

NEVADA TAX COMMISSION MEETING
MINUTES

December 4, 2024
9:00 a.m.

Members Present:

Thom Sheets, Chairman pro tempore
George Kelesis, Commissioner
Jeff Rodefer, Commissioner
H. Stan Johnson, Commissioner
Sharon Byram, Commissioner (Virtual)
Craig Witt, Commissioner (Virtual)
Ryan Bellows, Commissioner (Virtual)
Caryn Adelhoch, Commissioner (Virtual)

- I. Chairman Kelesis called the meeting to order and a quorum was established.
- II. Public Comment.

Ron Voigt: Executive Director Hughes please look at the latest version of the sales and use tax return. The TID number does not fit into the boxes. Second comment is on the technical bulletin that is to be discussed today concerning the taxation of interstate retail sales and firearms. Under F: When an FFL delivers a firearm purchased from a retailer to a Nevada consumer, the Nevada FFL must collect and remit sales tax on the purchase price of the firearm unless the consumer can show that tax has been paid or that the sale is an occasional sale. I see that the reference that they use here is NRS 360B.200 which is Streamline. Streamline is moving fast before the people. It is interesting that they do not reference NRS 372.025 which defines gross receipts. The conclusion is having a retailer collect sales tax on money that he never receives from an account. Chairman, you made a good comment at the last Commission meeting regarding the NFL Commission as to if they had a CPA or attorneys in their tax office. That's a very good comment. But I also think common sense needs to be used. Here what we have is someone collects tax and I don't know how you're going to balance the books. The FFL never does receive any money. I think the Wayfair versus South Dakota decision plays into this. Let's say the out-of-state retailer is really large and they're not registered here. The Department needs to get them to register here due to that Supreme Court decision. As far as showing that it is an occasional sale, well, how are they going to do that? They're going to have the out-of-state retailer prove how many sales he's making into Nevada. Is he going to help the consumer on identifying how many sales he has going into Nevada? I don't think so. I think what the Department is trying to do is make it an occasional purchase. Executive Director Hughes, if you would, can you please look into why my Yahoo address is being rejected. I have a young daughter working for Sentra down in Houston. She tends to think you all have blocked my Yahoo address. And then from there, I'll work on my side if there's some kind of problem with my side. I do want to say that Patricia Olmstead has been very helpful because I have asked for some public information, and I've used my Gmail address to get some information from her. Whenever that has happened in the last few months, she and I have worked real well. I would appreciate that. Thank you very much.

Kimberly Maxson-Rushton with Cooper Levenson and Brent Carson with Brent Carson PLLC, Co-Counsel on behalf of Marque Motor Coach - Ms. Maxson-Rushton: As the Commission is aware, late yesterday, we received the recommended refund that was prepared and submitted by the Department of Taxation. We received that mid-afternoon and immediately filed an objection to that. We recognize the fact that this matter is on your Consent Agenda. Chairman and Members of the Tax Commission, we would respectfully request that you remove this from the Consent Agenda and set it for a full hearing so that we can object specifically to the amount of the refund. As my letter set forth, this was

