



Nevada Tax Notes

The Official Newsletter of the Department of Taxation

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Visit the Department
Website at

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

Office Closures

Memorial Day

Monday – May 27, 2013

Independence Day

Thursday – July 4, 2013

Labor Day

Monday – September 2, 2013

Call Center
(866) 962-3707

Hours:

Monday through Friday
8:10 am to 11:50 am
1:00 pm to 4:45 pm
Pacific Time

Industry Spotlight:

MANUFACTURERS

Manufacturers create new products from materials to sell. These products can be anything from the creation of equipment to bundling existing products in one package. In this article, we will use the manufacturing of a new toy car as an example.

The manufacturer should issue a resale certificate to their vendors for all materials that become part of the final product such as wheels, batteries, plastic, paint, etc. The final product can also include other products like a toy driver or stickers that come with the car. The toy car is also packaged in a box that the car is sold in with labels and price tag stickers attached. All these items are sold with the final product and can be purchased with a resale certificate.

The manufacturer purchases supplies, equipment, tools, and chemicals which are subject to sales or use tax because they are **used by** the manufacturer in the manufacturing process. A resale certificate should not be given for these items. Items used by the manufacturer can include equipment and tools like presses and cutting blades. They also include catalysts and cleaning solutions used by the manufacturer in the production process. Even one time use items used in the manufacturing process are taxable such as paper used to mask

the cars when painting designs. For more information, see [NAC 372.370](#).

After the manufacturing process is over, the toy car is packaged and ready to sell. The manufacturer is not allowed to separate out fabrication labor costs. Manufacturers may sell to wholesalers, other manufacturers, retailers, or directly to customers. Sales tax **must** be charged on the sale of the toy car unless a resale certificate or tax exemption letter is received from the customer. Additionally, if the product is shipped to an out of state customer, no sales tax need be collected if proof of delivery out of state is kept by the manufacturer.

To promote the toy cars, we will assume we shipped sample toy cars to retailers around the country free of charge. In this case, all the materials used in the production of the samples were not purchased for resale and sales/use tax will be due on cost of the materials.

For more information on the taxability of products that include items exempt by Statute, see [NAC 372.045 Bundled Transactions](#). Example: a toy car sold with a box of cereal. For more information on resale certificates, see [NRS 372.155](#). For more information on taxable labor, see [NRS 372.065](#).

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Vehicle 'Fees'

When the sale of a vehicle/vessel is taxable, then fees such as documentation fees, smog fees, administrative fees, credit check fees, 'finding finance fees,' and other services associated with the sale are also subject to sales tax because they are seen as a mandatory part of the sale or necessary to complete the sale pursuant to [NRS 360B.480](#).

However, when a service is performed separately from the sale, such as a smog inspection, then there is no tax on the smog inspection fees as the fees are considered payment for a service only.

What has occurred recently with regards to vehicle sales at auto dealers is the dealer charging the customer a fee for assisting in obtaining financing for the purchase of a vehicle – "finding financing fee".

Pursuant to [NRS 360B.480](#) which deals with the subject "sales price construed", the finding finance fee charged in conjunction with the sale of a vehicle would be included in the overall sales price of the transaction and taxable if the fee were mandatory or necessary to complete the sale even when such a fee is separately stated on the sales invoice/agreement.

"Finding Finance Fees may be TAXABLE."

OCCASIONAL SALES: DO I NEED TO CHARGE SALES TAX?

There is no exemption in Nevada law for "private-party sales." This term is a misnomer and has caused some confusion among taxpayers. This term originally comes from the sale of a vehicle between two individuals neither of which are car dealers. This term, however, does not exist in Nevada Law in regards to sales tax. Instead, Nevada law exempts "occasional sales."

An occasional sale is a sale of property if the seller is not required to have a seller's permit. A person must hold a seller's permit if a person is engaged in the business of selling tangible personal property. A person is deemed to be engaged in the business of selling



property if he makes more than two sales during any 12-month period. For more information, see [NRS 372.035](#) and [NRS 372.055](#).

For example, Susan sold her two cars to individuals using Craigslist in May and June of last year. She purchased a used motorcycle from her neighbor, but decided to sell it in January of the next year. As she has three separate sales in a twelve month period, these transactions are not occasional sales, and sales tax is due on the sale price for those vehicles regardless if she collected sales tax from those individuals or not.

Accordingly, if a person or a business purchases tangible personal property

from a person who does not make more than two retail sales of property during any 12-month period, no sales or use tax need be remitted to the Department on the purchase of the property. For more information, see [NRS 372.320](#)

For example, the neighbor who sold the motorcycle did not make more than two sales in a 12 months period so Susan would not need to pay sales tax when she purchased the motorcycle.

Please keep in mind, however, that the statutory definition of "occasional sale" must be met in order for the occasional sale exemption to apply. There are cases where it may

appear that someone is making an occasional sale, because they advertise on Craigslist or local newspaper, when in fact, they do not meet the statutory definition (i.e. they make sales sufficient in number, scope and character to be required to hold a seller's permit.) While it is difficult for consumers to determine if each and every person is making an occasional sale, some thought should be given to the type of seller from whom property is purchased and the possible number, scope and character of any series of sales made by that seller. If Susan was a business, she would be advised to keep documentation from the seller stating that the sale of the motorcycle was in fact an occasional sale in case of audit.

