

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) 684-2000 (New number - Switchboard)
1-800-992-0900 (In-State Toll Free)

Fax: (775) 684-2020 (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) 486-3377

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.

NEW REGULATION ON PENALTY AND INTEREST WAIVER FOR NEW TAXES

A new regulation recently adopted by the Nevada Tax Commission provides for the waiver of penalty and interest on Modified Business Tax for General Businesses and Financial Institutions, Live Entertainment Tax, the new Business License and Use Tax.

NAC 360. 1. Except as otherwise provided in this section and for the purposes of NRS 360.419:

(a) A person's failure to make a timely return or payment of a tax imposed pursuant to NRS 363A.130, 363B.110, or 368A.200 shall be deemed to be the result of circumstances beyond his control and occurring despite the

exercise of ordinary care and without intent if the person files any required return and remits the tax on or before December 31, 2004.

(b) A person's failure to make a timely return or payment of a tax imposed pursuant to NRS 372.185 shall be deemed to be the result of circumstances beyond his control and occurring despite the exercise of ordinary care and without intent if: **(1)** Pursuant to subsection 2 of NRS 372.220, the person is required for the first time to register with the Department; and **(2)** The person files any required return and remits the tax on or before December 31, 2004.

2. Except as otherwise provided in this section and for the purposes of subsection 5 of NRS 360.780, a person shall be deemed to have submitted the annual fee required to be paid pursuant to that section in a timely manner if the person files any required return and remits the fee on or before December 31, 2004.

3. The provisions of this section:

(a) Apply only to taxes and fees that are due and payable before January 1, 2005.

(b) Do not apply: **(1)** If the Department determines that the failure to make a timely return or payment of a tax or fee imposed pursuant to the provisions of NRS 360.780, 363A.130, 363B.110, 368A.200 or 372.185 is due to negligence, an intentional disregard of any of those provisions, fraud or an intent to evade the payment of the tax or fee; **(2)** To a taxpayer who has entered into a settlement agreement with the Department that has been approved by the Commission.

If you have any questions concerning this regulation, please contact your nearest District Office or the Department's website at <http://tax.state.nv.us>.

NEW COLLECTION ALLOWANCE EFFECTIVE JULY 1, 2003

This is just a reminder that the collection allowance rate for sales tax decreased from 1.25% to 0.5% effective July 1, 2003. Some taxpayers are continuing to use the old rate, which causes the short payment of sales tax. Keep in mind, when you short pay the tax, this causes the assessment of a 10% penalty and

interest of 1% per month or fraction thereof, on the tax, until the tax is paid. See NRS 372.370.

COLLECTION ALLOWANCE NOT AUTHORIZED FOR LATE PAYMENT OF SALES TAX

Another reminder: Effective July 1, 2003, if you file and pay your sales tax return after the due date, you are not entitled to the collection allowance (0.5%). See NRS 372.370.

BUSINESS LICENSE REQUIREMENT

The Department is making a concerted effort to get the word out to all businesses and individuals who are considered "engaged in business" in Nevada. Approximately 25,000 notices were mailed to potential businesses and the Department received approximately 25,000 telephone calls. More notices will be mailed on an ongoing basis.

NRS 360.760 through NRS 360.795, which became effective July 22, 2003, state that a person shall not conduct a business in this State unless he has obtained a yearly State Business License issued by the Department of Taxation. It further defines a business to include every sole proprietorship, corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalent, organized under the laws of the State of Nevada or another jurisdiction. It also includes individuals who are not employees but are engaged in activities for profit such as independent contractors, consultants, direct sellers, home-based businesses, farming, or persons renting out property located in the state of Nevada, or receiving royalties from in-state activities.

If you fall into any of these categories and have not yet registered for the Business License, please contact your nearest District Office to see if you are required to obtain the State Business License.

BUSINESS RECORDS NEEDED FOR SALES/USE TAX AUDIT

Businesses should retain all basic records per NRS 372.735 for not less than four years for businesses registered with the Department and

not less than eight years for businesses not registered with the Department. Having proper records will speed up an audit if you are selected for one. The following records are the minimum that should be retained by your business:

- **A sales journal:** This is an accounting device that records the monthly sales. It should be supported by individual sales invoices that show all the parts to the sales transaction. Sales invoices should be pre-numbered and issued in sequential order. All the documents used to file the monthly/quarterly sales/use tax returns should be kept together.
- **Purchase journal/cash disbursements journal:** This is a listing of all items the business purchases whether for inventory, assets, or operating expenses. This journal is supported by paid vendor invoices. Usually a business files these paid transactions in alphabetic order, A-Z, by the vendor name.
- **The payroll journal** should be a detailed listing of each employee's pay history. It is required for all payroll related taxes.
- **Bank records** should include a check register, deposit receipts, bank statements, bank reconciliations, if available and cancelled checks. Business checks should be issued in sequential order.
- **Monthly, quarterly and annual tax returns** for state and federal taxing authorities. These records should be supported by all working papers and details related to filing returns.
- **All of these accounting records** can be completed in-house or a bookkeeping/accounting service can be used. If you use an outside service, you should be provided with the basic journals and ledgers you need to review your businesses financial history. As your business grows, your accounting structure should be re-evaluated.

