

NEVADA DEPARTMENT OF TAXATION

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NEVADA TAX NOTES

Official Newsletter of the Department of Taxation

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DEPARTMENT OF TAXATION OFFICES

MAIN OFFICE

1550 E. College Parkway, Suite 100
Carson City, Nevada 89706

Mailing: 1550 E. College Parkway, Suite 115
Carson City, Nevada 89706

Phone: (775) 687-4820 (Compliance - Switchboard)
1-800-992-0900 (In-State Toll Free)

Fax: **(775) 687-8302 (New fax number for Carson)**

RENO DISTRICT OFFICE

Kietzke Plaza
4600 Kietzke Lane Building L, Suite 235
Reno, Nevada 89502

Phone: (775) 688-1295
Fax: (775) 688-1303

LAS VEGAS DISTRICT OFFICE

Grant Sawyer Office Building
555 E. Washington Avenue, Suite 1300
Las Vegas, Nevada 89101

Phone: (702) 486-2300
Fax: (702) 486-2373

Advisory: Due to the monthly and quarterly tax filing requirements, the Las Vegas Office is extremely busy the last few days of any month with people filing their tax returns. It is recommended, whenever possible, that you time your visits to the office for other than the last few days of the month to avoid a long wait. Or, you may want to visit our new Henderson satellite office listed below.

HENDERSON SATELLITE OFFICE

2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074

Phone: (702) 486-2300
Fax: (702) 486-2373

ELKO FIELD OFFICE

850 Elm Street
Elko, Nevada 89801
Phone: (775) 753-1115
Fax: (775) 778-6814

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COMMUNICATING BY MAIL WITH THE DEPARTMENT

If you are writing or sending information to one of the Department's Revenue Officers, Tax Examiners, or other staff, please use the **mailing address** of the appropriate office. If you are filing your sales and use tax return, please use the envelope the Department provided because it is addressed directly to the bank.

TAXPAYER INFORMATION ON NEW TAXES

For information concerning the new taxes, log on to the Department's website at <http://tax.state.nv.us>, click on Taxes, then New and Changed Taxes.

NEW REGULATIONS ADOPTED BY THE NEVADA TAX COMMISSION

New regulations under Nevada Administrative Code (NAC) have recently been adopted by the Nevada Tax Commission. They can be found as follows: The new Business License, Chapter 360; Excise Tax on Banks, Chapter 363A; Modified Business Tax for Financial Institutions, Chapter 363A; Modified Business Tax for General Businesses, Chapter 363B; Live Entertainment Tax, Chapter 368A.

New regulations for Senate Bill 8 and Assembly Bill 4 are available on the Department's website at <http://tax.state.nv.us>. All NRS's and NAC's should be available on the Legislative Website at www.leg.state.nv.us.

NEW LOCATION IN HENDERSON

On January 2, 2004, the Department of Taxation will have a new, full service satellite office located at 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada 89074. The new satellite office is being opened due to the tremendous growth in the Las Vegas area. For now, the telephone and fax numbers remain the same. Phone (702) 486-2300 and fax (702) 486-2373. The Las Vegas District Office in the Grant Sawyer Building will continue to service taxpayers.

RENO DISTRICT OFFICE MOVES

As of December 1, 2003, the Reno District Office of the Department of Taxation has relocated to 4600 Kietzke Lane, **Suite L-235**, Reno, Nevada, 89502. The office remains in the Kietzke Plaza complex and the telephone and fax numbers remain the same. Phone (775) 688-1295 and fax (775) 688-1303.

EXCISE TAX ON BANKS

Effective January 1, 2004, there is a new excise tax on banks. The tax will be assessed quarterly at \$1,750 on bank branches in excess of one. The due date of the tax will be on the last day of the first month of the calendar quarter. The payment due date for the first quarter in 2004 will be on or before January 31, 2004. Tax returns will be mailed during the first week of January, 2004. (NRS 363A and NAC 363A)

LIVE ENTERTAINMENT TAX

NRS 368A requires a tax on admissions and cover charges to businesses providing live entertainment. This tax is administered by two state agencies, the Gaming Control Board and the Department of Taxation. For a comprehensive overview of this tax, see the Department of Taxation's regulation for live entertainment tax on our website under Adopted Regulations for Senate Bill 8.

All live entertainment taking place outside a licensed gaming establishment will be administered and collected by the Department of Taxation. The Live Entertainment Tax is effective January 1, 2004 with the first monthly tax returns due on February 29, 2004. If you are required to be registered with the Department of Taxation for collecting and reporting live entertainment tax, please contact your district office of the Department of Taxation as soon as possible. There is no registration fee for Live Entertainment Tax. Taxpayers who are responsible for collecting and remitting this tax are the owners and operators of the facility where the

live entertainment is provided. If the event is held on public land or at a publicly owned facility, the person collecting the taxable receipts will be responsible for remitting the tax.