VEHICLES FOR DIPLOMATS

Vehicle dealers (car, boats, motorcycle, and aircraft) are notified of a recent change to exemptions from sales and use tax for diplomats. The Diplomatic Tax Exemption Card cannot be used for the purchase or lease of vehicles. The Office of Foreign Missions will issue a uniquely-numbered Motor Vehicle Tax-Exemption Letter.

The seller must request this letter before the sale is complete. The request must

contain your information, the vehicle information, and the purchaser's information. Once the letter is received, the dealership should treat the vehicle as if it will be registered out of state since the Office of Foreign Missions will issue the license plates and registration cards.

If the diplomat provides proof of insurance as stated in the letter, then a temporary tag may be issued. For more information and an example letter, see the [Provisions Letter](#) on the Department's website.

MODIFIED BUSINESS TAX RETURNS: HOW DO I FILL OUT THE RETURNS?

If you are required to be registered with the Employment Security Division, then you are required to pay Modified Business Tax (MBT). Tax is assessed at a tiered rate for General Businesses. The tax is reported on the Modified Business Tax Return – General Business

- If Taxable Wages (Line 6) is less than \$62,500, no tax is assessed.
- If Taxable Wages (Line 6) is greater than \$62,500, the amount over \$62,500 will be taxed at 1.17%.

Financial Institutions require a different tax return called Modified business Tax Return – Financial Institution. Their rate is not tiered. They are taxed at 2.00% of taxable wages.

For ease in completing these forms, use the return found on the Department website as it will perform calculations for you. The following are amounts you need to complete the returns:

Line 1: Total Gross Wages reported on the MBT return should be the same amount reported on Line 3 of the Employment Security Division's (ESD) Employer's Quarterly contribution and Wage Report (Form NUCS 4072).

Line 2: Health Care Benefits paid by the **employer** for health, vision, and dental insurance are deductible. One of the biggest mistakes is that the taxpayer includes the portion paid by the employee, or they include life insurance premiums, accidental death and disability insurance premiums, or past employees' COBRA payments in the amount on line 2.

Line 4: Offset Carried Forward is when a taxpayer pays more in health care benefits than in wages for the past quarter. This is not common. Generally, you would enter zero on this line.

Remember:

- You cannot deduct the tax from your employees' paycheck.
- Make sure you use a current form as tax rates have changed over the years.
- Do not forget to put your Taxpayer ID number at the top by 'TID No.'
- Make sure you have the right quarter end date and paid date in the form.

ACH Credit Payment Update

Effective April 1, 2013, the Department is switching banking institutions. If your business has already established sending ACH credit payments through your financial institution to the Department of Taxation, please update the Routing Number to 121000248 and Account No. to 277600000000000000 (13 zeros) as we are now using Wells Fargo. Please call the Department Call Center at 1-866-962-3707 for the updated ACH CCD+TXP format.

Taxability of Ice

When Nevada joined the Streamlined Sales Tax Agreement in 2005, the definition of food changed. Now, [NRS 360B.445](#) defines food as substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans for their taste or nutritional value. Ice is tasteless and has no nutritional value and is therefore not considered food.

The taxability of ice does not depend on the amount sold but rather on its use. If ice is purchased with a re-sale certificate by a restaurant because it is included in the drinks sold, it may be sold ex-tax. However, ice sold to keep food cold such as in coolers is taxable as would be large blocks of ice for ice sculptures.

ANNUAL UPDATE TO SHORT-TERM LESSOR FEES: WAIVER OF DAMAGES & ADDITIONAL DRIVER

[Nevada Revised Statutes \(NRS\) 482.31565\(2\)](#) limits the dollar amount a short-term lessor may charge for a waiver of damages to \$22. It also provides that this amount be adjusted for each fiscal year that begins on or after July 1, 2008. This adjustment is done using the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005 and the calendar year immediately preceding the fiscal year for which the adjustment is made. The CPI factor has been calculated at 16.83% for the fiscal year 2014. Effective July 1, 2013 the maximum charge for waiver of damages changes to \$25.70.

[NRS 482.3158\(1\) \(f\)](#) also requires that the maximum amount charged for an additional driver not exceed \$10 per driver. This amount is also adjusted annually. The charge for each additional driver changes to \$11.68 effective July 1, 2013. Please call 775-684-2117 with any questions on this.

“Ask the Advisors” Training

The Department will be presenting Basic Tax 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, Streamline Sales and Use Tax, 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 12:00 p.m.:

Basic Tax Training:

April 16, 2013
May 21, 2013
June 18, 2013

July 16, 2013
August 20, 2013
September 17, 2013

October 15, 2013

The Henderson Office will include additional presentations by the **Internal Revenue Service** (forms and filing requirements), **State Treasury**, **Unclaimed Property** (information on how to report unclaimed property), and **SCORE** (resources available for businesses to guide them to success). **SCORE** is a non-profit organization sponsored by the Small Business Administration.

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 12:00 p.m.:

Basic Tax Training:

May 15, 2013
August 21, 2013
October 16, 2013

The Reno Office will include presentations by the **Internal Revenue Service**.

Reservations are required as classes fill up quickly. Please call **(702) 486-2354** for Henderson classes and **(775) 687-9999** 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 our website by clicking on [“Ask the Advisors.”](#)