

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

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Carson City, Nevada 89706

Phone: (775) 684-2000 (Switchboard)
Fax: (775) 684-2020

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
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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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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.

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 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 your petition rights.

SOUTHERN REGION – The following, future workshops will be held in the Henderson Office listed on this page and begin at 9:00 a.m. and conclude at 12 p.m.:

Tuesday, July 17, 2007 – Topics will include Basic Taxation in Nevada and Leases and short-term leases.

Tuesday, August 14, 2007 – Topics will include Basic Taxation in Nevada and Repairs

Tuesday, September 15, 2007 – Topic will be Basic Taxation.

NORTHERN REGION – The following, future workshop will be held in the Reno Office listed on this page and begin at 9:00 a.m. and conclude at 12 noon: on

Wednesday, August 15, 2007. Topics will include Basic Taxation in Nevada and Repairs

An "Ask the Advisors Basic Tax Academy" workshop will be held in the Carson City Department of Taxation office, at 1550 College Parkway, Room 113 on Tuesday, July 24, 2007. The workshop will begin at 9 am and end at 12 noon. The primary topic will be Basic Sales/Use Taxation and Modified Business Tax in Nevada.

"Ask the Advisors" information may also be accessed from the Department's Website at <http://tax.state.nv.us> and "Ask the Advisors". At this site you may view a power point presentation of the Department of Taxation workshop information or plan to attend the next scheduled training.

SEEDS AND PLANTS

Nevada *sales/use tax does not apply* to sales of seeds, the products of which will be used as feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of the purchaser's business.

The *tax does apply* to sales of non-annual plants, such as fruit trees and berry vines, whether or not the products will be sold or used as food for human

consumption, unless the plants themselves, as distinguished from their products, are purchased for resale (NRS 372.280(3) and NAC 372.540).

CHARCOAL, BRIQUETTES AND PROPANE

Charcoal, briquettes and propane purchased to cook food are subject to sales tax. Propane purchased to produce domestic heat or for use in an internal combustion engine is exempt from sales tax (NRS 372.200).

OCCASIONAL (PRIVATE PARTY) VEHICLE SALE

Effective January 1, 2006, private party sales of vehicles are no longer subject to Sales/Use Tax. A "private party sale" otherwise known as an "occasional sale" is defined as "A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit."

AMENDING SALES/USE TAX AND MODIFIED BUSINESS TAX (MBT) RETURNS TO ESTABLISH CREDIT FOR OVERPAYMENT OF TAX

Pursuant to the provisions of NRS 372.645 and NRS 363B.050 a claim for refund of sales/use tax or Modified Business Tax (MBT) shall be in writing and must state the grounds on which the claim is founded. In order for the Department to process a credit claim, the claim must be submitted in one of the following formats.

INDIVIDUAL: SALES/USE TAX RETURN(S):

1. Copy original ST/UT return on which tax was paid.
2. Write "AMENDED" in red in the upper right-hand corner of the return.
3. Line-through, in red, original figures entered for each county in which tax was originally reported, leaving original figures legible.
4. Enter corrected figures, in red, next to/ (above, below, next to, etc.) lined-through figures.
5. Enter amount of credit claimed for each county.
6. Include a written explanation and supporting documentation, (credit memos, copies of refund checks, exemption certificates, etc.), substantiating the basis of the credit claim.
7. Indicate whether a refund is requested or whether credit will be used to satisfy current/future liability, OR:

MULTIPLE SALES/USE TAX RETURNS: SPREADSHEET FORMAT

1. Period(s) (months/quarters) in which tax was originally paid, the county in which the tax was originally reported

and the sales/use tax rate in effect at the time the tax was originally paid.

