

# NEVADA DEPARTMENT OF TAXATION

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# NEVADA TAX NOTES

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## DEPARTMENT OF TAXATION OFFICES

### MAIN OFFICE

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### RENO DISTRICT OFFICE

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Reno, Nevada 89502

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### LAS VEGAS DISTRICT OFFICE

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

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### HENDERSON FIELD OFFICE

2550 Paseo Verde Parkway, Suite 180  
Henderson, Nevada 89074

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### ELKO FIELD OFFICE

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Elko, Nevada 89801

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**Advisory:** Due to the monthly and quarterly tax filing requirements, our offices are 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.

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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 a tax return, please use the envelope the Department provided because it is addressed directly to the bank.

## "ASK THE ADVISORS" BASIC TRAINING

The Department will be presenting basic tax training as well as industry-specific training throughout the year. The three-hour, free workshops include training on state business license requirements, sales and use tax, modified business tax, financial institutions tax, live entertainment tax, sales tax permit fees, resale certificates, exemptions, how to complete tax returns, how to prepare for an audit, Taxpayer's Bill of Rights and your petition rights. The workshops will be held in the Henderson office at the address listed on this page and will begin at 9:00 a.m. The next class is scheduled for Tuesday, January 17, 2006. Classes are also scheduled for Tuesday, February 21, 2006, and Tuesday, March 21, 2006.

"Ask the Advisors" information may also be accessed from the Department website at <http://tax.state.nv.us> by selecting "Ask the Advisors." There, you may view a Power Point presentation of the Department of Taxation training session information or plan to attend the next scheduled meeting.

## **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. The following records are the minimum that should be retained by a business:

- **A sales journal:** This is an accounting device that records monthly sales. It should be supported by individual sales invoices that show all parts to the sales transaction. Sales invoices should be pre-numbered and issued in sequential order. All documents used to file 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 invoices in alphabetical (A –Z) order by vendor name.
- **Payroll journal:** This should be a detailed listing of each employee’s pay history. It is required for all payroll-related taxes. In addition, records regarding health care benefit payments made on behalf of employees by the business should be available for the Modified Business Tax portion of an audit.
- **Bank records:** These should include a check register, deposit receipts, bank statements and bank reconciliations and cancelled checks. Business checks should be issued in sequential order.
- **Monthly, quarterly and annual tax returns for state/federal taxing authorities:** These records should be supported by all working papers, details and supporting source documents related to filing returns.
- **All accounting records may be completed/maintained in-house OR a bookkeeping/accounting service may be used.** If an outside service is used, it should provide its clients with basic journals and ledgers necessary to review the business’s financial history. As a business grows, its accounting structure should be re-evaluated. If records are maintained on a computer system, they should be complete and timely, so that they may be useful in the audit procedure. A back up of computer-maintained accounting/financial records is recommended.

### **PREPARING FOR AN AUDIT**

You and/or your business may be chosen at any time for a routine Sales & Use Tax Audit. Pursuant to Nevada Revised Statutes (NRS 372.740), “The Department, or any person authorized in writing by it, may examine the

books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business or the person to verify the accuracy of any return made, or if no return is made by the person, to ascertain and determine the amount required to be paid by law.”

If you are chosen for an audit, the following information may be helpful in preparing for the auditor. Knowing what to expect will make the audit less stressful for all parties involved.

The auditor will first contact you to schedule a mutually convenient time, date, and location for an audit. The auditor and you will agree to a date that will provide adequate lead time for you to prepare your accounting records. Most audits are performed at the business location, but may take place at the CPA/bookkeeper’s office, in the owner’s office or home, or at the Department of Taxation office. This is normally based on the convenience of the taxpayer.

If the business is already registered for Sales & Use Tax with the Department, the audit will usually cover the previous 3 years. If not registered, the audit can go back as far as 8 years. (NRS 360.355) The same applies for Business Tax.

For a Sales and Use Tax audit, depending on the type of business, you will need some or all of the following business records:

1. Copies of all previously filed tax returns with any related reports or work papers you used to complete them.
2. Detailed general ledgers and a chart of accounts, if used.
3. Sales invoices, journals or sales records.
4. Tax resale certificates or exemption letters received from any exempt customers.
5. Federal Income Tax returns for the years being audited.
6. Purchase invoices and receipts for the audit period.
7. A copy of your cash disbursement journal if maintained or your check register.
8. Asset listings and depreciation schedules.
9. All bank statements and cancelled checks for the audit period.
10. Cash register “Z” tapes if used.