received late. We are a party to this matter. This is technically deemed to be a contested case under Nevada Revised Statute 233B. And as a result of that, you are not supposed to be receiving confidential information from one of the parties without the other party being able to review it and comment on it. And so for those reasons, we respectfully request that the matter again not be contained on your Consent Agenda, but rather be heard as a full hearing based on the fact that this was submitted to you without one party's consent or knowledge until late yesterday afternoon. In addition to my procedural objection with respect to the adding this to the Consent Agenda, I'd note the fact that the recommended refund is riddled with misrepresentations, misstatements. At no time did the District Court ever consider a period of time in which to cap this refund. And why would it? Once it deemed it to be unconstitutional on page 17 of the Order, it states: Pursuant to 449 USC 14505, the State of Nevada may not impose the excise tax on interstate tax charter bus operators. That makes it unconstitutional from the time it was adopted until now. There is no cap on it. So to cap this to a period of time which respectfully speaking, I think the Department just made up, it's not consistent with when we filed for redetermination. It's not consistent with the federal law dealing with taxes and unconstitutionality. And again, it's not set forth in the ALJ's Order or the District Court Order. That time period, I would respectfully submit, was one that was created by the Department of Taxation to again maneuver around the fact that they do not want to recognize that 49 USC 14505 specifically pre-empts the State of Nevada from taxing charter bus interstate operators. And so for those reasons, I would respectfully move our request that the Commission move this from the Consent Agenda, hold it for a full hearing later today, and allow the parties to present why they believe that the refund should be accepted or not accepted and thereafter, if we object to it and that is allowed, we'd respectfully request as I set forth in the objection, the ability to meet and confer with the Department of Taxation and then to present to the full Commission next month a request to refund now. I believe that is the better course of action. It's consistent with the federal law, and it's also consistent with what the judge specifically ordered, and that is for our refund to be made not capped, but that a refund be made. With that, Chairman, I'm happy to answer any questions. Otherwise, again, respectfully request that you remove this from the Consent Agenda.

Director Hughes administered an oath to all parties testifying.

III. MEETING MINUTES:

- A. Consideration for Approval of the September 24, 2024, Nevada Tax Commission Meeting Minutes.
- B. Consideration for Approval of the October 7, 2024, Nevada Tax Commission Meeting Minutes.
- C. Consideration for Approval of the October 8, 2024, Nevada Tax Commission Meeting Minutes.

Commissioner Byram suggested a revision to the October 7, 2024 Meeting Minutes. On page three for the Nevada Restaurant Group, it should read "a credit rather than a refund".

Commissioner Sheets moved to approve the September 24, 2024, October 7, 2024, as amended, and the October 8, 2024 meeting minutes. Commissioner Byram seconded the motion. All in favor. Motion carried.

IV. CONSENT CALENDAR:

- 1) Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure:
 - 1) US Money Reserve Inc
 - 2) Bluefin Payment Systems LLC
 - 3) Bravissimo Limited
 - 4) Cable Shopping Network LLC
 - 5) California Car Cover Co.

- 6) Chickenguard
 - 7) Fujifilm Irvine Scientific Inc
 - 8) National Gym Supply Inc
 - 9) Production Products Inc
 - 10) Spy Optic Inc
 - 11) Universal Nutrition
 - 12) World Wide Retail Solutions Inc
- 2) Waiver of Penalty and/or Interest pursuant to NRS 360.419 that exceeds \$25,000:
 - 1) Eventstar Structures Corp.
 - 2) McDonalds Restaurants of Nevada Inc.
 - 3) Interblock USA LLC
 - 3) Approval of Refund Request in Excess of \$250,000:
 - 1) Apple Inc.
 - 2) Conticast Hormesa, LLC
 - 3) Terrible Herbst
 - 4) International Game Technology dba IGT
 - 5) Walgreens Co.
 - 6) Barrett-Jackson Auction Company
 - 7) Ellis, Bandt, Birkin, Kollins & Wong PC
 - 8) West Coast Boat Center
 - 9)
 - 4) Consideration for Approval of the Recommended Settlement Agreements and Stipulations:
 - 1) National Football League
 - 5) Departments Recommendation to the Commission for Approval of a Payment Plan Request:
 - 1) Jatinder Neigah and Nashatra Neigah dba The Best Smoke Shop
 - 6) Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
 - 1) Mancho Maliminovski for the debts of Pizza Modena LLC
 - 7) Consideration for the Adoption of the Administrative Law Judge's Proposed Decision concerning an Appeal of the Department's Denial of a Request for Waiver of Penalty and/or Interest under \$25,000 pursuant to NRS 360.419:
 - 1) Armored Empire
 - 8) Consideration for the Adoption of the Administrative Law Judge's Proposed Decision concerning an Appeal of the Department's Recommendation for Denial of a Request for Waiver of Penalty and/or Interest over \$25,000 pursuant to NRS 360.419:
 - 1) Cortina Ristorante, LLC

