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September 16, 2024

Ms. Sarah Glazner  
Management Analyst III  
Department of Taxation  
3850 Arrowhead Drive  
Carson City, Nevada 89706

Re: LCB File No. R100-22

RECEIVED

SEP 18 2024

State of Nevada  
Department of Taxation

Dear Ms. Glazner,

A regulation adopted by the Nevada Tax Commission has been filed today with the Secretary of State pursuant to NRS 233B.067 or 233B.0675 as appropriate. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Killian".

Asher A. Killian  
Legislative Counsel

Jessica F. Dummer  
Senior Principal Deputy Legislative Counsel

Bryan J. Fernley  
Chief Deputy Legislative Counsel

AAK/amh  
Enclosure



SECRETARY OF STATE  
FILING DATA

FILED.NV.SDS  
2024 SEP 16 AM 9:24

**Form For Filing  
Administrative Regulations**

**Agency:** Department of Taxation

Permanent Regulation  
LCB File No. R100-22

FOR EMERGENCY  
REGULATIONS ONLY

Effective date \_\_\_\_\_

Expiration date \_\_\_\_\_

\_\_\_\_\_  
Governor's signature

**Classification:** ADOPTED BY AGENCY

**Brief description of action:** The Nevada Tax Commission adopted LCB File No. R100-22, to revise provisions governing certain credits which a wholesale dealer of tobacco products, other than cigarettes, may claim against the tax imposed on such tobacco products; eliminate the requirement that a wholesale dealer of tobacco products, other than cigarettes, include on invoices certain information regarding the tax required to be paid on such tobacco products; and provide other matters properly relating thereto.

**Authority citation other than 233B:** NRS 360.090 and NRS 360.245

**Notice date:** May 24, 2024

**Date of Adoption by Agency:** June 25, 2024

**Hearing date:** June 25, 2024



**APPROVED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R100-22**

Filed on September 16, 2024

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

AUTHORITY: §§ 1-3, NRS 360.090 and 370.510.

A REGULATION relating to taxation; revising provisions governing the payment of the tax imposed on tobacco products, other than cigarettes; revising provisions governing certain credits and refunds which a wholesale dealer of such tobacco products may claim; eliminating the requirement that a wholesale dealer of such tobacco products include the tax as part of the price of the products; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law imposes a tax upon the receipt, purchase or sale in this State of tobacco products, other than cigarettes. (NRS 370.0318, 370.450) Before Senate Bill No. 81 (S.B. 81) of the 80th Session of the Nevada Legislature became effective on January 1, 2020, a wholesale dealer of such tobacco products was required to pay the tax to the Department of Taxation not later than 20 days after the end of the month in which the wholesale dealer sold or distributed the other tobacco products. (Sections 73.3, 73.7 and 84 of Senate Bill No. 81, chapter 118, Statutes of Nevada 2019, at pages 636-37, 643) S.B. 81 revised the manner in which a wholesale dealer who maintains a place of business in this State is required to pay the tax by requiring that such a wholesale dealer pay the tax to the Department not later than 20 days after the end of the month in which the wholesale dealer first receives or possesses other tobacco products for sale or disposition in this State. (NRS 370.450, 370.465) Under existing law, the wholesale dealer is authorized to claim a credit or refund of any such taxes paid if the wholesale dealer: (1) may no longer sell the other tobacco products for which the taxes were paid; (2) distributes the other tobacco products outside this State for retail sale and consumption outside this State; or (3) distributes the other tobacco products to certain exempt entities, including, without limitation, to the United States Government for distribution to the Army, Air Force, Navy or Marine Corps or to an Indian reservation or colony where an equal or greater excise tax has been imposed on the tobacco products. (NRS 370.490, 370.503)

Because existing law requires a wholesale dealer of other tobacco products who maintains a place of business in this State to pay the tax on such tobacco products not later than 20 days after the end of the month in which the wholesale dealer first receives or possesses the other tobacco products for sale or disposition in this State, **section 1** of this regulation makes a conforming change to remove a reference to the payment of such tax not later than 20 days after the end of the month for sales made during the preceding month.

**Section 2** of this regulation removes a procedure by which: (1) a wholesale dealer who did not originally report and pay tax on other tobacco products may obtain payment of an amount equal to an authorized credit from the wholesale dealer who originally reported and paid the tax; and (2) the wholesale dealer who originally reported and paid the tax may file an amended tax return with the Department to obtain a credit for such a payment. (NAC 370.165) **Section 2** also provides that the Department will allow the credit authorized by existing law for other tobacco products that may no longer be sold only to a wholesale dealer who originally reported and paid the tax and who has not made a sale of the other tobacco products. (NRS 370.490) Finally, **section 2** provides that the Department will allow a credit or refund for other tobacco products which are shipped outside this State for retail sale and consumption outside this State, or which are sold to certain exempt entities, only if the sale is the first sale of the other tobacco products by the wholesale dealer who originally reported and paid the tax. (NRS 370.490, 370.503)