Not all businesses need or have such extensive accounting records. The auditor can determine during the initial phone interview the nature and extent of the records required for your audit. The Nevada Revised Statutes require that a registered business keep their records for at least 4 years, 8 years if not registered. (NRS 372.735)

Upon completion of the audit, the auditor will explain the findings and the Department’s appeal procedure in detail. The audit may result in any one of three determinations:

1. A deficiency determination or additional tax due.
2. A credit for over paying a tax liability
3. No adjustments because the auditor determines the business is in full compliance of the tax law.

After a supervisory review of the audit, an audit report and letter will be sent to you along with a Petition for Redetermination form, and a copy of the related statutes regarding your rights and responsibilities. If there is a deficiency determination, the letter will clearly show the due date to appeal the determination and/or pay the deficiency to avoid further penalties and interest. (NRS 360.350, NRS 360.400) You should also know that auditors cannot be evaluated based on the amount of tax recovered during an audit.

Every business and taxpayer is required to pay their fair and legal share of tax. The Department's job is to educate the taxpayer and assure that businesses comply with the law. If you have any further questions about the audit procedure, please feel free to contact the Department of Taxation.

### **SERVICE AND MAINTENANCE CONTRACTS**

Service contracts included in the total selling price of tangible personal property are subject to sales/use tax.

Mandatory service contracts sold in conjunction with tangible personal property and invoiced separately are subject to sales/use tax. Parts used to fulfill a mandatory service contract are not subject to sales/use tax, since the tax was collected when the service contract was originally sold.

Optional service contracts invoiced separately from tangible personal property are not subject to sales/use tax. If parts and materials used to fulfill an optional service contract are substantial, and the fair retail-selling price is separately stated on the invoice, sales tax is due on the parts and materials only. If parts and materials are not separately stated, the tax applies to the entire charge made to the customer. Repairmen are considered consumers of parts and materials if those items are insubstantial in relation to the total charge and not separately stated on the invoice. Repairmen must pay the tax on the purchase and must not give a resale certificate to their suppliers.

Parts used to fulfill mandatory or optional service contracts with exempt organizations are non-taxable, providing an exemption letter is acquired from the organization and kept on file.

### **COLLECTION ALLOWANCE CHANGE**

The collection allowance established by NRS 372.370 was updated in 2003 and is currently 0.5% of the tax liability if the tax is collected and remitted timely by the retailer. It was first enacted in 1979 to help retailers reimburse themselves for the cost of collecting and remitting the tax and was always meant to be a percentage of the sales tax collected only, not the use tax. The computer system the Department has been using did not allow for the collection allowance to be applied to the sales tax portion only. The Department is

now in the process of initiating a new computer system for sales tax, which will go live in May 2006. Starting with the July 2006 reporting period, the collection allowance will no longer be allowed on the use tax portion of the tax return liability. This is in keeping with the intent of NRS 372.370. Tax returns for that period mailed out by the Department will have separate reporting sections for sales tax and use tax liability but will otherwise look similar to those currently being used. If you have any questions on the collection allowance, please call your local Taxation Department office.

### **CLAIMING A CREDIT**

If you made an error on a Sales Tax, Use Tax or Modified Business Tax return and have a credit coming to you, **do not** take the credit until you have received written notification from the Department of Taxation. If you need instructions on how to amend a return, please contact your district office or view information regarding the procedure to amend a return on the Department's website by selecting the link to the "Ask the Advisors" page.

### **ACCOUNT NUMBERS**

Be sure to put your Sales Tax number, Modified Business Tax number or Taxpayer Identification Number on checks when submitting a return or payment. This will help reduce processing errors.

### **CONSTRUCTION CONTRACTOR EXEMPTION FROM SALES/USE TAX RATE INCREASE**

Effective October 1, 2005, the sales/use tax rate in Churchill County increased by ¼ of one percent (0.25%) to a total rate of 7.25%. The increase will be utilized to support infrastructure.

Also effective October 1, 2005, the sales and use tax rate in Clark County increased by ¼ of one percent (0.25%) to a total rate of 7.75%. The increase will be utilized to employ and equip additional police officers.

All vendors selling in or delivering into those counties on or after that date are required to collect the appropriate new taxes.

Existing construction contracts entered into and signed **prior** to October 1, 2005, **may be** exempt from the additional ¼ percent increase **if** an exemption letter is obtained from the Department of Taxation. The exemption is only available to contractors with existing construction contracts; it is not available to vendors with purchase agreements or sales contracts. For more information on how to obtain a contractor's exemption letter, please contact the Carson City office of the Department of Taxation at (775) 684-2000.

