

# Assessor New Evidence



STATE OF NEVADA  
DEPARTMENT OF TAXATION

MAIN OFFICE  
3850 Arrowhead Drive  
Carson City, Nevada 89706

JOE LOMBARDO  
*Governor*

GEORGE KELESIS  
*Chair, Nevada Tax Commission*

SHELLIE HUGHES  
*Executive Director*

March 2, 2026

RECEIVED  
MAY 25, 2026  
STATE OF NEVADA  
DEPARTMENT OF TAXATION

*Via Certified Mail: 9489009000276499219684*

Assessor's Association of Nevada  
c/o Burton Hilton  
297 Nevada Northern Railway, Suite 3  
Ely, NV 89301

Re: Advisory Opinion No. 26-003 - Assessor's Association of Nevada

Dear Petitioner:

The Nevada Department of Taxation ("Department") received correspondence from the Assessor's Association of Nevada ("Petitioner") seeking an advisory opinion on the applicability of personal property tax to property held for both sale and lease.

Any person<sup>1</sup> may petition for an advisory opinion concerning matters within the jurisdiction of the Department or Commission pursuant to Nevada Administrative Code ("NAC") 360.190. The Department can provide advisory opinions but cannot provide legal advice. Moreover, the Department can only provide advisory opinions on matters and issues related to taxation.

Please be advised that the opinions expressed in this Advisory Opinion ("Opinion") are limited to the specific facts, circumstances, and transactions described in the information you provided to the Department in your correspondence. No reliance should be placed on this Opinion for any purpose other than that described herein. Please be further advised that subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which any opinion is based may subject similar future transactions, situations, claims, or requests to treatment other than that expressed in this Opinion.

**Question Presented**

Whether personal property held for both sale and lease is subject to personal property tax.

<sup>1</sup> Petitioner may or may not constitute a "person." See NRS 0.039.

## **Short Answer**

Yes. Personal property held for both sale and lease is subject to personal property tax unless the taxpayer can clearly demonstrate that no lease occurred.

## **Law and Analysis**

Nevada Revised Statute (“NRS”) 361.068 exempts “personal property held for sale by a merchant” from taxation. This exemption reflects the Nevada Constitution’s directive that “the legislature shall provide by law for a progressive reduction in the tax upon business inventories” and ultimately exempts such inventories from taxation.<sup>2</sup> The statutory exemption is intended to prevent the taxation of goods that merchants intend to sell in the ordinary course of business.

However, NRS 361.159 provides that “when personal property, or a portion of personal property, which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association or corporation in connection with a business conducted for profit, the leasehold interest, possessory interest, beneficial interest or beneficial use of any such lessee or user of the property is subject to taxation.” In short, personal property that is otherwise exempt loses its tax-exempt status when leased or used in a for-profit business.

The Nevada Supreme Court has repeatedly emphasized that “tax exemptions are strictly construed in favor of finding taxability and any reasonable doubt about whether an exemption applies must be construed against the taxpayer.”<sup>3</sup> Thus, a taxpayer claiming an exemption must clearly demonstrate eligibility, and any reasonable doubt regarding its applicability must be construed against the taxpayer.<sup>4</sup> A taxpayer cannot rely on ambiguous language or uncertain facts to establish exemption eligibility.<sup>5</sup>

Accordingly, if the taxpayer conducts business involving both the sale and rental of personal property, all such property is subject to personal property tax, except for items where the taxpayer can clearly establish that no lease occurred.

## **Conclusion**

Based on the foregoing, it is the Department’s opinion that personal property held for both sale and lease is subject to personal property tax unless the taxpayer can clearly demonstrate that an exemption applies.

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<sup>2</sup> NRS Const. Art. 10, § 1

<sup>3</sup> *Jim L. Shetakis Distributing Co., Inc. v. State, Dept. of Taxation*, 108 Nev. 901 (1992)

<sup>4</sup> *Sierra Pac. Power Co. v. Department of Taxation*, 96 Nev. 295 (1980); see also *Great American Airways v. Nevada State Tax Com'n*, 101 Nev. 422 (1985)

<sup>5</sup> *Clark County Sports Enterprises, Inc. v. City of Las Vegas*, 96 Nev. 167 (1980)

Please be advised, once again, that this response is subject to the limitations set forth herein. Should you have any further requests, please submit them in accordance with NAC 360.190 and ensure that all necessary supporting information is provided.