2. Original tax measure and original amount of tax paid and county in which reported.

3. Corrected tax measure and corrected amount of tax due/credit claimed for each county where tax originally reported.

4. Total amount of tax credit claimed for all periods in all counties.

5. Same as numbers 6 and 7, above.

MBT RETURN(S):

1. Copy original quarterly MBT return.
2. Write "Amended", in red, in upper-right corner of copy.
3. Line through incorrect figures, in red, leaving original figures legible.
4. Enter corrected figures next to/above/below, the lined-through figures.
5. Indicate credit amount resulting from changes on/near line 13 on MBT return.
6. Include a **written explanation**, (*BE SPECIFIC*, i.e., "transcribed incorrect total gross wages", "picked up incorrect healthcare deduction", "omitted healthcare deduction" ... etc.), *corroborating the origin of the credit claim*.
7. Indicate whether a refund is requested or whether credit will be used to satisfy current/future liability.

The Department will send written notice when a credit request has been processed and the credit is available for use/refund. A credit is not valid prior to Departmental notification that the credit has been established.

PLEASE SEND AMENDED SALES/USE TAX AND/OR AMENDED MODIFIED BUSINESS TAX RETURNS DIRECTLY TO THE CARSON CITY OFFICE AT: 1550 COLLEGE PARKWAY, SUITE 115, CARSON CITY, NV 89706

CHLORINE AND CHEMICALS

The sale of chlorine and other chemical agents used to purify water is subject to sales tax, unless the purchaser is in the business of reselling the water and gives the seller a valid resale certificate. Chlorine for the purification of swimming pools is subject to sales tax, as are all chemicals used as purification agents in swimming pools.

PENALTY AND INTEREST FOR LATE RETURNS

Pursuant to NRS 360.417 the Department will impose a 10% penalty when a person fails to pay any tax to the State within the time required. In addition, interest must be computed on the late payment at the rate of 1% per month. Periodically taxpayers will call or write to the Department requesting a waiver or reduction of a penalty or interest. NRS 360.419 allows for waiver or reduction by the Executive Director or a hearing officer

but only if the late payment of tax is a result of circumstances beyond the taxpayer's control and occurred despite the exercise of ordinary care and without intent. Hardship is not included in the NRS 360.419 criteria. In determining whether to waive or reduce the penalty or interest the Department shall consider any evidence which shows that the late payment was caused by circumstances that were not directly related to the actions of the taxpayer or his agent, including, without limitation:

- 1) Fire, earthquake, flood or other acts of God, theft, or the death or serious illness of the taxpayer or his agent or a member of the immediate family of the taxpayer;
- 2) An error or the misconduct of an employee of the taxpayer;
- 3) Erroneous written information provided to the taxpayer or his agent by the Department; and
- 4) The misaddressed but timely mailing of the return or payment.

In the case of a late-filed tax return, the full tax amount, including collection allowance, must be paid within 120 days of the due date (NAC 360.397).

A person seeking waiver or reduction of penalty and interest must file a statement with the Department, **signed under oath**, setting forth the facts upon which he bases his claim. The statement must include the signature of the taxpayer declaring, "Under penalties of perjury, I declare to the best of my knowledge and belief, these statements to be true, correct, and complete." This is a requirement of NRS 360.419 and any requests for waiver or reduction of penalty and interest will be returned to the taxpayer if this statement and signature is not included. A *Request for Waiver of Penalty and/or Interest* form is now available on the website.

GRADUATED PENALTY ON LATE-PAID RETURNS

One of the added features to the Department of Taxation's newly implemented Unified Tax System is the ability to calculate graduated penalty on late-paid returns.

Taxpayers are now able to calculate graduated penalty beginning with tax returns filed for the period ending April 30, 2007 (due May 31, 2007). Effective April 1, 2007, tax return instructions supplied by the Department of Taxation will provide information on how to calculate graduated penalty. The amount of penalty due is based on the number of days a payment is made after its due date. Nevada Administrative Code (NAC) 360.395 outlines the graduated penalty scale:

Number of days late	Penalty Percentage	Multiply by:
1 - 10	2%	0.02
11 - 15	4%	0.04

16 - 20	6%	0.06
21- 30	8%	0.08
31 +	10%	0.10

EXHIBITIONS BUSINESS LICENSING FEE

Operators of facilities where exhibitions are held are reminded of the licensing fee requirement. NRS 360.787 requires that a **person or governmental entity** that operates a **facility** at which one or more **exhibitions** are held is responsible for the payment of a **licensing fee** on behalf of persons who do not have a State Business License but who take part in an exhibition to conduct business. Pursuant to NRS 360.787, an "Exhibition" includes a trade show or convention, craft show, sporting event or any other similar event involving the exhibition of property, products, goods, services or athletic or physical skill.