SALES TO TRIBAL GOVERNMENTS

Vendors selling tangible personal property to an Indian Tribal Government are authorized to sell to them tax exempt only under certain

circumstances. The exemption letter issued by the Department of Taxation is only valid when used by the Tribal Government to purchase tangible personal property delivered onto the reservation in accordance with NRS 372.335. However, the exemption is not extended to sales taking place outside the reservation. Additionally, this exemption status cannot be transferred to individual tribal members or anyone else for their personal use. Finally, the exemption does not extend to tangible personal property used by third-party contractors in furtherance of tribal construction projects.

USE TAX DUE BY INDIVIDUALS AND BUSINESSES ON OUT-OF-STATE PURCHASES FOR THEIR OWN USE

Individuals and Businesses who purchase tangible personal property from out-of-state vendors for their use in Nevada are subject to Nevada use tax. Tax is due on all property which is acquired out of state in a transaction that would have been taxable if it had occurred within Nevada. Credit will be given for sales tax legally paid in another state **up to the Nevada tax rate in the county of use**. Use tax applies to all purchases of tangible personal property including but not limited to: Off Highway Vehicles, e.g. all-terrain vehicles (ATV's), snowmobiles, dirt bikes; Watercraft; Aircraft; Furniture; Computer Equipment and Other Office Supplies; Clothing; etc. If you have questions as to whether you need to report and pay use tax on an out-of-state purchase, please contact your nearest District Office.

“ASK THE ADVISOR BASIC TAX TRAINING” HENDERSON OFFICE

The Department will be presenting basic tax training as well as industry specific training throughout the year. The two hour workshop includes training on Business License requirements, Sales and Use tax, Modified Business Tax, Live Entertainment Tax, collection of tax, resale certificates, exemptions, petition rights, how to prepare amended returns and how to prepare for an audit. The workshops will be held in the Henderson office at 2550 Paseo Verde

Parkway, Suite 180 starting at 9:00 in the morning and have so far been scheduled for: September 28 and October 27, 2004; January 18, February 15, March 15 and April 19, 2005. For more information and reservations call Maurice Torrey at 702-486-2354.

LIQUOR RETAILERS

UNLAWFUL SHIPMENTS OF LIQUOR

If you are a liquor retailer and are receiving shipments of liquor directly from the supplier, you must stop this practice immediately. It is unlawful for you to receive liquor from anyone other than a Nevada licensed wholesale dealer.

Any shipment of liquor which cannot be received or accepted by the consignee for any reason in law may be seized by the Department or its agents and held subject to the order of the shipper for its return at the shipper's expense. If it is not recovered by the shipper it shall be sold at public auction to any qualified importer in this state. See NRS 369.420.

"Retail liquor store" as defined in NRS 369.090 means an establishment where beer, wines and liquors, in original packages or by the drink, are sold to a consumer. A retail liquor store can be a grocery store, convenience store, restaurant, bar, casino and any other establishment with the appropriate license to sell liquor at retail. Retail liquor stores can only purchase liquor from a liquor wholesaler who has a valid Nevada Wholesale Dealer License.

As defined in NRS 369.111, "Supplier" means, with respect to liquor which is brewed, distilled, fermented, manufactured, produced or bottled within the United States but outside this state, the brewer, distiller, manufacturer, producer, vintner or bottler of the liquor, or his designated agent. Suppliers may obtain a Nevada Certificate of Authority if certain conditions are met.

Liquor imported into Nevada must be done through a liquor importer who has a valid Nevada Importer License. The importer may purchase liquor only from the supplier who is authorized to sell that liquor. As defined in NRS

369.030 "importer" means any person who in the case of liquors which are brewed, fermented or produced outside the State, is first in possession thereof within the State after completion of the act of importation. **The importer's license shall permit the holder to import liquor to the place specified in the license and to no other place.**

The Nevada Licensed Importer must also be licensed as a Nevada Wholesale Dealer before he can lawfully sell or transfer for sale any type of liquor. See NRS 369.390. The wholesaler may then sell the liquor to a liquor retailer.

Shipments of liquor from a supplier directly to a retailer are unlawful and are subject to seizure by the Department. See NRS 369.420. The importer/wholesaler must receive the liquor from the supplier at the address designated on the importer's license. Then the wholesaler transports the liquor to the liquor retailer. A licensed Nevada wholesaler can only deliver liquor to another licensed wholesaler or to a retail location that holds a valid retail liquor license issued by the city or county. **A delivery of liquor to an unlicensed premise is also cause for seizure of the liquor.**

NRS 369.4865 authorizes certain transfers of liquor between retail liquor stores who hold a non-restricted gaming license pursuant to NRS 463.0177. Brew pubs are authorized to make purchases and sales pursuant to NRS 597.230.

The Department currently has Compliance Audit Investigators working in the field to ensure compliance with Nevada liquor laws administered by the Department.

HOLIDAY CLOSURES

The Department of Taxation offices will be closed on the following days in the fourth quarter of 2004:

- Friday, October 29, 2004 – Nevada Day
- Thursday, November 11, 2004 – Veterans Day
- Thursday, November 25, 2004 – Thanksgiving Day
- Friday, November 26, 2004 – Family Day
- Friday, December 24, 2004 – Christmas Day (Observed)
- Friday, December 31, 2004 – New Year's Day (Observed)