Sincerely,



Shellie Hughes  
Executive Director

cc: Jung Yeo, DAG

*Please be advised, the response given in this letter is limited to the specific question, transaction, and fact referred to in your advisory opinion request and subsequent correspondence between Taxpayer and the Department. No reliance should be placed on this opinion for any purpose other than that described herein. This opinion is based upon the representations, documents, facts, and assumptions that have been included or referenced therein and the assumption that such information is accurate, true, and authentic. In the event any of the representations, facts, or assumptions are incorrect, in whole or in part, one or more of the conclusions reached in this opinion might be adversely affected. You are further advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this reply to your written inquiry. It should be noted that the conclusions reached in this advisory opinion are not binding on any administrative body or any court of law, but rather these findings are the Department's interpretation of the applicable statutes, case law, regulations, and other rules.*

# Assessors' Association of Nevada

December 30, 2025

Shellie Hughes  
Executive Director  
Nevada Department of Taxation  
3850 Arrowhead Drive  
Carson City, NV 89706

**Re: Request for an Advisory Opinion per NAC 360.190**

Dear Ms. Hughes,

**I. Request for Advisory Opinion**

The Assessors' Association of Nevada respectfully requests an advisory opinion per NAC 360.190.

**II. Statement of Issue to be Resolved**

Whether personal property/assets which are rented or leased for profit are subject to personal property taxes under Nevada law?

**III. Statement of Facts**

On December 18, 2023, you responded (Department of Taxation Opinion 23-005 (the "Opinion")) to our Request for an Advisory Opinion submitted on September 18, 2023, regarding whether machinery and equipment held in inventory by a business primarily engaged in renting or leasing is subject to personal property taxes under Nevada law. The Opinion found in order to determine whether personal property held for both sale and lease is exempt from taxation, the county assessor must engage in a factual inquiry into the taxpayer's primary purpose for purchasing the property.

Since the Opinion was issued it has caused confusion and potential misapplication. Specifically, Empire Southwest LLC in its "Petitioners' Combined Opening Brief" before the Nevada State Board of Equalization claimed that the Opinion supports their position that sporadic rental of equipment does not convert that equipment to taxable as long as the taxpayer's primary purpose is to sell the property. The Opening Brief states "that property is considered as exempt inventory if the primary purpose of the property is to be sold. Thus, sporadic rental of inventory does not deprive the property of the exemption so long as the primary purpose is to sell the property. All Empire equipment in the real fleet is intended for and does end up being sold as used equipment".

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The Assessor's Association believes this argument exceeds the scope of the Opinion and requests the Department review and clarify its prior Opinion that NRS 361.068 is not a blanket exemption for all inventory held by property owners as long as the taxpayer's primary purpose in purchasing the equipment is to eventually sell the property. Furthermore, during the September 2025 State Board of Equalization hearings State Board Member Bancroft opined that when the tax-exempt heavy equipment is rented that the property becomes taxable pursuant to NRS 361.159 and that county assessors could assess and collect taxes from the renter for the proportional use of the tax-exempt equipment/inventory. Such an interpretation is not consistent with the current provisions of Nevada law and would be impracticable for county assessor as equipment could be rented to multiple people throughout the fiscal year. Such an interpretation would lead to an absurd result regarding the assessment and collection of personal property that is not entitled to an exemption.

## **IV. Relevant Legislative History, Statutes, Rules and Agency Decisions**

In three separate legislative sessions the heavy equipment rental industry lobbied the Nevada Legislature for a tax exemption for heavy equipment that is owned by a person engaged in the business of renting or leasing equipment regardless of whether the property is subsequently sold by the owner. See AB388 (2019); AB279 (2021) and SB233 (2023). Each time the heavy equipment industry attempted to exempt personal property that was leased as inventory held for sale under NRS 361.068. The Nevada Legislature's failure to exempt such property from taxation is evidence that such property is intended to be taxable property in Nevada and not exempt from taxation. See *McKay v Board of Cty Commissioners*, 103 Nev. 490, 492 n.2 (1987) finding that failure to adopt a proposed amendment is evidence of legislative intent to the contrary.

NRS 361.068(1)(a) provides a personal property exemption for personal property held for sale by a merchant. Black's law defines "merchant" as one whose business is buying and selling goods for profit. Here, heavy equipment rental businesses are not "merchants" as required by NRS 361.068 as they are in the business of renting goods not buying and selling of goods. The fact that they might sell a piece of equipment does not make them merchants pursuant to NRS 361.068.

Lastly, NRS 361.159 requires that when personal property, or a portion of personal property which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association or corporation in connection with a business conducted for profit, the leasehold interest, possessory interest, beneficial interests or beneficial use of any such leasee or user of the property is subject to taxation to the extent the portion of the property leased or used and percentage of time during the fiscal year that the property is leased to the lease or used by the user in accordance with NRS 361.2275 to the extent it can be segregated and identified. Requiring county assessors to apportion and tax each person that rents such property would lead to an absurd result and is also inconsistent with the new recovery fee authorized by the 2025 Legislature in SB196 that allows heavy equipment rental companies to charge a recovery fee to offset the personal property taxes levied on such equipment.