- 9) Consideration for the Adoption of the Administrative Law Judge’s Proposed Decision concerning an Appeal of the Department’s Denial of Exempt Status for Organization created for Religious, Charitable or Educational Purposes, pursuant to NRS 372.3261:
 - 1) Global Property Management Group, Inc.
 - 2) Northern Rocky Mountain Educational Research Association
 - 3) Association of Croatian American Professionals Foundation

- 10) Consideration and approval of the Department’s recommended refund pursuant to the remand from the 8th Judicial District Court, Clark County, Nevada, in its Order Re Petition for Judicial Review, issued on August 14, 2024, in the case of Marque Motor Coach, Inc. vs. Nevada Tax Commission and Nevada Department of Taxation, Case No. A-23-867175-J, and possible delegation of authority to the Chair and Executive Director pursuant to NRS 241.0357 to make decisions regarding this litigation.

- 11) Consideration for Approval of Tax Bulletin 24-001 Pursuant to NRS 360.133 Regarding Taxation of Interstate Retail Sales of Firearms.

Commissioner Byram pulled items IV. 1) 7) Fujifilm Irvine Scientific Inc. and IV. 6) 1) Mancho Maliminovski for the debts of Pizza Modena LLC.

Commissioner Witt moved to approve the consent calendar, minus items IV 1) 7) and IV. 6) 1). Commissioner Rodefer seconded the motion. All in favor. Motion carried.

Item IV. 1) 7) Fujifilm Irvine Scientific Inc. – Commissioner Byram mentioned the taxpayer is selling biotechnology and asked what is taxable. Amy Ammons, Revenue Officer II, stated the cell culture media and some of their reagents are tangible personal property. Commissioner Byram made a motion to approve Fujifilm Irvine Scientific Inc. Commissioner Sheets seconded the motion. All in favor. Motion carried.

Item IV. 6) 1) Mancho Maliminovski for the debts of Pizza Modena LLC – Commissioner Byram asked where the State stands in pursuing the successor liability that is available. Kathy Fey, Tax Program Supervisor III, stated the State is looking at possibly pursuing the successor liability. Commissioner Byram made a motion to approve the offer-in-compromise for Mancho Maliminovski for the debts of Pizza Modena LLC. Commissioner Rodefer seconded the motion. All in favor. Motion carried.

V. COMPLIANCE DIVISION:

- A. Taxpayer’s Appeal of Administrative Law Judge’s Decision pursuant to NRS 360.245 and NAC 360.175:
 - 1) RKT Holdings LLC dba Rocketship

Lorin Taylor, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation. Eugene Cataldi, Chief Compliance Investigator, was present on behalf of the Nevada Department of Taxation. A representative for RKT Holdings LLC dba Rocketship was not present. Commissioner Byram moved to uphold the Administrative Law Judge’s Decision. Commissioner Rodefer seconded the motion. All in favor. Motion carried.

VI. LOCAL GOVERNMENT SERVICES:

A. Taxpayer's Appeal of the Treasurer's Denial of Waiver of Penalty and/or Interest pursuant NRS 361.4835 (Clark County):

1) Aaron and Marlaina Harris

Jeffrey Mitchell, Deputy Executive Director, was present on behalf of the Nevada Department of Taxation. A representative for Aaron and Marlaina Harris was not present. A representative for Clark County was not present. Commissioner Byram made a motion to deny the appeal and to uphold the Treasurer's denial. Commissioner Sheets seconded the motion. All in favor. Motion carried.

VII. REGULATIONS:

A. Consideration for Adoption of Permanent Regulation LCB File No. R191-24. A Regulation relating to property tax; revising provisions governing the determination of obsolescence to be deducted from the taxable value of property; and providing other matters properly relating thereto.

