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Agency: Department of Taxation

Permanent Regulation  
LCB File No. **R174-22**

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Governor's signature

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**Classification: ADOPTED BY AGENCY**

**Brief description of action:** The Nevada Tax Commission adopted LCB File No. **R174-22** revises provisions governing the imposition and collection of sales and use tax for repair work performed pursuant to a contract with the State or a political subdivision; and provides other matters properly relating thereto.

**Authority citation other than 233B:** NRS 360.090, 372.725 and 374.725

**Notice date:** September 1, 2022

**Date of Adoption by Agency:** October 3, 2022

**Hearing date:** October 3, 2022



**APPROVED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R174-22**

Filed December 29, 2022

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

AUTHORITY: § 1, NRS 360.090, 372.725 and 374.725.

A REGULATION relating to taxation; revising provisions governing the imposition and collection of sales and use tax for repair work performed pursuant to a contract with the State or a political subdivision; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing regulations provide that, for the purpose of the imposition and collection of the sales and use tax, a repairer is a retailer of parts and materials furnished in connection with repair work if the value of the parts and materials is substantial in relation to the total charge or if a separate price is stated for the parts and materials. (NAC 372.390) This regulation provides that, if a repairer enters into a contract with the State or a political subdivision of the State to perform repair or maintenance work, the repairer and any subcontractor of the repairer is the consumer of the parts and materials furnished in connection with such work unless the repairer or subcontractor has a permit, is registered to collect sales and use tax or is required to have such a permit or register pursuant to the contract with the State or political subdivision. As the consumer of such parts or materials, the repairer or subcontractor of the repairer would be required to either pay sales tax at the time the repairer or subcontractor purchases the parts or materials or pay the use tax at the time the parts or materials are used by the repairer or subcontractor in this State. (NRS 372.105, 372.110, 372.185, 372.190, 374.110, 374.111, 374.115, 374.190, 374.191, 374.195)

**Section 1.** NAC 372.390 is hereby amended to read as follows:

372.390 1. Except as *otherwise* provided in *subsection 4 and* NAC 372.420 and 372.450, repairers are retailers of parts and materials furnished in connection with repair work in which

the value of the parts and materials is substantial in relation to the total charge. Those repairers who segregate on invoices and in their records the fair retail-selling price of the parts and materials from the charges for labor, installation and other service charges must collect the tax on the retail selling price of the parts and materials. If the labor and other service charges are not separately stated, the tax applies to the entire charge made to the customer.

2. The repairers are consumers of parts and materials furnished in connection with repair work in which the value of the parts and materials is insubstantial in relation to the total charge if no separate charge is made for the parts and materials. To be considered a consumer of the parts and materials used in connection with the repair services rendered, the repairer must pay the tax on the purchase and must not give a resale certificate to his or her suppliers. Even though the value of the parts and materials is insubstantial in relation to the total charge, repairers will be considered retailers, and not consumers, if a separate price is stated for the parts and materials.

3. If the method of repairing or reconditioning certain tangible personal property involves commingling property delivered to a repairer or reconditioner with similar property so that the customer received repaired or reconditioned property which may not be the identical property delivered to the repairer or reconditioner but which is exactly the same kind of property or derived from exactly the same kind of property as that so delivered, the tax applies to the amount charged by the repairer or reconditioner for the repaired or reconditioned property.

***4. Except as otherwise provided in this subsection, a repairer who enters into a contract with the State or a political subdivision of the State to perform repair work on, or to maintain, property belonging to the State or political subdivision, and any subcontractor of the repairer, is the consumer of any parts and materials furnished in connection with such repair work. If***

*such a repairer or subcontractor has obtained a permit pursuant to NRS 360.5971 or registered pursuant to NRS 360B.200, or is required to obtain a permit pursuant to NRS 360.5971 or register pursuant to NRS 360B.200 pursuant to the contract with the State or political subdivision, the provisions of subsections 1, 2 and 3, as applicable, apply to the repair work performed pursuant to the contract.*

*5. As used in this section, "political subdivision" means any county, city or other local government as defined in NRS 354.474.*



