

March 10, 2026

Nevada Tax Commission
3850 Arrowhead Drive, 2nd Floor
Carson City, NV 89706

Subject: : Public Comments on Department's December 2025 Nevada Tax Notes:

Hello Commissioners,

Before I get started, I will say the Department's writer is getting better at writing up the Tax Note but still is remaining wrong on the issues and more importantly not providing any Nevada District Court or/and Nevada Supreme Court decision to support the Department's position as precedent. Nevada Revised Statute (NRS) 360.133 does direct the Executive Director to prepare technical bulletins to educate the public. Does the phrase "educate the public" sound familiar? This phrase was used by Assemblymember Shea Backus, Vice Chairman, Assembly Ways and Means Committee during the last budget session. The recent Hohl Motorsports vs Nevada Department of Taxation case decision by the Nevada Supreme Court stated Taxpayers should be able to rely on the advice that they receive from the Department, especially where they have specifically discussed a particular issue. The Justices made their decision based on "Justice and Fair Play". Since the Department uses the Nevada Tax Notes as a method to express its opinion on tax issues during an audit then it should be considered advice to the public.

I would like to provide public comments on the Department's December 2025 Nevada Tax Notes.

1. Comment on Credit Card or Charge Card Processing Fees (December 2025 Nevada Tax Notes, page 2)

With recent passage of Senate Bill (SB) 196, I believe the Nevada Legislature would have a problem with the Department's opinion. The Nevada Legislature authorized a heavy equipment rental company to charge a recovery fee to offset taxes levied on certain heavy equipment. In the original proposal, they deleted NRS 360B.480. They reversed that thought because they realized that a separated stated service charge is not considered part of the retail sales price (NRS 372.025) for the tangible property. Also, I think they realized that NRS 360B (Streamlined Sales and Use Tax Agreement) was never passed by the people of Nevada so it cannot override NRS 372. Since the credit card or charge card processing fees are not part of the Cost of Goods Sold (COGS), it is not subject to sales tax.

The writer states the following: "The credit card or charge card processing that is charged to the retailer by the merchant card processor or banking/financial institution is the retailer's expense or an overhead cost". Where in NRS 372 does it stated that sales tax is applied to separately stated expense that is not part of the cost of goods sold? Sales tax is gross receipts per NRS 372.025 that includes other expenses that are part of the cost of goods sold. Where is the word "overhead" used in NRS 372? The word "overhead" is a cost accounting term not a financial accounting term or tax accounting term so therefore does not apply when dealing with sales tax.

I have a question for the writer. Are finance charges for vehicle purchases subject to sales tax? I will answer the question for the writer. No, if the finance charge is separately stated from the purchase price of the vehicle. The writer is confusing credit card fees with finance fees which are fees to obtain financing. Credit card fees are not to obtain financing but is a separately provide service charge that subject to sales tax.

NRS 372,050, "Retail Sale" and "sale at retail" defined state Retail Sale" or "sale at retail" means a sale for any other purpose other than resale in the regular course of business of tangible personal property. The important phrase is sale of tangible personal property. Separately credit card process fee is a service not subject to sales tax. This is only supported by Senate Bill (SB) 196 but also by the Nevada Supreme Court decision in Western Nevada Supply Company vs the Nevada Department of Taxation in 2018. There is a great discussion by the Justices in making the point that separately stated service charges are not subject to sales tax. The Court stated the following: Nevada imposes a sales tax for selling tangible personal property at retail. NRS 372.105. Specially, sales tax is imposed upon gross receipts/total sales price which includes cost of transportation to the seller, the cost of transportation of the property before its purchase, and any

delivery charges that are not stated separately on the invoice. See NRS 372.105; NRS 372.110; NRS 372.025; NRS 372.065(1)(c); NRS 360B.290; NRS 360.525; NRS 360B.480. It is interesting that they set aside NAC 372.101, the administrative regulation. I point this out to show that a Nevada Administrative Code (NAC) passed by the Nevada Tax Commission can be overruled not used by the Nevada Supreme Court. We can also look at U.S. Court of Appeals for the Sixth Circuit in DirecTV v Treesh, Dkt. No. 06-5523 when a state tried to apply sales tax to service charges provided by Cox Cable. I have heard there is a Nevada Supreme Court decision that ruled in favor of Cox Cable too but I am unable to find it. When I do the case, I will share it with you.

The audit section of the Department has elected to ignore the Nevada Supreme Court's Western Nevada Supply decision in which the Court made clear that separately stated service charges are not subject to sales tax and the Nevada Legislature's passage of Senate Bill (SB) which makes clear the Legislature Branch intend to make clear that separately stated service charges are not subject to sales tax. In fact, SB 196 allows the Taxpayer to regroup sales/use tax that has been paid to another state.

2. Comment on Leasing and Subleasing (December 2025 Nevada Tax Notes, page 4)

Nevada Revised Statute (NRS) 372.105 states the following: For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 2 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on or after July 1, 1955. NRS 372.025 states the following: "Gross receipts" means the total amount of the sale or lease or rental price, as the case maybe, of the retails sales of retail sales of retailers, valued in money, whether received in money or otherwise. The sales tax rate is applied on retail price (dollar value) not the description of the accounting transaction (i.e. retail sale). Now, if the Department has a Nevada Supreme Court decision that has changed these definitions, the public welcomes such information.

