

# NEVADA DEPARTMENT OF TAXATION

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# NEVADA TAX NOTES

*Official newsletter of the Department of Taxation*

January 2005

ISSUE NO. 149

## 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.

## "ASK THE ADVISOR" BASIC TRAINING HENDERSON OFFICE

The Department will be presenting basic tax training as well as industry specific training throughout the year. The two hour workshops include training on Business License requirements, Sales and Use Tax, Modified Business Tax, Live Entertainment Tax, collection of taxes, resale certificates, exemptions, how to prepare amended tax returns, how to prepare for an audit and petition rights. The workshops will be held in the Henderson Office starting at 9:00 a.m. Classes are scheduled for: January 18, February 15, March 15, April 19, May 17, June 21 and July 19, 2005. For more information and reservations call (702) 486-2354.

## **THE DEPARTMENT OF TAXATION'S MISSION, PHILOSOPHY AND GOALS**

Mission: Provide fair, efficient and effective administration of tax programs for the State of Nevada in accordance with applicable statutes, regulations and policies. Serve the taxpayers, state and local government entities; and enable and recognize Department employees.

Philosophy: Dedicated to the highest standards of professionalism and ethical conduct; committed to consistent, impartial and courteous service and treatment. Providing resources, training and support to the men and women of the Department, and fostering initiative, creativity and effective performance.

### Department Goals:

1. Stable administration of tax statutes.
2. Improve compliance through education, information and enforcement.
3. Cooperate with other agencies and entities to better serve taxpayers.
4. Provide improved and efficient service.
5. Fair and equitable treatment of taxpayers.
6. Enhance workforce proficiency through training and communication.
7. Improve tax administration through new technology.

## **DISHONORED CHECKS AND LATE FILING**

Although the majority of Nevada taxpayers do not bounce checks, the Department has seen an increase in the number of dishonored checks in recent months. The consequences go beyond receiving a billing for a returned check fee of \$25 (in addition to the fees your bank may charge), loss of the .5% collection allowance, 10% penalty and 1% interest on the tax owed. Bounced checks and late tax returns, create a red mark on your reporting history. Your reporting history with the Department is utilized to determine how much of a security deposit you need to post as well as whether your security deposit requirement can be waived and your deposit returned to you. Taxpayers who file and pay on time may request a waiver of security after they have been open for three years or more and their reporting reflects one or fewer late tax returns, delinquencies or returned checks. Taxpayer's who file late and/or bounce checks may receive not only a billing for fees, penalty, interest and loss of collection allowance, but

may also have their security deposit increased based upon their current sales/use tax liability. In other words, for taxpayers deemed "habitually delinquent" per NRS 372.510, their security deposit will be increased, for monthly filers, to five times their current monthly average tax liability; and, for quarterly filers, the security deposit will be increased to three times their average quarterly tax liability. Should you have questions regarding your security deposit, please contact one of the Department's offices by calling or writing. Be sure to include your account number with any inquiries.

## **PROMOTERS OF TRADESHOWS AND CONVENTIONS**

Generally, at tradeshows and conventions, there are items of tangible personal property that are sold or given away. Most vendors know that sales tax is due on the sale of tangible personal property. However, some vendors may not be aware that "use" tax is due on tangible personal property that is given away. Tangible personal property as defined in NRS 372.085, means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

NAC 372.180 states that organizers or promoters of concession sales on an irregular basis, such as conventions, flea markets, etc., who are registered sellers and are therefore liable for the tax on all concession sales, may provide simplified sales and use tax returns to their concessionaires, collect the taxes due at the termination of the sale and remit the total tax due on a single return to the Department.

Promoters of tradeshows and conventions should contact the appropriate Department of Taxation office (Las Vegas or Henderson at 702-486-2300; Reno at 775-688-1295; or Carson City at 775-684-2000) at least 30 days prior to the tradeshow or convention to get tax information, one-time tax returns, etc.

Also, please note that liquor, cigarettes and other tobacco products are subject to special laws and regulations in addition to sales and use tax. Please contact the Carson City office if there will be liquor, cigarettes or other

tobacco products sold or given away at the tradeshow or convention.

### **USE TAX DUE ON MAIL ORDER AND OUT OF STATE PURCHASES**

Individuals and businesses who purchase non-exempt merchandise from out-of-state, unregistered vendors owe use tax to the State. The Department's audit staff finds use tax owed on these types of purchases in many of their audits. Many times items are purchased using a credit card via the internet or ordering over the telephone. Businesses may report use taxes due in column B on their sales/use tax return if registered as a retailer. For businesses registered as a consumer, column A on your consumer use tax return would be used. For individuals not registered with the Department for sales and/or use tax may write the Department to disclose and pay tax due or visit one of our local offices for assistance.

### **LEASE/RENTAL OF TANGIBLE PERSONAL PROPERTY**

Per NAC 372.070-.088, tangible personal property which is leased or rented is subject to sales or use tax. The lessor has two options by which to pay/report the tax. The lessor may either pay the sales or use tax on the purchase price of the item upfront OR collect and remit the use tax on the lease/rental stream. If the rental stream option is chosen, the purchaser must fill out and maintain an Election to Pay Use Tax on Lease/Rental Stream Form, found on our Taxation website ([www.tax.state.nv.us](http://www.tax.state.nv.us)) under Forms-Sales Tax. Per NAC 372.088, this form must be filled out within 10 days after acquiring the property and maintained for examination by the Department. No matter which option is chosen, the tax liability must be reported as Use Tax in column B of the Sales and Use Tax Return or column A of the Consumer Use Tax Return.

