

NEVADA DEPARTMENT OF TAXATION



NEVADA TAX NOTES

Official Newsletter of the Department of Taxation

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DEPARTMENT OF TAXATION OFFICES

CALL CENTER NUMBER 1-866-962-3707

MAIN OFFICE

1550 College Parkway
Carson City, Nevada 89706

Phone: (775) 684-2000
Fax: (775) 684-2020

LAS VEGAS DISTRICT OFFICE

Grant Sawyer Office Building
555 E. Washington Avenue, Suite 1300
Las Vegas, Nevada 89101

Phone: (702) 486-2300
Fax: (702) 486-2373

HENDERSON FIELD OFFICE

2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074

Phone: (702) 486-2300
Fax: (702) 486-3377

RENO DISTRICT OFFICE

Kietzke Plaza
4600 Kietzke Lane Building L, Suite 235
Reno, Nevada 89502

Phone: (775) 687-9999
Fax: (775) 688-1303

ELKO FIELD OFFICE

1010 Ruby Vista Dr., Suite 102
Elko, Nevada 89801

Phone: (775) 753-1115
Fax: (775) 778-6814

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ELKO FIELD OFFICE TO CLOSE July 1, 2010

The Department of Taxation's Elko Field Office is scheduled to close effective July 1, 2010 due to the State's ongoing budget crisis. We want to sincerely thank our Elko office staff for their dedication and service to the Department and wish them all the best in their new endeavors.

We encourage our Elko and northern area taxpayers to enroll and manage your account, and to file online with NevadaTax at www.nevadatax.nv.gov

For questions concerning your account, you may contact our Call Center at our toll-free number, **1-866-962-3707** or access the Department's Website at <http://tax.state.nv.us> for additional tax information.

RENO DISTRICT OFFICE HAS NEW TELEPHONE NUMBERS

Our Reno District Office has joined the State Telephone System as of March 12, 2010. The new main office number is **775-687-9999**. All other numbers have also changed except for the fax number which will remain the same at 775-688-1303.

NEVADA SUPREME COURT UPDATE COMPLIMENTARY MEALS FOR CONSIDERATION

The Nevada Supreme Court, in Sparks Nugget v. State, Dep't of Taxation, 179 P.3d 570, ___ Nev. ___ (2008), concluded that the complimentary meals given to patrons and meals provided by the casino to its employees were not subject to use tax. However, the Court stated, "we do not foreclose the possibility that complimentary meals such as the ones at issue...may be subject to sales tax where consideration is properly demonstrated." Id. at Footnote 15.

A sale is defined as a transfer of tangible personal property for a consideration. NRS 372.060(1). Sale includes the furnishing...for a consideration of food, meals or drinks." NRS 372.060(3)(c). Sales price is "the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise..." NRS 372.065(1).

Given the existing statutory scheme and the guidance from the Nevada Supreme Court in Sparks Nugget v. State, Dep't of Taxation, the Department of Taxation believes that meals which a casino provides to its customers in exchange for gaming play are given "for consideration" and are therefore subject to sales tax. Additionally, where an employer gives an employee the benefit of a meal during working hours, the meal constitutes a transfer of tangible personal property for consideration. Therefore, these meals are also subject to sales tax.

When it is determined that these meals are given for consideration, the Department will request that all entities which are providing complimentary meals to patrons and meals to employees for consideration begin collecting and remitting sales tax on the full retail value of complimentary meals given to patrons and on the total cost to supply the meals which are given to employees.

FEDERAL INCOME TAX

The Department of Taxation receives an enormous amount of inquiries regarding Federal Income Tax issues. The State of Nevada does not participate in the administration of Federal Income Tax and does not levy a State Personal, Business or Corporate Income Tax of its own. The Nevada Department of Taxation **does not** require informational copies of Nevada residents' Federal Income Tax returns or forms. **But** the Federal Income Tax Return is still utilized by the Department in the audit process of a business. Federal Income Tax inquiries may be researched at the official IRS website, www.irs.gov.

GENERAL TOBACCO CIGARETTE BRANDS DELISTED FROM NEVADA TOBACCO DIRECTORY

General Tobacco's Bronco, GT One, Silver, and 32' (degrees) cigarette brand families were delisted from the Nevada Tobacco Directory effective February 5th 2010. Any product stamped after February 5, 2010 is considered contraband by the Department and subject to seizure. Wholesale dealers are being given until April 6, 2010 to sell any existing inventory, and retail dealers are being given until June 6, 2010 to sell their existing inventory.