### **AUTOMOBILE TRADE-IN ALLOWANCE AND BALLOT MEASURE 8**

At the 2004 General Election, Ballot Measure 8 was defeated. This repealed certain statutory exemptions effective December 31, 2005. The ballot measure included a section with respect to Nevada Revised Statutes 374.070, which provides for an allowance

against the selling price given by a retailer for the value of a used vehicle taken in on trade on the purchase of another vehicle. There have been questions as to how Ballot Measure 8 of the 2004 General Election affected the vehicle trade-in allowance.

The 2005 Nevada Legislature agreed to extend this automobile trade-in allowance until it can be addressed by the voters of the State of Nevada at the November 2006 General Election (AB 554). Thus, the automobile trade-in allowance credit has been extended and will remain in effect until January 1, 2007. Dealers of vehicles should continue to accept used vehicles taken in trade on the purchase of another vehicle in the same manner as they have in the past.

### **EMPLOYMENT OPPORTUNITIES WITH THE DEPARTMENT OF TAXATION**

The Department of Taxation has begun listing its open positions on its website at <http://tax.state.nv.us> Recruitments for the Department are administered by State Personnel and the website includes a link to the State Personnel web site.

### **USE TAX REGISTRATION**

All individuals and business entities required to have a Nevada State Business License are also required to be registered for and to report use tax if the business purchases tangible personal property for storage, use or other consumption in Nevada (NRS 372.220). Use tax is distinguished from sales tax in that it is due from the purchaser on any tangible personal property used in Nevada upon which Nevada sales tax has not been paid.

The use tax law has not changed. What has changed is the requirement to be registered and report this tax. The exception to this requirement is a business that does not have a physical presence of any sort in Nevada. A business entity required to be registered for use tax must file use tax returns even if the business does not have an ongoing use tax liability; this requirement cannot be waived. A use tax return must be filed for each period, whether a liability exists or not. The report frequency is determined by the nature of the business. For further information, please contact your nearest District Office listed on the front page.

### **REGULATION WORKSHOPS**

The Department of Taxation, during its normal business activities, conducts regular scheduled workshops on issues that pertain to specific tax issues. These public workshops provide an opportunity for affected business to provide language and discussion related to changes or new provisions within the Nevada Administrative Code chapters. These are important because they provide businesses with the necessary clarity and consistency of treatment in the application of statutory requirements in fulfilling their responsibilities to the State of Nevada. Once there is consensus language, it is taken to the Nevada Tax Commission for final approval and adoption.

Topics currently under discussion are the needed amendments to business license requirements, the modified business tax on general business, the modified business tax on financial institutions, the bank branch excise tax, the live entertainment tax, and the certificate of operation associated with off-highway vehicles to bring them in line with the statutory changes that occurred during the 2005 Legislative Session. Future workshops will discuss fabrication labor, construction contractors and changes associated with the Streamlined Sales and Use Tax Agreement. Please visit our website for further information.

### **OFF-HIGHWAY STICKER PROGRAM (SB 400)**

Starting January 1, 2006, owners of newly purchased off-highway vehicles will be required to affix a certificate of operation sticker on the vehicle. Off-highway vehicles include, but are not limited to, all-terrain vehicles, all-terrain motorcycles, dune buggies, snowmobiles and any motor vehicle used on public lands for the purpose of recreation. Only authorized off-highway vehicle dealers may issue these stickers. A dealer or person wanting authorization must apply to the Department in writing and receive written confirmation of the approval.

Requirements for continued approval for the issuance of stickers include compliance with the laws of this state; having a place of business located in this state or holding a valid Nevada sales tax permit; making every reasonable effort to provide satisfactory service to the potential certificate holder; making timely reports to the Department of all certificates issued on a form provided by the Department; and must maintain possession of all records pertaining to the certificate of operation stickers for a period of five years.

Any off-highway vehicle dealer interested in obtaining authorization to issue stickers should mail their request to the Carson City Office of the Department of Taxation.

### **MODIFIED BUSINESS TAX CREDIT NOTIFICATIONS**

Certain taxpayers are currently receiving notices of credits for previously paid modified business tax returns and have called the Department with questions. Many of those credits are the result of miscalculating the amount of tax actually owed. Some taxpayers are self-assessing penalties and interest that are not due and result in a credit. Also, many taxpayers who owe at the general business rate utilize a downloaded reporting form on their computer for ease of preparation. However, these forms will often reflect the old rate of 0.0065 rather than the new rate of 0.0063 that took effect for the quarter ending September 30, 2005. Please contact your nearest District Office for further clarification.

### **HOLIDAY CLOSURES**

The Department of Taxation offices will be closed on the following days in observance of the listed first quarter 2006 holidays:

- Monday, January 2                      New Year's Day
- Monday, January 16                     Martin Luther King Day
- Monday, February 20                    Washington's Birthday