Mandatory charges associated with the lease/rental price, such as mileage fees, are considered part of the gross lease or rental charge, whether or not they are separately stated and are taxable. Optional fees, such as optional insurance, are not considered part of the gross lease or rental price, if they are separately stated and are not taxable.

If the lessor leases or rents to an exempt entity (church, government, etc.), they are still liable for the use tax even though they are unable to collect the tax from the exempt entity.

If the merchandise is sold after it has been leased or rented, sales tax is due on the full sales price, without any consideration given for taxes paid on the original cost of the item or collected and remitted on the gross lease or rental charges.

### **TIMELY POSTMARKS ON TAX RETURNS, PETITIONS, ETC.**

Any report, return or remittance which is transmitted through the United States mail shall be deemed to have been received on the date shown by the post office cancellation/postmark stamped on the envelope containing it, or on the date it was mailed if proof satisfactory to the Department establishes that the document or remittance was deposited timely in the U. S. Mail, postage prepaid and properly addressed to the Department of Taxation. If you wait until the last day of the month to mail your taxes, to guarantee that the article mailed is postmarked that same day, it must be dropped off at the mail receptacle prior to the collection time posted on that mail receptacle or it must be hand delivered to the postal clerk. We suggest that you not wait until the last day of the month to avoid a problem. A receipt for material sent by certified or registered mail, if different than the post office cancellation/postmark, will prevail if the date on the receipt is earlier than the cancellation/postmark date. A record authenticated by the post office that the cancellation date was erroneous will be considered satisfactory proof to the Department that the mailing was made on a date other than the post office cancellation/postmark date. Under no circumstances will the date affixed by a postage meter in the possession of the taxpayer or other person or statements by the taxpayer or his employees, be considered sufficient to refute the post office cancellation/postmark date as the date of mailing per NAC 372.790.

### **CERTAIN TRUSTS AND ESTATES – BUSINESS LICENSE REQUIRED**

1. A business trust is included in the definition of a business pursuant to NRS 360.765. NAC 360.760 further defines business trust to mean a business trust organized pursuant to the provisions of NRS 88A or an equivalent entity organized under the laws of any other jurisdiction. These business trusts are required to obtain an annual Nevada Business License.
2. A trust or portion thereof, whose activities, if conducted by a natural person, would qualify as a business, pursuant to NRS 360.785. An example would be a trust that owns rental property in Nevada or a trust conducting the type of business which, if it were conducted by a natural person, would require that person to file a Schedule C with the IRS. The annual Nevada Business License is required.
3. An estate, whose activities, if conducted by a natural person, would qualify as a business, pursuant to NRS 360.785. An example would be an estate that owns rental property in Nevada or an estate that carries on the business of a sole proprietor decedent. The annual Nevada Business License is required.

### **CERTAIN TRUSTS AND ESTATES – BUSINESS LICENSE NOT REQUIRED**

1. A trust, whose activity, if conducted by a natural person, would not qualify as a business. The trust has been created to protect or safeguard assets from creditors and/or generates only interest, gain and/or dividend income.
2. A trust whose activity qualifies as a business, but the income is derived from property located outside Nevada or the business is located in another state and no business is conducted in Nevada.
3. A trust whose income, tax deductions or tax credits which are attributable to a grantor or another person as a substantial owner of the trust or portion thereof per 26 U.S.C. §§ 671 to 679, inclusive, which means this trust is not required to file an IRS Form 1041.
4. A trust that has no activity in Nevada. The address of the CPA, accountant or other contact happens to be in Nevada.
5. An estate, whose activity if conducted by a natural person, would not qualify as a

business, e.g. the estate only receives interest and dividend income.

6. An estate, whose activity qualifies as a business, but the income is derived from property located outside Nevada.

### **CASH VS ACCRUAL**

Per NAC 372.040, retailers who accept terms other than “cash on delivery” need to be aware that reporting sales to the Department **must** be on an accrual basis. In other words, a sale in January 2005 must be reported on your January 2005 sales/use tax return (if you file monthly) which, to be considered timely, would need to be postmarked by February 28, 2005, even though you may not have collected from your customer(s) yet. Should your business be audited and it is found that sales are reported later than the actual date of the sale, you will be charged interest at the rate of 1% per month (12% annually) on late reported sales.

Effective 7/1/97, retailers unable to collect all or part of the sales price of tangible personal property, may qualify for a credit against the amount of sales tax previously paid to the State. A credit request may be filed with the Department after the amount is taken as a deduction on the business’ Federal income tax return. Contact the Department for details.

### **HOLIDAY CLOSURES**

The Department of Taxation offices will be closed the following days during the first quarter of 2005:

- Monday, January 17, 2005 - Martin Luther King Jr. Day
- Monday, February 21, 2005 - President’s Day