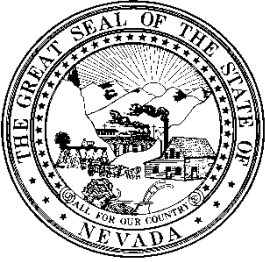

NEVADA DEPARTMENT OF TAXATION

<http://tax.state.nv.us>



Tax Bulletin SUT 15-0002 Issue Date: August 17, 2015 Shipping/Delivery Charge/Handling

Introduction

This bulletin provides sales tax information regarding the taxability of delivery charges.

Statutes and/or Regulations referenced

NRS 360B.255, NRS 360B.290, NRS 360B.425, NRS 360B.480, NRS 372.025, NRS 372.065, NRS 372.255, NRS 372.258, NRS 372.335, NRS 372.7263, NAC 372.017 NAC 372.101, NAC 372.230, NAC 372.938, NAC 372.940

Overview:

Most charges, including delivery charges are subject to Nevada sales tax when they are charged as part of the retail sale of tangible personal property. NRS 360B.480(1)(c) 372.025(2)(a) and 372.065 (2)(a) Delivery charges are "charges by a seller of personal property for the preparation and delivery of the property to a location designated by the purchaser of the property, including, but not limited to, charges for transportation, shipping, postage, handling, crating and packing, except that the term does not include any charges for transportation, shipping or postage which are stated separately." NRS 360B.425. Simply put, a charge for transportation, shipping or postage, separately shown on an invoice or receipt is not taxable. **However, the statute does not exempt all charges which may be commonly referred to as delivery charges.** It only exempts a few components of what may commonly be referred to as delivery charges; transportation, shipping and postage, and only if this charge is shown separately on the invoice. Accordingly, just adding a "delivery charge" on an invoice does not make it exempt all the time. One has to look at what the charge actually consists of.

Exceptions to the exemption:

If the "delivery charge" actually includes handling, crating, preparing for mailing or delivery and packaging, the delivery charge is taxable. Unless the seller separately states the components of "delivery charge" on the invoice or similar billing document given to the purchaser, those non-separately stated charges will not qualify for the exemption.

Packaging and crating usually involve the transfer of tangible personal property such as a crate, wrapping paper, bubble wrap or a pallet. The price of the underlying product would ordinarily include these costs but if the retailer chooses to separately state those charges, they are taxable because they are presumably for tangible personal property.

Handling can be just a markup on the product itself but often includes preparation, assembly or packaging which occurs prior to the sale. If it is a requirement for the buyer to use the seller to "deliver" the property,

it becomes a charge by the seller for a service necessary to complete the sale and is required to be included in the sales price of the product. NRS 360B.480.

Examples of Taxable Delivery Charges:

- a. A company sells large quantities of rock which the company itself has to deliver because it includes crushing the rock to a specific size. The buyer does not have the option to pick up the material themselves or hire a third party to pick up the material. The fact that the delivery charge is separately stated on the invoice does not make it exempt from taxation. Those charges identified as delivery charges are taxable either because they include services over and above the actual charges for delivery or are necessary to complete the sale. In this scenario, the 'delivery charges' are **taxable whether separately stated or not**. NRS 372.025(1)(b) & (2)(a); NRS 372.065(1)(b) & (2)(a); NRS 360B.290; NAC 372.101(1)(b), NRS 360B.480.
- b. You sell concrete. The separate ingredients of the concrete are put in a concrete mixing transport truck and the truck mixes the components together to make the concrete while it is being delivered. The 'delivery charge' includes charges for not only moving the product but also processing the product. This is another example of a service necessary to complete a sale. In fact, the handling of the material to create the concrete is actually part of the process and therefore taxable as a step in creating the final product. NAC 372.380
- c. Any delivery charges passed on to the buyer that the retailer had to pay the supplier for in order to get the property to the retailer before the sale to the buyer, are taxable regardless of whether or not they are separately shown on the invoice. This is commonly referred to as "freight in".
- d. "Fuel Surcharges" and similar charges designed to recover overhead or administrative costs are subject to taxation even if separately stated.

The Term "Shipping and handling" can be particularly misleading because it makes it difficult for the buyer to know exactly what they are paying for and whether it would have been more advantageous to hire a third party. Unless the seller can validate the costs actually incurred by the seller for transportation, shipping or postage to the buyer, it will be subject to tax. The following is a partial list of documents which the Department will accept in order to ascertain what the charges are for:

Bills of lading
Freight invoices
Parcel post receipts
Sales invoices showing transportation charges and shipping instructions
Mileage logs, driver time sheets and expense vouchers supporting seller's own transportation costs (when the seller uses his or her own vehicles for delivery)

Examples of Exempt (Non-Taxable) Delivery Charges

- a. Charges correctly labeled as transportation, shipping, or postage that are shown separately on the invoice or similar billing document given to the purchaser.
- b. Charges for delivery of the product, after it is sold to a third party or delivered to a common carrier.
- c. The delivery can be done by the seller as long as the purchaser has the ability to pick up the item themselves or has the ability to contract with a third party to pick up the items; in other words, where the delivery service is not a mandatory part of the sale.

- d. The seller can mark-up the amount paid to UPS, FedEx or the U.S. Postal Service as long as the charge is correctly labeled as shipping or postage and the customer can decide whether to pay the amount quoted or hire someone else.
- e. For use tax purposes only, a retailer can assume any deliveries they receive made by a third-party or common carrier, and charged separately on the invoice, are exempt shipping charges.
- f. Delivery charges for purchases made by exempt organizations, the United States, State or political subdivisions are exempt.
- g. If a shipment of tangible personal property includes both taxable and exempt property, the seller must allocate the charges for the handling, crating or packing to the taxable items using a percentage based on corresponding costs of the items or weight and apply the tax to that percentage of the handling, crating or packing only. NAC 372.101, NRS 360B.255

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