The tax rate is two tiered. A 10% tax rate for live entertainment provided at a facility with a seating capacity of at least 300 and less than 7,500 applies to the admissions charge plus any amounts paid for food, refreshments and merchandise sold during the live entertainment event (in addition to applicable sales tax). A 5% tax rate for live entertainment provided at a facility with a seating capacity of 7,500 or more applies to the admission charges only. Any ticket for live entertainment must state that the tax is included in the price of the ticket. If not so stated, the tax will be based on the face value of the ticket.

Live entertainment not subject to this tax is any that the state is prohibited from taxing under the U. S. Constitution or Nevada State Constitution; any that is provided for the benefit of a non-profit religious, charitable, fraternal or other organization qualifying as tax-exempt pursuant to 26 U.S.C. 501 (c); any boxing contest or exhibition governed by provisions of NRS 467; any that is provided at a non-gaming establishment with seating capacity of less than 300, any provided at a licensed gaming establishment licensed for less than 51 slots and less than 6 table games as defined above with a seating capacity of less than 300; any live entertainment provided at a trade show; music performed by a musician moving throughout the audience if no other form of live entertainment is provided; and live entertainment in common area of a shopping mall is exempt, unless the entertainment is provided in a facility located within the mall.

Seating capacity will be defined by maximum occupancy of the facility determined by the State Fire Marshall or other local governmental agency. If the seating capacity has not been pre-determined for the facility, the maximum occupancy will be designated at the time occupancy permits for the facility are obtained. If seating capacity cannot be determined by these methods, the higher tax rate of 10% applies, unless it can be proven otherwise by the taxpayer. (NRS 368A and NAC 368A)

LEASING MOTOR VEHICLES TO GOVERNMENTAL ENTITIES

Senate Bill No. 313, enacted by the 2003 Legislative Session, provides for a use tax exemption on the lease of motor vehicles to the

State of Nevada, its unincorporated agencies and instrumentalities. Please keep in mind, this exemption is for motor vehicles only. See NRS 372.7283 and NRS 374.729.

MODIFIED BUSINESS TAX GENERAL EMPLOYERS AND FINANCIAL INSTITUTIONS

The Modified Business Tax was effective October 1, 2003. The first returns for this tax are due on or before January 31, 2004. The tax is calculated on the total gross wages reported and paid by the employer for that quarter. The tax rates are 0.7% for general employers and 2% for financial institutions. There is an allowable deduction for qualified health insurance/health benefit plans paid by the employer. This includes self-funded insurance plans and Taft Hartley Trusts. Qualifications for these plans and trusts are described in NRS 363A and 363B and NAC 363A and 363B. Total gross wages less the allowable health deduction times the tax rate equals the tax due. If the health deduction is greater than the total gross wages for the quarter, there is no tax due and there is a carry over provision. **A return must be filed showing the total gross wages and allowable deductions, even if the calculation results in no tax due.**

This tax is totally separate from any returns and contributions you are required to pay to Employment Security Division for unemployment insurance. (NRS 363A and 363B, NAC 363A and 363B)

CERTAIN NON-PROFIT ORGANIZATIONS NOT SUBJECT TO NEW TAXES

Nonprofit organizations, religious, charitable, fraternal, or other organizations that qualify as tax exempt organizations pursuant to 26 U.S.C. § 501(c) are not required to pay the Modified Business Tax on General Businesses, Modified Business Tax on Financial Institutions or Live Entertainment Tax and they are not required to obtain a Nevada State Business License. (NRS 360, NRS 363A, NRS 363B and NRS 368A)

OXYGEN DELIVERY SYSTEMS

There has been some confusion in the past regarding whether oxygen delivery systems are exempt in situations where oxygen is prescribed by a doctor to a patient. NRS 372.283 was amended in 1995 and states that 'Medicine' does not include articles which are in the nature of instruments or physical equipment. This statutory change clearly indicates the delivery system is taxable. Retailers of

medical supplies are required to charge and report tax on sales of oxygen delivery systems. (NRS 372.283)

CONSTRUCTION CONTRACT EXEMPTION

Washoe County existing construction contracts entered into and signed prior to July 1, 2003 are exempt from the 1/8 percent sales/use tax increase if an exemption letter is obtained from the Department of Taxation. Copies of qualifying contracts must be submitted to the Department for authorization. Having received authorization, the purchase of construction components at the 7 ¼ percent tax rate may continue until the completion of the contract.

Similarly, existing Clark County construction contracts that were entered into and signed prior to October 1, 2003, are exempt from the ¼ percent sales/use tax increase, if an exemption letter is obtained from the Department and copies of qualifying contracts are submitted for authorization.