Existing law requires a retail dealer of other tobacco products to obtain from each wholesale dealer of other tobacco products a separate, itemized invoice for each purchase made of other tobacco products from the wholesale dealer. (NRS 370.470) **Section 3** of this regulation repeals a requirement that the wholesale dealer include the tax required to be paid by the wholesale dealer as part of the total price of such products rather than as a separate item on the invoice. (NAC 370.150)

**Section 1.** NAC 370.160 is hereby amended to read as follows:

370.160 ~~1.~~ ~~The tax imposed by NRS 370.450 must be paid to the Department on or before the 20th day of each month for sales made during the preceding month.~~

~~2.~~ Each wholesale dealer shall submit with ~~his or her~~ *each* payment *of tax submitted pursuant to NRS 370.465* a return on a form provided by the Department. If *, pursuant to NRS 370.450, no tax is imposed on* a wholesale dealer ~~does not make a taxable sale~~ during the preceding month, ~~he or she~~ *the wholesale dealer* shall file a return with the Department indicating this fact.

**Sec. 2.** NAC 370.165 is hereby amended to read as follows:

370.165 1. The Department will allow *a wholesale dealer* a credit authorized by NRS 370.490 *or a refund authorized by NRS 370.503* only if the wholesale dealer who files the claim for the credit *or refund* is the wholesale dealer who originally reported and paid the tax to the Department.

2. ~~¶A wholesale dealer who did not originally report and pay the tax to the Department may request from the wholesale dealer who originally reported and paid the tax to the Department payment of an amount equal to the credit authorized by NRS 370.490. Such a request must include a credit memo of the manufacturer for proof of returned merchandise or a duplicate or copy of the invoice as proof of the sale outside the State.¶~~ *If, pursuant to subsection 1 of NRS 370.490, a wholesale dealer claims a credit for other tobacco products that may no longer be sold, the Department will allow the credit only if the wholesale dealer has not made a sale of the other tobacco products for which the credit is claimed.*

3. ~~¶A wholesale dealer who is allowed a credit authorized by NRS 370.490 and who, pursuant to subsection 2, makes a payment to a wholesale dealer who did not originally report and pay the tax to the Department may complete and file with the Department an amended return.¶~~ *If the basis for a claim by a wholesale dealer for a credit authorized by NRS 370.490 or a refund authorized by NRS 370.503 is a sale of other tobacco products for which a credit is authorized by subsection 2 of NRS 370.490 or a refund is authorized by NRS 370.503, the Department will allow the credit or refund, as applicable, only if the sale is the first sale of the other tobacco products by the wholesale dealer who originally reported and paid the tax to the Department. The Department will not allow such a credit or refund for any subsequent sale of the other tobacco products.*

Sec. 3. NAC 370.150 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**370.150 Indicating tax on invoice; tax not to be charged to retail dealer as separate item. (NRS 370.510)** A wholesale dealer in products made from tobacco, other than cigarettes, shall indicate on his or her invoices of sale the amount of the tax he or she is required to pay pursuant to NRS 370.450 as a part of the total price of those products. This amount must not be charged to the retail dealer as a separate item.



**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS - NRS 233B.066**  
**Informational Statement**  
**LCB File No. R100-22**

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

Proposed permanent regulation (R100-22) revises provisions governing certain credits which a wholesale dealer of tobacco products, other than cigarettes, may claim against the tax imposed on such tobacco products; eliminates the requirement that a wholesale dealer of tobacco products, other than cigarettes, include on invoices certain information regarding the tax required to be paid on such tobacco products; and provides other matters properly relating thereto.

This Regulation is necessary to conform and provide clarity in the administrative provisions that carry out various amendments from Senate Bill No. 81 (S.B. 81) of the 80<sup>th</sup> Session of the Nevada Legislature (Effective on January 1, 2020)

**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>
5/8/24	Workshop	5/23/24	197
5/24/24	Adoption Hearing	6/25/24	201

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; Comments were also solicited by direct email.

No public responses.

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, 3850 Arrowhead Dr., 2<sup>nd</sup> Floor, 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 (not including Department staff or Commission Members) who:**
- (a) **Attended each hearing:**
  - (b) **Testified at each hearing:**
  - (c) **Submitted written comments:**

Workshop date: May 23, 2024

- (a) Number in attendance: 7
- (b) Number testifying: 0
- (c) Written statements submitted: 0

Adoption Hearing date: June 25, 2024

- (a) Number in attendance: 13
- (b) Number testifying: 0
- (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:**

**Testified at Adoption Hearing:**

None

**Provided written public comment for Adoption Hearing:**

None

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:** None

**Summary of workshop discussion:** None

**Summary of Public Comment at Adoption Hearing:** None

A copy of the written and 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, 3850 Arrowhead Dr., 2<sup>nd</sup> Floor, 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.**

The Nevada Tax Commission adopted the regulation without changing any part of the proposed regulation. There was no opposition, and the language accomplished the intent of the regulation.

- 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, beneficial, short-term or long-term economic effects on businesses. The new provisions from S.B. 81 have been in effect since 2019.

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

The adopted permanent regulation presents no reasonably foreseeable or anticipated adverse, beneficial, short-term or long-term economic effects to the public. The new provisions from S.B. 81 have been in effect since 2019.

- 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.