**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R174-22**  
**(Previously 106-20)**

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

The Department needs this regulation to clarify the sales and use tax obligations for repairers who provide services and/or materials to the State of Nevada or one of its political subdivisions. The State and its political subdivisions are exempt from application of sales and use tax. However, a repairer who performs services and provides materials in relation to those services to the State or a political subdivision is not also exempt from application of sales and use tax. Without this regulation, some repairers under contract with State and political subdivisions believe they are similarly exempt from the imposition and collection of sales/use tax. If a repairer has a contract with the State or a political subdivision, the repairer must pay the sales tax at the time parts or materials are purchased, or pay use tax at the time the parts or materials are used in the performance of the repair work. The existing interpretation regarding the imposition and collection of sales and use tax for repairers to customers who are not State or political subdivisions is not affected by this regulation, including that: 1) the repairer is considered a retailer of parts and materials furnished in connection with repair work if the value of the parts and materials is substantial in relation to the total charge or if a separate price is stated for the parts and materials; or 2) if the parts and materials are not substantial in relation to the total charge or if the price for them is stated separately, the repairer is considered a consumer and would be required to either pay sales tax at the time the repairer or subcontractor purchases the parts or materials or pay the use tax at the time the parts or materials are used by the repairer or subcontractor in this State.

**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, as staff to the Nevada Tax Commission, solicited comment from the public by issuing a questionnaire to interested parties regarding any impact on small businesses and 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/Hearing</u>	<u>Number Notified</u>
6/02/22	Workshop	6/29/22	198
9/01/22	Adoption Hearing	10/03/22	198

The mailing list included the interested parties list maintained by the Department. Notices were also posted at the Nevada State Library; Legislative Counsel Bureau; 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.

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

A copy of the recorded comments, the record of proceedings, and/or the Small Business Impact Statement may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 1550 College Pkwy. Ste 115, Carson City, Nevada 89706, or by e-mailing the Department at [sglazner@tax.state.nv.us](mailto:sglazner@tax.state.nv.us).

- 3. The number of persons who:**
- (a) Attended each hearing:**
  - (b) Testified at each hearing:**
  - (c) Submitted written comments:**

Workshop date: June 29, 2022

- (a) Number in attendance: 4
- (b) Number testifying: 1
- (c) Written statements submitted: 0

Adoption Hearing date: October 3, 2022

- (a) Number in attendance: 19
- (b) Number testifying: 1
- (c) Written statements submitted: 0

- 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:**

**Made Comment at Workshop and Testified at Adoption Hearing:**

Name: **George Hritz**

Telephone number: **775-882-2697**

Business address: **116 E. 7<sup>th</sup> Street, Suite 202, Carson City, NV 89701**

Electronic mail address: [hritzg@yahoo.com](mailto:hritzg@yahoo.com)

Name of entity or organization represented: **Nevada Taxpayers Association**

- 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 of how interested persons may obtain a copy of the summary.

**Summary of public responses:** Not Applicable

**Summary of workshop discussion:**

1. George Hritz, Nevada Taxpayers Association:

Provided oral comment, requesting that NRS 372.680 be added to section 4 to define “state or a political subdivision”.

**Summary of Public Comment at Adoption Hearing:**

2. George Hritz, Nevada Taxpayers Association:

Provided oral comment, stating that the Taxpayers Association requested outreach from the Department of Taxation if the Regulation is adopted to adequately inform those entities (repairers) that would be subject to these provisions. Prior to this regulation, repairers who performed work for the State or its political subdivisions would be treated as other repairers. Other repairers who purchase parts to carry out their work determine whether the parts are a substantial part of the work such that they are deemed a retailer and impose the sales tax against the customer. Alternatively, where parts are not a substantial cost for the work, the repairer is deemed a service provider and the repairer either pays sales tax upon acquisition of the parts, or pays the use tax. The regulation confirms that a repairer who does work for the State or a political subdivision will be considered a service provider and must pay the sales tax at the time of purchase of parts, or pay the use tax when the repair work is performed. They will not be deemed a retailer who charges the State or political subdivision the sales tax, and the repairer will incur the cost and not receive the same exemption that is provided to the governmental entity. Mr. Hritz raised a concern that there could be a large scope of entities that are deemed repairers who contract with governmental entities who will need to be notified of these changes.

A copy of the recorded comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 1550 College Pkwy. Ste 115, Carson City, Nevada 89706, or by e-mailing the Department at [sglazner@tax.state.nv.us](mailto:sglazner@tax.state.nv.us).

**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.**

There were changes made to the regulation. Specifically, the Department provided a definition of a political subdivision for additional clarity.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. This must include adverse, beneficial, immediate and long-term effects.**

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

The adopted permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects. The benefits of these regulations are that the industry along with the Department will be provided more clarity in implementing NRS Chapters 360 and 372.

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

The adopted permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to the public. The benefits of these regulations are that the public along with the Department will be provided more clarity in implementing NRS Chapters 360 and 372.

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

Enforcement of the adopted regulation presents no significant foreseeable or anticipated cost or decrease in costs.

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 adopted permanent 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 regulations are 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 adopted permanent regulation does not include new fees or increase an existing fee.