NEVADA JOINS THE COALITION WITH PASSAGE OF FIRE SAFE CIGARETTE REQUIREMENTS

Fire-safe cigarettes are a proven, practical, and effective way to eliminate the risk of cigarette-ignited fires. The use of cigarettes that have a reduced propensity to burn when left unattended will help prevent tens of thousands of cigarette-

ignited fires each year. The passage of Assembly Bill 229 (AB229) from the 75th Legislative Session is intended to save lives and prevent injuries and devastation from cigarette-ignited fires.

Assembly Bill 229 is effective July 1, 2010. The full text of AB 229 is set forth below. Pursuant to Section 9(a) of AB 229, a wholesale dealer or retail dealer can sell his existing inventory of cigarettes that are not certified as fire safe on or after July 1, 2010 if the wholesale dealer or retail dealer can establish that Nevada cigarette revenue stamps were affixed to the packages of the cigarettes before July 1, 2010, and the cigarettes were purchased by the wholesale dealer or retail dealer before July 1, 2010 in a quantity comparable to the inventory purchased by the wholesale dealer or retail dealer during the same period of 2009.

Excluding cigarettes sold pursuant to Section 9(a) of AB 229, all cigarettes offered for sale in the State of Nevada must be in accordance with "fire safety standards" annotated within AB229. Cigarette packages are required to contain a marking to indicate that the cigarettes contained within are Fire Standard Compliant. This will be evident with a permanent 8-point type marking designating the letters "FSC" which is required to be permanently printed, engraved, or embossed on the package at or near the UPC label. The Department of Taxation will be updating the Nevada Tobacco Directory to identify brands and styles of manufacturers' cigarettes which have been certified by the Nevada State Fire Marshall as meeting the requirements of AB 229.

Excluding cigarettes sold pursuant to Section 9(a) of AB 229, any person knowingly selling cigarettes in the State of Nevada that have not been certified as fire safe by the Nevada State Fire Marshall will be subject to civil penalties of up to \$25,000 if sold by a retail dealer, and up to \$100,000 if sold by a manufacturer or wholesale dealer (during any 30 day period). Additionally, excluding cigarettes sold pursuant to Section 9(a) of AB 229, cigarettes not meeting the fire safety standards annotated in AB229 will be considered contraband and are subject to seizure.

SENATE BILL NO. 5 – REMOVED
EXPIRATION DATE ON NRS 377A.030(1)(b)

Senate Bill No. 5 removed the prospective expiration date on the collection of certain gross receipts taxes in Clark County per the approval by the voters of taxes authorized by the provisions of NRS 377A.030. NRS 377A.030, paragraph "b" of subsection 1 now reads – (1) One-half of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in the county during each subsequent fiscal year. This amendment mainly affects the City/County Relief Tax.

NEW TAXATION CALL CENTER

The Nevada Department of Taxation has implemented a new Call Center to address the thousands of calls we receive each month. The mission of the Call Center is to help eliminate the frustration taxpayers may experience when contacting the Department's District offices to resolve issues with their accounts or to answer general tax questions. If you have questions regarding Sales Tax, Use Tax, Modified Business Tax, general tax questions or need information on establishing a new account, please contact the Call Center at our toll-free number, **1-866-962-3707**. The Call Center hours are 8:10 am to 11:50 am and 1:00 pm to 4:45 pm Pacific Time. The Call Center is closed for lunch between 11:50 and 1:00 pm Pacific Time. Because the Call Center is not designed to answer all questions, taxpayers may sometimes need to call a District office directly depending on the complexity of the issue.

ALCOHOL AWARENESS TRAINING REQUIRED IN NEVADA COUNTIES
WITH A POPULATION OF 100,000 OR MORE

AB 432, passed during the 2009 Legislative Session, revised certain provisions of NRS 369.630. This statute requires owners or operators of alcoholic beverage establishments who hire or employ persons to sell or serve alcohol, alcoholic beverages, or act as a security guard at such establishments, to ensure such persons complete a State Certified Alcohol Beverage Awareness program and hold a valid alcohol education card.

NRS 369.630 now provides that a violation of the requirements of this section is a civil infraction, and that when an owner or operator of an establishment is found in violation, a notice of infraction must be issued on a form prescribed by the Department of Taxation. The Notice of Infraction may be found on the Department's website, under Common Forms/Liquor Tax. This statute also provides that any peace officer as well as any person who is authorized by the Department may issue the Notice of Infraction.