Please note that due to the high volume of contracts being received and the responsibilities the Department has to implement new taxes, we are experiencing delays in processing the exemption letters. We apologize in advance for any inconvenience these delays may cause.

DISCOUNTS AND COMPLIMENTARIES

The Department has noticed errors in reporting coupons and complimentaries for sales or use tax. Noticeably, the biggest problem seen by Department representatives is when complimentaries act as discounts. Discounts generally are not taxable. For example, when a coupon offers a two-for-one meal, the selling price of the first meal is subject to sales tax. Use tax should not be reported on the value of the coupon.

Complimentaries are subject to use tax based on the cost of the item given away. When complimentaries are for a certain dollar value and that dollar value is not absorbed by the entire retail price of the item given away, then the complimentary is really a discount and the remaining balance is a sale subject to the sales tax only. (NRS 372.025(3); NRS 372.170; NRS 372.185; NAC 372.350)

SALES TAX COLLECTION ALLOWANCE

Effective July 1, 2003, the sales tax collection allowance decreased from 1.25% to 0.5%. The collection allowance is for taxpayers who file and pay their sales tax on or before the due date. If the

taxes are paid late, there is no collection allowance. (NRS 372.370)

BUSINESS LICENSE FEE INCREASE/USE TAX REGISTRATION REQUIREMENT

Effective July 22, 2003, the State Business License fee increased to \$100.00. The license must be renewed annually. The renewal fee is \$100.00. Notices will be mailed prior to your renewal date. Use tax registration is mandatory for any business that purchases tangible personal property for storage, use or other consumption in Nevada. (NRS 372.220)

NEW REQUIREMENTS FOR BUSINESS LICENSE

All businesses must now be registered for the Business License. This includes, but is not limited to, such occupations as independent contractors, beauticians, barbers, manicurists, real estate agents, entertainers, etc. The term business does not include; a governmental entity; a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax exempt organization pursuant to 26 U.S.C. § 501 (c); a person who operates a business from his home and earns from that business not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year; and a business whose primary purpose is to create or produce motion pictures. (NRS 360.765)

BAD DEBTS

Retailers unable to collect all or part of the sales price of any sale of tangible personal property may qualify for a credit against the amount of sales tax previously paid to the State of Nevada. The sale must have been included in the gross receipts reported for a previous sales tax reporting period(s) and must have been taken as a deduction on the business' Federal Income Tax Return as an amount deemed uncollectible. Credit will not be authorized for any sales that occurred prior to July 1, 1997. (NRS 372.365(5), (6), and (7))

Credit for bad debt may not be claimed on uncollectible lease/rental receipts as those transactions are subject to Use tax, not Sales tax.

A qualifying retailer may obtain the Request for Bad Debt Credit form at the Department's web site <http://tax.state.nv.us> under the Forms tab and then Sales Tax or request one to be mailed. This form should be submitted to the Department with any

supporting documentation, including a copy of the Federal Income Tax Return. **Credit for the bad debt sale should be calculated at the rate that was originally paid to the Department.** If the Internal Revenue Service disallows any deduction or any portion of the bad debt is subsequently recovered, the retailer must repay the tax on those amounts.

DOCUMENTED VESSELS

Effective January 1, 2004, "vessels/boats" documented through the United States Coast Guard, operating on Nevada waters must now also be registered with the Department of Wildlife. Boat owners will need to provide proof of payment of Nevada sales/use tax or obtain a tax clearance from the Nevada Department of Taxation. For more information, call your local Taxation Office or Department of Wildlife branch. (Senate Bill 464, 20th Session of the 2003 Legislature)

RELIGIOUS, CHARITABLE AND EDUCATIONAL ORGANIZATIONS EXEMPT FROM SALES AND USE TAX

Religious, charitable and educational organizations that are granted exemption from sales and use taxes for purchases or sales can only use their exemption in an official capacity. Exemption status can not be transferred to individual organization members or anyone else for their personal use. Misuse of an organization's exemption may result in its revocation by the Department.

Pursuant to NRS 372.343, this exemption is only valid for 5 years. There must be an issue date and an expiration date on the exemption letter. Purchases of tangible personal property subject to sales tax, made prior to the issue date or after the expiration date on the exemption letter, are subject to sales tax. If you have any questions as to the validity of an exemption letter, please contact the Carson City office of the Department of Taxation.

HOLIDAY CLOSURES

The Department of Taxation offices will be closed the following days in the 1st quarter of 2004:
Thursday, January 1, 2004, New Year's Day
Monday, January 19, 2004, Martin Luther King Day
Monday, February 16, 2004, President's Day