

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R068-15

Effective June 28, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 360.090 and section 20 of Senate Bill No. 376, chapter 447, Statutes of Nevada 2015, at page 2606 (NRS 372B.110).

A REGULATION relating to taxation; adopting requirements for the administration and collection of the excise tax on passenger transportation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law imposes an excise tax on the transportation of a passenger by a transportation network company, common motor carrier of passengers or taxicab, at the rate of 3 percent of the total fare charged for the transportation. (Sections 28, 51 and 52 of Assembly Bill No. 175, chapter 278, Statutes of Nevada 2015, at pages 1380 and 1390, as amended by Senate Bill No. 376, chapter 447, Statutes of Nevada 2015, at page 2609) Existing law further requires the Department of Taxation and the Nevada Tax Commission to adopt regulations to carry out the provisions governing the excise tax on passenger transportation. (NRS 360.090; section 20 of Senate Bill No. 376, chapter 447, Statutes of Nevada 2015, at page 2606 (NRS 372B.110)) This regulation adopts procedures for the collection of the excise tax on passenger transportation by the Department.

Section 3 of this regulation requires the Department: (1) to use the best information available to identify taxpayers; (2) to register each taxpayer; and (3) to notify each taxpayer of the requirement to pay the tax. Under **section 3**, the failure of the Department to register a taxpayer or notify a taxpayer of the requirement to pay the tax, or the failure of the taxpayer to be registered or receive such notice, does not excuse the taxpayer from payment of the tax.

Sections 4-6 of this regulation establish requirements for the filing of returns and payment of the tax. **Section 4** specifies that the tax is due and payable to the Department on a monthly basis. **Section 5** requires a taxpayer to file a return with the Department each month on or before the last day of the month following the month in which the tax accrued, and **section 6** requires the return to show the total amount of the fares charged by the taxpayer during the preceding reporting period, the amount of tax due and any other information required by the Department to properly administer the tax.

Section 7 of this regulation provides that in computing the amount of tax due, the taxpayer must multiply the tax rate by the entire amount charged to the passenger for transportation services. **Section 7** also provides that the amount of tax due must be computed to the third decimal place and rounded to a whole cent.

Section 1. Chapter 372B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, “excise tax on passenger transportation” means the taxes imposed by sections 28, 51 and 52 of Assembly Bill No. 175, chapter 278, Statutes of Nevada 2015, at pages 1380 and 1390, as amended by sections 35, 36 and 37 of Senate Bill No. 376, chapter 447, Statutes of Nevada 2015, at pages 2609 and 2610 (NRS 372B.140, NRS 372B.150 and 372B.160).*

Sec. 3. 1. *The Department shall:*

(a) Use the best information available to identify each taxpayer;

(b) Register each taxpayer; and

(c) Notify each taxpayer of the requirement to pay the excise tax on passenger transportation.

2. The failure of the Department to register or notify a taxpayer pursuant to subsection 1, or the failure of a taxpayer to be registered or receive notice of the requirement to pay the excise tax on passenger transportation, does not eliminate or excuse the requirement to pay the tax.

Sec. 4. *The excise tax on passenger transportation is due and payable to the Department monthly on or before the last day of the month next succeeding the month in which the tax accrued.*

Sec. 5. 1. *On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department on a form prescribed by the Department.*

2. A return required by this section to be filed must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 6. 1. *A return filed pursuant to section 5 of this regulation must show:*

(a) The total amount of the fares charged by the taxpayer for transportation services during the preceding reporting period;

(b) The amount of the taxes due from the taxpayer for the reporting period covered by the return; and

(c) Such other information as the Department deems necessary for the proper administration of the excise tax on passenger transportation.

2. For the purposes of this section, the total amount of the fares charged for transportation services includes, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare.

Sec. 7. *In determining the amount of the excise tax on passenger transportation due from a taxpayer:*

1. A transportation network company, common motor carrier of passengers or certificate holder shall multiply the tax rate by the total of all amounts charged to its customer for transportation services, including, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare.

2. The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R068-15

1. A clear and concise explanation of the need for the adopted regulation.

The need for this regulation is to implement the tax provisions contained in SB 376 which were enacted in the 2015 legislative session. Specifically, relating to the registration, filing of returns and timing of payments for the collection of the 3% excise tax on taxicabs, common motor carriers and transportation network companies.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

The Department of Taxation (Department), as staff to the Nevada Tax Commission, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>
07/07/2015	Workshop	07/24/2015	143
03/03/2016	Workshop	03/21/2016	215
04/15/2016	Hearing	05/16/2016	209

The mailing list included the interested parties list maintained by the Department. Notices were also posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct email to other interested parties lists maintained by the Department.

See response to #5 for a summary of the public responses to the Regulation.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2030 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at .

3. The number of persons who:

- (a) Attended each hearing:** 69 people attended the adoption hearing.
- (b) Testified at each hearing:** 1 person testified at the adoption hearing.
- (c) Submitted written comments:** None of the attendees that attended the adoption hearing submitted written comments.

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Testified at the adoption hearing:

Barbara Smith Campbell

Telephone Number: 775-331-4555

Business Address: 165 W Liberty St #210, Reno, NV 89501

Name of entity or organization represented: The Ferraro Group for W.O.A & Frias

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

See response to #2 for description of how comments were solicited from affected businesses and an explanation on how interested persons may obtain a copy of the summary.

Summary of public responses:

The following general responses were received by email and mail.

1. Two taxpayers recommended treating the 3% excise tax as a sales tax which could be calculated as a tax on all existing fares and fees, charged to the passengers following the trip.
 2. One taxpayer suggested that language regarding the passage of the tax onto customers be removed for the reason that the 3% excise tax is imposed on the company providing the transportation service, not the customer. Specifically, those businesses would not have to: 1). explain to its customers that the charge is made in order to recoup money paid by the company for taxes imposed on it; .2) keep records that clearly delineate the amount of the assessment to recover the tax separate from any other charges; and 3) represent the charge as a tax imposed directly on the customers.
 3. One taxpayer recommended inclusion of the definitions set forth in Nevada Revised Statute and Nevada Administrative Code Chapters 706, which define “common motor carriers” of passengers.
 4. One taxpayer suggested that, pursuant to 49 USC Sec. 14501, the state is prohibited from enforcing the 3% excise tax on interstate charter bus transportation.
 5. One taxpayer recommended for consideration the development of a tax formula for charter transportation operators to use in imposing the excise tax.
6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted by the Nevada Tax Commission without additional changes.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

(a) Estimated economic effect on the businesses which they are to regulate.

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects on businesses. The benefit of this regulation is for industry and the Department to be provided additional clarity regarding Senate Bill 376.

(b) Estimated economic effect on the public which they are to regulate.

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to the public. The benefits of this regulation is that the public along with the Department will be provided clarity for Senate Bill 376.

8. The estimated cost to the agency for enforcement of the proposed regulation:

The proposed permanent regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement other than the costs to implement the statutory provisions of the tax on passenger transportation.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulation of other state or local governmental entities.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The Department is not aware of any similar federal regulations of the same activity in which the state regulation is more stringent.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation does not include any new or increases in existing fees.