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## V. Argument

The Opinion begins by stating “the statute is silent as to the treatment of personal property that is both for sale and lease.” The Assessors’ Association respectfully disagrees. Nevada law does not make a specific distinction in the treatment of personal property that is both for sale and for lease because capitalized assets are not inventory according to Generally Accepted Accounting Principles and International Financial Reporting Standards. Rental equipment is a fixed asset from acquisition, regardless of whether it is being rented, idle, or in active use. Audits conducted by Tax Management Associates, Inc. reported the rental equipment of Empire Equipment as taxable fixed assets.

The Opinion goes on to state “Nevada courts have held that when personal property serves a dual purpose, the primary purpose of the property determines whether the property is taxable or exempt from taxation” by citing *Nevada Tax Commission v. Nevada Cement Company*, 117 Nev. 960. The case questioned whether manufacturing equipment purchased by Nevada Cement for use in their manufacturing process was subject to sales and use tax. It is understandable that there is a lack of direct precedent in property tax law mainly due to the adjudicatory capacity of the boards of equalization. In this case the court ruled that the primary purpose of acquisition is the basis for taxation *and* that an exemption applies only if goods were purchased solely for resale in the normal course of business. While the *Nevada Cement* case is helpful in determining sales and use tax as it relates to property used in manufacturing it is not the same as personal property tax held for sale by a merchant. While the taxpayer’s intent in purchasing the property may be relevant for sale and use tax with respect to personal property taxes the appropriate consideration should be how the property is used by the taxpayer.

The Opinion concludes that “NRS 361.068(1)(a) requires a factual inquiry into the taxpayer’s primary purpose for purchasing the property”. Again, the Assessors’ Association respectfully disagrees. NRS 361.068(1) does exempt personal property held for sale by a merchant or manufacturer, meaning inventories are sold not rented by a business to generate income. There is no requirement for the assessor to ascertain the taxpayer’s primary purpose for purchasing a business asset. Shifting this responsibility to county assessors to ascertain the taxpayer’s primary purpose is not required by NRS 361.068. Furthermore, Nevada property tax exemptions are strictly construed against the taxpayer. *Sierra Pacific Power Company v. Department of Taxation*, 96 Nev. 295, 298 (1980). Any reasonable doubt about the applicability of an exemption must be construed against the taxpayer. *Id.* Here, NRS 361.068 is clear and does not require the county assessor to ascertain the taxpayer’s primary purpose for purchasing the property.

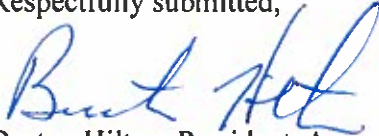
It is a well-established rule of statutory construction that effect must be given to every word in a statute, and read as a whole, in context. While NRS 361.227 requires the value of real property to be determined considering the uses to which it may lawfully be put. NRS 361.265 “enables the county assessor to make assessments” of “all the personal property within the county, owned, claimed, possessed, controlled or managed by those persons, firms, corporations, associations or companies”. Therefore, possession of personal property by businesses on the lien date and not use that is the consideration when assessing business personal property for property taxes in Nevada per NRS 361.265(2)(a).

## Assessors' Association of Nevada

Under Nevada law, personal property used by a business (or for income production) is subject to ad valorem taxation. It is perverse and inequitable for such companies to consider rental equipment as fixed assets for income tax purposes and then allow them to consider the same equipment as inventory to evade property taxes.

It is important to note that in three separate legislative sessions the heavy equipment rental industry has attempted to pass legislation to exempt this type of equipment and in all three legislative sessions, 2019, 2021 and 2023 the legislation failed. If the legislature intended this type of property to be tax exempt it would have passed such legislation, but instead in the 2025 legislative session that Nevada Legislature passed SB196, which authorizes a heavy equipment rental company to charge a recovery fee in an amount not to exceed 2 percent of the rental charge. The recovery fee is intended to offset the personal property taxes levied on heavy equipment rental property. If the Legislature intended rental equipment to be tax exempt merely based on the intent of the property owner that they might eventually sell the property, the Nevada Legislature would have granted the industry the requested tax exemption in 2019, 2021 or 2023, but instead in 2025 the Nevada Legislature authorized the heavy rental equipment industry to impose a recovery fee to recoup personal property taxes paid. Clearly, the Nevada Legislature does not intend heavy rental equipment to be tax exempt. The Assessor Association is requesting that the Department of Taxation issue clear guidance consistent with the legislative intent and history regarding the taxability of heavy equipment owned by companies primarily engaged in renting or leasing equipment.

Respectfully submitted,



Burton Hilton, President, Assessors' Association of Nevada  
White Pine County Assessor