These provisions apply to establishments in counties whose population is 100,000 or more (Clark and Washoe Counties). An establishment is defined as a business that sells alcoholic beverages by the drink for consumption on the premises and businesses that sell alcoholic beverages in corked or sealed containers or receptacles for consumption off the premises. These provisions do not apply to a Nevada Licensed Wholesale Dealer, or a private club, or other facility which is not open to the public.

An establishment that violates provisions pertaining to Alcohol Awareness Training is subject to a fine ranging from \$500 to \$5,000.

A list of Alcohol Awareness Training Schools can be found at <http://www.cpe.state.nv.us/approved%20school%20list.doc>

MODIFIED BUSINESS TAX – GENERAL BUSINESS IS AN ENTITY BASED RETURN

Please be advised that Modified Business Tax (MBT) is an entity based tax, not a location based tax. Only **ONE** MBT quarterly return will be accepted on an account regardless of how many locations the business maintains in Nevada. The MBT return should include employee wages for all Nevada locations.

The Modified Business Tax became effective October 1, 2003, requiring employers to pay the excise tax on wages per NRS 363B.110. Exceptions to the law include Indian tribes, political subdivisions defined in NRS 612.055, nonprofit organizations that qualify under 26 USC § 501(c); and effective 7/1/05 any person who does not supply a product or service but only consumes a service. Examples may include an individual who hires a gardener, housekeeper, nanny, private trainer, chef/cook, etc.

Effective 7/1/09, the tax rates changed to a tiered rate after passage of SB429. These changes are set to expire on June 30, 2011. The tiered rate is calculated as follows:

- If the sum of **all taxable wages**, after health care deductions paid by the employer, does not exceed \$62,500 for the calendar quarter, the amount of tax is 0.5% (0.005) of the sum of the wages.
- If the sum of **all the wages paid** by the employer exceeds \$62,500 for the calendar quarter, the tax is \$312.50 (0.5%) plus 1.17% (0.0117) of the amount the wages that exceed \$62,500.
- For example: If the sum of **all wages** for the 9/09 quarter is \$101,000; the tax is \$312.50 plus \$450.45 (0.0117 x \$38,500 which is the amount exceeding \$62,500) for a total tax due of \$762.95.

Prior to July 1, 2009 the tax rate for General Business employers covering the period July 1, 2005 to June 30, 2009 was 0.063% (0.0063). The tax rate for Financial Institutions did not change and continues to be levied at 2%.

CHARCOAL, BRIQUETTES AND PROPANE

Charcoal, briquettes and propane purchased to cook food are subject to Sales and/or Use Tax. Propane purchased to produce domestic heat or for use in an internal combustion engine is exempt from Sales and/or Use Tax. (NRS 372.275 & NRS 372.300)

CHLORINE AND CHEMICALS

The sale of chlorine and other chemical agents used to purify water is subject to Sales and/or Use Tax, unless the purchaser is in the business of re-selling the chlorine/other chemical agents and gives the seller a valid "Resale Certificate". Chlorine and all chemicals used as purification agents for swimming pools are subject to Sales and/or Use Tax.

PLANTS, SEEDS, FRUIT TREES AND BERRY VINES

Nevada **Sales and/or Use Tax does not apply** to the sale of seeds, the products of which will be used as feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or which are to be sold in the regular course of the purchaser's business.

The **Sales and/or Use Tax does apply** to sales of non-annual plants, such as fruit trees and berry vines, whether or not the products will be sold or used as food for human consumption, unless the plants themselves, as distinguished from their products, are purchased for resale. (NRS 372.280 and NAC 372.540)

VEHICLE, WATERCRAFT AND AIRCRAFT TAX EVASION PROGRAM

Should the Department determine that a Nevada resident intended to evade Sales/Use Tax on the purchase of a motor vehicle, watercraft and/or aircraft, by registering the property in a State or jurisdiction which does not levy a Sales/Use Tax or levies tax at a lower tax rate, the resident shall be assessed the applicable Nevada tax, plus a 10% penalty, plus 1% interest per month, and may **also be assessed an additional 300% evasion penalty**. The Department has an ongoing program of tax evasion discovery and receives information concerning possible tax evasion from law enforcement, Department of Motor Vehicles, and Nevada taxpayers.