Yvonne Nevarez-Goodson, Chief Deputy Executive Director, was present on behalf of the Nevada Department of Taxation and presented LCB File No. R191-24 to the Commission and meeting attendees. Chief Nevarez-Goodson recommended a motion to adopt proposed permanent regulation LCB File Number R191-24 as amended in the agency revised proposed draft which was provided to the public with the 30-day notice required under NRS Chapter 233B.

Public Comments (LCB File No. R191-24):

Jane Tung, from Washoe County Assessors Office. We have been reviewing the changes with Clark County Assessors Office, and our office is in support of the proposed changes.

Mary Ann Weidner, Deputy Director of Clark County Assessors Office. We are here today to express our support for the current regulation with the amended changes that the Department did implement, and we are very thankful for the work that the Department did on this. We have been working on this regulation for a very long time, and with that, we would ask that you approve it. Thank you.

Commissioner Sheets moved to approve LCB File No. R191-24 as amended. Commissioner Bellows seconded the motion. All in favor. Motion carried.

B. Consideration for Adoption of Permanent Regulation LCB File No. R052-23. A Regulation relating to taxation; establishing certain requirements relating to the excise tax on cannabis concerning cannabis and adult-use cannabis products obtained or purchased by a cannabis consumption lounge; requiring an adult-use cannabis retail store to document and report to the Department of Taxation each sale of cannabis or an adult-use cannabis product to an independent cannabis consumption lounge; imposing and revising certain requirements relating to the keeping of records concerning the excise tax on cannabis; imposing certain requirements on cannabis sales facilities and cannabis consumption lounges relating to the payment of sales tax; revising the manner in which the Department will calculate the fair market value at wholesale of cannabis; eliminating certain obsolete and duplicative provisions; and providing other matters properly relating thereto.

Yvonne Nevarez-Goodson, Chief Deputy Executive Director, was present on behalf of the Nevada Department of Taxation and presented LCB File No. R052-23 to the Commission and meeting attendees. Chief Nevarez-Goodson recommended that the motion be to adopt the proposed permanent regulation as amended in the agency revised proposed draft.

Commissioner Byram suggested edits in sections 11 and 12. On page four of the draft towards the top, the way this paragraph is numbered in Section 11, one is for single use cannabis products sales and two is for uses. A single-use cannabis product should be part of the paragraph above and then it should say one: Sales, or two: Uses. The way that it's laid out isn't technically correct from the way the statute should read. The exact same issue is in Section 12. A single-use cannabis product should be part of the paragraph, and the one should start with Sales and two should be Uses. The current language isn't parallel.

Chief Deputy Nevarez-Goodson stated she could recommend the changes to LCB if the Commission is agreeable.

Public Comment: There was no public comment.

Commissioner Byram moved to approve for adoption Permanent Regulation LCB File R052-23 agency proposed draft with the suggested edits if approved by LCB. Commissioner Sheets seconded the motion to include adopting the permanent regulation as amended in the agency proposed document plus the non-substantive amendments or the technical clarifications included by Commissioner Byram. All in favor. Motion carried.

VIII. INFORMATIONAL ITEMS:

- A. Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Commerce Tax, Modified Business Tax and Excise Tax (dates as indicated).
- B. Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).
- C. Bonds Administratively Waived (dates as indicated) (Sales/Use Tax)

IX. BRIEFING:

- A. Briefing to/from the Commission and the Executive Director. (for discussion only)

Executive Director Hughes shared that in just three business days, the Department will be implementing our first phase of project MYNT. As many of you are aware, that stands for Modernize Your Nevada Tax. I would like to recognize the hard work that all of our staff has put in in order to have a successful implementation on December 9th.

- X. Next Meeting Date: January 15, 2024.

- XI. Public Comment.

There was no public comment.

- XII. Items for Future Agendas. (for discussion only)

No items were brought forward for future discussion.

- XIII. Meeting adjourned at 9:57 a.m.