The examples that the writer uses in the tax note, not only contradicts the PowerPoint presentation and the technical bulletin that appears on the Nevada Department of Taxation website but also shows the writer's lack of accounting education and accounting experience. For the writer's information, the Nevada Legislation purposely applied the sales tax rate on the gross receipts (retail sales price) because as defined in NRS 372.260 and NRS 372.265, it is the sales transaction and the computation of the amount of taxes imposed not the sales price which is being exempted from sales tax. Again, the sales tax rate is applied on the retail sales price (NRS 372.025) not the definition of a retail sale as the writer tries to do with NRS 360B.067.

Nevada Revised Statute (NRS) 372.050 and NRS 372.060 are Nevada Tax Statute approved by the people and override NRS 360B.067 (the Streamlined Sales and Use Tax Agreement) which was rejected by the people in Question No. 4 on the November 4, 2008, General Ballot, which would of allowed the Nevada Legislature to amend or repeal portions of the Sales and Use Tax Act of 1955 without a direct vote of the people. This measure was related to the state's efforts to align with Streamlined Sales and Use Tax Agreement (SSUTA). NRS 372 is based on the Sales and Use Tax Act of 1955. The Department is attempting to use a Nevada Administrative Code (NAC) 372 to override a Nevada Tax Statute (NRS) 372 which cannot happen.

The audit section of the Department has elected to ignore the Nevada Supreme Court's Western Nevada Supply decision in which the Court made clear that separately stated service charges are not subject to sales tax and the Nevada Legislature's passage of Senate Bill (SB) which makes clear the Legislature Branch intend to make clear that separately stated service charges are not subject to sales tax. In fact, SB 196 allows the Taxpayer to regroup sales/use tax that has been paid to another state on equipment rentals.

As for the reference to the Nevada Tax Commission adopting Nevada Administrative Code (NAC) 372.9020-372.946, Since the members of the Nevada Tax Commission can change according to the political wind, the Nevada Revised Statute (NRS) 372 and Nevada Constitution needs to be used whenever possible. In this case, you can. NRS 372.050 clearly states defines a retail sale. NRS 360B.067 was never passed by the people and therefore cannot be used to override or even use in conjunction with the definition of a retail sale as defined in 372.050. Also, we have Nevada Taxpayers' Bill of Rights (NRS 360.291.o) that states the following: To have statutes imposing taxes and any regulations adopted pursuant thereto construed in favor of the taxpayer if those statutes regulations are of doubtful validity or effect, unless there is a specific statutory provision that is applicable. The specific statutory provision of NRS 360B.067 has not been settled by the Courts since it was not passed by the people and therefore Nevada Taxpayers' Bill of Rights needs to be applied in the Taxpayers' favor. Also, the Department's desire to apply the Nevada sales tax on the retail sale as defined by NRS 360B.067 has not been settled by Nevada District Court or Nevada Supreme Court where precedent can be established. It is my opinion that the Nevada sales tax is applied to gross receipts (retail price) as defined by NRS 372.025 as stated in NRS 372.105.

3. Comment on Original Artwork vs Renderings

I will start my rebuttal by mentioned that the writer is using the Nevada Administrative Code (NAC) as support while I will use Nevada Revised Statute (NRS) 372.085, "Tangible Personal Property" defined as my support. NRS 372.085 states the following: "Tangible Personal Property" means personal property which can be seen, weighed, measured, felt our touched, or which is in any other manner perceptible to the senses. As the writer may need to be reminded, Nevada Revised Statute (NRS) trumps Nevada Administrative Code (NAC).

Now, I will discuss each one of the examples mentioned by the writer.

I agree that an artist hired to create an original painting is not taxable

I do not totally agree with when an art gallery purchases an original painting from an artist and resales it to a customer. If the painting is being shipped out-of-state, it is not subject to Nevada sales tax.

I do not totally agree when an art gallery sells copies (prints) of an original painting on behalf of an artist. Many times, original paintings (drawings) are done by a computer and electronically sent by email to the customer. If physical copies are printed, are they shipped out-of-state and therefore not subject to Nevada Sale Tax.

I do not totally agree when a photographer sells proofs viewed electronically and then later sells prints created from the proofs. If physical copies are printed, are they shipped out-of-state and therefore not subject to Nevada Sales Tax.

I do not agree that the labor to paint the design is considered fabrication labor. Since the writer likes to use the Nevada Administrative Code (NAC), he/she needs look at NAC 372.420 nor NAC 372.450. Because the labor more than the cost of the paint, the labor if separately stated is not subject to sales tax. I would agree that when the van is sold that the retail sales price is subject to Nevada Sales Tax if the van is not sold to an out-of-state customer. NRS 372.045, Bundled transactions has nothing to do with this example. Think bout it, it is just like to paint your vehicle and then sell it. The retail sales price of the vehicle is now subject to Nevada Sales Tax. In short, there is not difference a paint job or a design job.

It looks like the writer is attempting to make digital artwork subject to Nevada Sales Tax. That has been voted down by the great citizens of Nevada.

Thank You and Be Safe,
Ron Voigt
702-321-9245