The Department is currently receiving buyer information from surrounding States on sales of off-road vehicles, watercraft, aircraft, motor homes, and other vehicles purchased in their State with the intention of bringing the vehicle/craft to Nevada

for storage, use, or other consumption. These vehicles/crafts are taxable in Nevada and the Department is pursuing the buyer for tax, penalty, and interest on these transactions. Holding the vehicle/craft in Nevada for 90 days to avoid California Sales/Use Tax will make it taxable in Nevada. The State of California shares affidavit/tax information with Nevada. (NRS 360.340, 2)

AUDIT ESTIMATES

Pursuant to NRS 372.735, every seller, retailer or person who files Sales and/or Use Tax returns must keep their books and records for four years. If returns are not filed, the records must be kept for eight years. Pursuant to NRS 360.300 during an audit or investigation the Department may compute and determine the amount required to be paid upon the basis of facts, any information within its possession, or a reasonable estimate if books and records are not kept by the business. Estimates must be reasonable, however, if the required books and records are not kept, it will be difficult for a business to determine if the estimated amount computed by the Department is reasonable or not.

“BARTER”

“Sale” or “Purchase” means and includes any transfer of title or possession, exchange, **barter**, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. If a business that normally sells tangible personal property, such as televisions, exchanges a television set for a service such as carpet cleaning, the television would be subject to Sales Tax based on the fair market value of the property or service exchanged. (NRS 372.025, 372.045, 372.060)

GOING PAPERLESS WITH TAX RETURNS

Want to receive less paper? Help the environment? On the Home Page of this Website click on “Go Paperless” under Quick Links. You can request that we no longer mail you tax returns for Sales/Use Tax, Use Tax, and Modified Business Tax. You can also file online with NevadaTax at <https://www.nevadatax.nv.gov> or download the forms from this Website by clicking on the “Common Forms” tab.

SECRETARY OF STATE ADMINISTERING STATE BUSINESS LICENSE

Effective October 1, 2009 the Nevada Secretary of State’s office began administering and issuing the State Business License. The business license is required for all entities conducting business in this State. The State Business License will be available to businesses online; in order to apply, pay the license fee, and/or be issued a State Business License go to www.nvsos.gov. Online payment options are being expanded to include debit card, e-check, credit card or a trust account.

ADVISORY FOR FILING RETURNS

Due to the monthly and quarterly tax filing requirements, our offices are extremely busy the last few days of the month with people filing their tax returns. It is recommended, whenever possible, that you time your visits to the office for other than the last few days of the month to avoid a long wait.

COMMUNICATING BY MAIL WITH THE DEPARTMENT

If you are writing or sending information to one of the Department's Revenue Officers, Tax Examiners or other staff, please use the **mailing address** of the appropriate District Office. If you are filing a tax return, please use the envelope the Department provided because it is addressed directly to the bank.

“ASK THE ADVISORS” TRAINING WORKSHOPS

The Department will be presenting Basic Tax Training and Industry-Specific Training throughout the year. These **free** workshops include training on Sales and Use Tax, Modified Business Tax, Live Entertainment Tax, collection of taxes, resale certificates, exemptions, how to prepare amended tax returns, how to prepare for an audit, your petition rights, etc.

SOUTHERN REGION – The following workshops will be held in the **Henderson Department of Taxation Office** located at 2550 Paseo Verde Parkway, Suite 180, and will begin at 9:00 a.m. and conclude at 11:30 a.m.:

Tuesday, April 20, 2010 — Basic Tax Training
Tuesday, May 18, 2010 — Basic Tax Training
Tuesday, June 15, 2010 — Basic Tax Training

NORTHERN REGION – The following workshop will be held in the **Reno Department of Taxation Office** located at 4600 Kietzke Lane, Bldg. B, Suite 111, and will begin at 9:00 a.m. and conclude at 12 noon:

[Wednesday, May 19, 2010 — Basic Tax Training and Short Term Leases](#)

Reservations are required as classes fill up quickly. Please call (702) 486-2354 for Henderson classes and (775) 687-9961 for Reno classes to reserve seating.

For those not able to attend “Ask the Advisors” training, you may access the Workshop Power Point presentations on this website by clicking on “Ask the Advisors.” At this site you may also view the workshops scheduled for the year.

HOLIDAY CLOSURE

The Department of Taxation District Offices will be closed the following day in the second Quarter of 2010:

Monday May 31, 2010 • Memorial Day
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