from the Commission and the Executive Director.

Melanie Young, Executive Director – Nevada Department of Taxation:

Director Young provided a copy of the frequently asked questions regarding marketplace facilitators which have been posted on the Department's website. A marketplace is a physical or electronic presence, including but not limited to, store, booth, internet website, catalog, television or radio broadcast, or a dedicated software sales application, where a marketplace seller sells or offers for sale tangible personal property. This is often confused with only the internet presence. The Department is working to identify potential marketplace facilitators. Sarah Glazner is the Department's liaison for the marketplace facilitators. Director Young asked that if any taxpayer believes that they meet these requirements, they call the Department's Call Center to be sure that the Department has them properly designated.

With regard to Project MYNT (Modernize Your Nevada Tax), the Department has been holding business process workshops and has a draft current state assessment. The assessment is reviewing the Department's personnel, resources, processes and its technology. This will help to understand the Department's business processes, pain points and opportunities for improvement.

The Department is continuing to work on the transition of the Marijuana Enforcement Division; and we are pleased with the announcement of appointments to the Cannabis Compliance Board. Former Supreme Court Justice, Michael L. Douglas, was named as the Chairman. Former Gaming Control Board Chairman, Dennis Neilander, and Jerry Merritt, who has extensive experience in Nevada's financial sector, were also named.

At the end of February the Department attended the Governor's Finance Office Budget Kickoff meeting where we received our budget instructions, which is a flat budget times two the general fund for 2021. We are required to provide a strategic plan which the executive team is working on currently. Furthermore, we are also required to come up with efficiency measures that potentially eliminate a program, request one time funding for longer term efficiencies or enable efficiencies for customer and taxpayer interactions.

The Department has been working on a continuity of operations plan or COOP for the Coronavirus and we have been monitoring the situation in conjunction with the Governor's Office and health officials. The message is Plan, Prepare and Don't Panic.

IX. Next Meeting Date: May 4, 2020

X. Public Comment.

David Goldwater, Managing Member of Inyo Fine Cannabis, LLC. Mr. Goldwater stated that he is in support of agenda Item VI and stated his view of the litigation is that the Tax Commission has administrative jurisdiction over the case so it is good to see the Commission taking an active role in settling the suits. It might bring some color as to what the licensing process has done to the market. The process awarded more licenses to the larger entities and the smaller entities, like the entity that Mr. Goldwater is a partner of, were left out. The big got bigger and the smaller got more vulnerable in the cannabis market. Any strategic settlement that continues to award or give advantages to the larger companies is a threat to the smaller companies, a threat to the cannabis market and to the consumers as a whole. For example, if the state were to encourage settlements only between the larger entities that are plaintiffs in the litigation, it would be a very effective litigation strategy, but not the best market strategy or not best for the state and/or players in the market. Mr. Goldwater asked that the Commission feel free to ask him any questions and he will leave his contact information with committee secretary.

Mona Lisa Samuelson, Nevada's only Cannabis Patient Advocate and Community activist. As we hear about how the small people are now getting shafted, the patients have been here all along. Ms. Samuelson stated that she hears you talk about the different entities and you never once mentioned the medical marijuana patients. Ms. Samuelson mentioned that she has been coming to these meetings for a long time and you know how passionate she is. What you don't realize is how desperate the patients are. For you to get rid of the emergency regulations, this is not a smart move. We needed you all along. We have problems with lab methodologies. We have had trouble with mold and passing tests with inaccurate THC levels. We need help. We have been screaming about the high nickel levels for years. We asked for the levels to be dropped and nickel to be banned

because it was causing accidental chemical synthesis. You are getting some clearance from the THC and mold issues, because the labs are now fighting with each other for business. None of the labs are going to talk about accidental synthesis because it is industry wide. We still have issues with pesticides. When we are talking about cannabis, we are not only talking about marijuana, we are talking about hemp as well. You have a responsibility to get together with the Department of Agriculture and come up with emergency regulations. To point us back to the Nevada Dispensary Association, we will never get help. These are the people that we need protection from. Thank you very much. On September 19<sup>th</sup>, Ms. Samuelson stated she put in a public comment and received a call. She thanked Chairman DeVold.

Barry Duncan on behalf of the Nevada Taxpayer's Association. With regard to the prepared food regulation, Mr. Duncan recognized the diligence of the Department and staff. Ms. Hughes and Mr. Hritz were extremely diligent and very helpful to the Association as we worked our way through the regulations. Mr. Duncan received one additional comment this morning in relation to notification. If there is any way that we can tap into the NAICS code to get this information out directly to the food manufacturers, this is an enhancement that we would support. We would like to recognize and thank the Commission for adopting the 90 day transitory language. Commissioner Lipman mentioned the worksheet idea and Mr. Duncan thinks this is an excellent idea. Thank you.

Keith Westengard, County Manager for Lander County. Mr. Westengard apologized for his tardiness, he ran into some weather and a minor traffic accident outside of Winnemucca. Mr. Westengard thanked the Commission for approving the waiver and stated Lander County is also working to diversify, just as White Pine County is. Lander County has several upcoming projects that will hopefully change the county's future in the area of the SCCRT.

XI. Items for Future Agendas.

No items were discussed.

XII. Meeting adjourned at 10:44 a.m.