The operator of the facility may choose to pay the licensing fee required by one of the following methods:

- a) The operator could elect to pay a \$5000.00 fee on an annual basis on or before July 1 of each year for all the exhibitions held at their facility during the fiscal year beginning on that day; or
- b) The operator of the facility could elect to file, on a quarterly basis, by remitting an amount equal to the product of the total number of businesses (who do not have a State Business License) taking part in each exhibition at the facility multiplied by the number of days on which the exhibition is held at the facility, multiplied in turn by \$1.25 for each exhibition held at the facility during the calendar quarter.

Facilities may include convention centers, stadiums, etc. Cities, counties and other governmental entities are not exempt.

**UNLAWFUL ADVERTISING:
PAYMENT OF SALES TAX BY RETAILER**

In accordance with NRS 372.205, it is unlawful for any retailer to advertise, hold out or state to the public or customer, that the tax or any portion of the tax will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part will be refunded.

Retailers need to use caution when developing advertising for sales or promotions. Should you have questions about the text or intent of potential advertisements, contact any district office of the Department for guidance.

**ALCOHOL AWARENESS TRAINING:
REQUIRED IN NEVADA COUNTIES WITH
POPULATION OF 400,000 OR MORE**

Effective July 1, 2007, NRS 369.630 requires owners or operators of liquor establishments who hire or employ persons to sell or serve alcohol, alcoholic beverages, or act as a security guard at such establishments, to ensure such person completes a State certified Alcohol Beverage Awareness program and holds a valid alcohol education card.

These provisions apply to establishments in all counties whose population is 400,000 people or more (Clark and Washoe Counties). An establishment is defined as a business that sells alcoholic beverages by the drink for consumption on the premises and businesses that sell alcoholic beverages in corked or sealed containers or receptacles for consumption off the premises. These provisions do not apply to a Nevada Licensed Wholesale Dealer, or a private club, or other facility which is not open to the public.

An establishment that violates provisions pertaining to Alcohol Awareness Training is subject to an administrative fine ranging from \$500.00 to \$5000.00.

A list of approved Alcohol Awareness Training Schools may be found at <http://www.cpe.state.nv.us/> under the General Information Tab.

CLARK COUNTY BUSINESS LICENSE/CITY OF LAS VEGAS BUSINESS LICENSE AND DEPARTMENT OF TAXATION COOPERATIVE EFFORT

In a cooperative effort with the Clark County Business License Department and the City of Las Vegas Business License Department, computer access is now available in their offices to register online for the State Business License and/or a Sales/Use Tax Resale Certificate. Therefore, a taxpayer who goes into one of those offices to obtain a City/County business license will no longer need to be re-routed to the Department of Taxation offices to register with the State.

SHORT-TERM LESSOR EXCISE TAX

Assembly Bill No. 595 amends NRS 482.313 with changes to the collection and distribution of this tax to be effective the 4th quarter of 2007. Beginning with that quarter, the recovery surcharge fee is mandated to be 4 percent of the total amount for which the passenger car was leased, with some exclusions. Remittance to the Department of Taxation will include 1% of the 4% that was collected from lessees for the recovery surcharge fee. This additional amount will be distributed to the State Highway Fund.

Notification from the Department will be sent to each Taxpayer registered for Short-Term Lessor Excise Tax in the near future. An updated Passenger Car, Governmental Services Fee Return will be available for the filing of that return for the quarter ending December 31, 2007.

HOLIDAY CLOSURES

The Department of Taxation offices will be closed the following days in the third quarter of 2007:

Wednesday, July 4, 2007 – Independence Day
Monday, September 3, 2007 – Labor Day