



POSITION STATEMENT

December 20, 2021

SUBJECT: Proposed Regulation R057-211 (Commerce Tax)

The Las Vegas Convention and Visitors Authority (LVCVA), established through Chapter 244A of the Nevada Revised Statutes (NRS), serves as the destination marketing organization and convention and visitors bureau for Clark County.

The convention, trade show, and meeting industry has always been vital to the economic health of the State as it brings billions of dollars in economic impact each year. The industry also brings hundreds of millions of dollars each year in tax revenue, both at the state and local level, and is responsible for tens of thousands of jobs each year. The industry's importance to the State was highlighted during the Covid-19 pandemic, when we were unable to host such events, as we witnessed our weekday occupancy levels plummet when we relied solely on leisure visitors.

During the 2021 legislative session, the LVCVA strongly supported Assembly Bill (AB) 435 and it worked closely with legislators and the Governor's office to ensure that the bill contained correct language regarding business entity exceptions under NRS 363C.020 as it relates to exhibitions. Specifically, AB435 clarified the existing business entity exception from commerce tax assessment contained in NRS 363C.020(2)(n), for persons who take part in exhibitions, trade shows, industry and corporate meetings, or similar events, to extend to show organizers, managers, and sponsors (Convention Exemption).

The proposed regulation under LCB File No. R-057-21 (Proposed Regulation) includes two primary restrictions to the Convention Exemption:

- 1) Limiting the Convention Exemption to "an event of limited duration primarily attended by members of a particular trade or industry for the purpose of exhibiting their merchandise or discussing matters of interest to that trade or industry" (First Restriction); and
- 2) Prohibiting persons from engaging in any business activity in the State, other than exhibitions, trade shows, industry and corporate meetings, or similar events in order to qualify for the Convention Exemption (Second Restriction).

The First Restriction proposes to limit the Convention Exemption to a person participating in an event primarily attended by members of a particular trade or industry. Such events are commonly referenced as Business to Business or B2B shows, as opposed to exhibitions and conventions that are open to public consumers and are referenced as B2C shows. The B2B limitation in the First Restriction conflicts with the statutory definition of exhibition which includes "trade show or convention, craft show, sporting event or other similar event involving the exhibition of property,

products, services or athletic or physical skill” and thus incorporates B2C shows and athletic or skills-based events. *See* NRS 360.767. As administrative regulations which contradict or conflict with existing statutes are invalid pursuant to the Nevada Administrative Procedures Act (*see* NRS 233B.110; *State, Div. of Ins. v. State Farm Mut. Auto. Ins. Co.*, 116 Nev. 290 (2000)), the First Restriction contained in the Proposed Regulation is invalid and the LVCVA urges its deletion.

The Second Restriction proposes to prohibit the application of the Convention Exemption to any persons or entities, including show organizers, sponsors, and managers, which engage in any business activity in the State other than the participation, organization, management, or sponsorship of such events. The proposed prohibition is not contemplated by the Convention Exemption or through any other provision within chapter 363C of the NRS and thus exceeds the Commission’s authority.

If the Commission’s intent behind the Second Amendment is to restrict the Convention Exemption to business activity related to conventions, trade shows, and similar events, then the LVCVA recommends the following revision:

If a ~~The person must not be engaging or engage in any business activity in this State other than the~~engaged in the participation, organization, management, or sponsorship of the event(s) described in ~~paragraph (a).~~NRS 363C.020(2)(n)- also engages in any business activity in this State that is unrelated to such events, the unrelated business activity may be subject to imposition of the commerce tax imposition as outlined NRS 363C.200.

The proposed restrictions to the Convention Exemption either contradict existing statutes or exceed the Commission’s authority. Accordingly, the LVCVA recommends their withdrawal.

Sincerely,



Caroline Bateman
General Counsel