

NEVADA DEPARTMENT OF TAXATION



NEVADA TAX NOTES

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DEPARTMENT OF TAXATION OFFICES

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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

HENDERSON FIELD OFFICE

2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074

Phone: (702) 486-2300

Fax: (702) 486-3377

RENO DISTRICT OFFICE

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

Phone: (775) 688-1295

Fax: (775) 688-1303

ELKO FIELD OFFICE

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ENSURE EFFICIENT PROCESSING OF RETURNS & PAYMENTS

Please submit all tax returns for your business in the pre-printed envelope(s) enclosed with your returns. The correct mailing address is also pre-printed on the tax returns where it reads “Mail Original To.” Using the correct mailing address will ensure the most efficient processing of your returns and payments.

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ONLINE PAYMENTS – OBLIGATION TO FILE RETURNS

When making a payment online for tax due, you are still required to submit the tax return that is associated with the payment you are making. You have not met reporting requirements until both the return and payment have been received. If you make a payment and fail to file a return your account will be placed in delinquent status which will result in a tax return automatically being generated and may result in a higher penalty(s) owed as well as a \$500 fine being assessed. Having your account fall into delinquent status impacts your account for a period of three years and can potentially result in denial of future requests for waivers of penalty and interest. You can file your return and pay online at www.nevadatax.nv.gov. Please contact your local District office if you have further questions.

IMPORTANT – SUBMIT ACCURATE TAX RETURNS

The Department of Taxation mails out pre-printed tax returns on a monthly/quarterly basis according to the type of business registration you have. These returns have all the necessary information to ensure proper posting to your account. If you believe the tax return mailed to you is incorrect, please contact the Department to ensure we have your business properly registered.

Tax returns are also available online at the Department's website - <http://tax.state.nv.us>. If you have downloaded a return, it is **very important** that you are completing all requested information on it including listing the correct Taxpayer Identification Number (TID) and Federal Tax ID number. If you are unsure of your correct Taxpayer ID number, you will find it on the top right hand corner of the return that is mailed to you or you can contact your local District office for verification.

When using our website, it is recommended that you compare the return you are downloading with the return that is mailed to your business to ensure you are filing the correct tax return. If a copy of the return has been saved to your computer, please verify it is the same as the one mailed to you, as the Department often revises and updates returns as necessary due to tax rate changes, etc.

Submitting an incorrect return or a return that does not have the correct Taxpayer ID number will prevent your return and payment from being processed automatically. These delays could result in penalties and interest being assessed to your account, delinquent filing notices, billing notices, etc.

ADVISORY FOR FILING RETURNS

Due to the monthly and quarterly tax filing requirements, our offices are extremely busy the last few days of the month with people filing their tax returns. It is recommended, whenever possible, that you time your

visit to the office for other than the last few days of the month to avoid a long wait.

NOTICE OF INCREASE IN LYON & PERSHING COUNTIES' TAX RATE

Effective 10/1/08 the Sales and Use Tax rate in both counties will increase by 0.25% ($\frac{1}{4}\%$) to a total rate of $6\frac{3}{4}\%$ (.0675). All vendors selling in or delivering into Lyon or Pershing County on or after October 1, 2008, will be required to collect the appropriate new tax. Construction contractors may be entitled to a refund for the additional tax (0.25%) charged due to the rate increase. The refund of the increased tax rate 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 construction contractors can request the refund, please contact your local Department of Taxation office.

NEW INSTRUCTIONS FOR AMENDING SALES AND USE TAX AND MODIFIED BUSINESS TAX RETURNS

In prior Tax Notes you were informed that pursuant to NRS 372.645 and 363B.050 a claim for refund of either of these tax types must be in writing and must state the grounds on which the claim is founded. The Department does not have an "Amended Return" form to complete this on. In prior issue instructions you were advised to use red ink to amend a tax return; however, the Department has a new scanning and imaging system and the new system is not reading any colored highlights or red ink. Please **do not use RED INK** on Amended returns. The red ink is not being picked up when returns are scanned. In some cases felt tip markers and highlighters are actually bleeding together or acting like a black marker. Below are updated instructions for amending a return.

1. Include a copy of the original return.
2. Write the word "**AMENDED**" in **black ink** in the upper right-hand corner of the return.
3. Line-through the original figures, in **black ink, leaving original figures legible.**
4. Enter corrected figures, **in black**, next to or above the lined-through figures.
5. Enter amount of credit claimed (if any) or amount due.
6. Include a written explanation and documentation (such as credit memos, exemption certificates, adjustments, etc.) substantiating the basis of the amendment(s).
7. If the amended return results in a credit, a credit will be issued to satisfy current/future liabilities unless a refund is specifically requested.
8. If additional tax is due, please remit payment along with applicable penalty and interest.

The Department will send written notice when a credit request has been processed and the credit is available for use or refund. Please do not use or apply a credit prior to receiving Departmental notification that the credit is available.

MOTOR VEHICLE SALES TO MILITARY PERSONNEL

When purchasing a vehicle for use in this State, some military personnel have given the dealer a letter from their commanding officer stating they are exempt from taxation. The Servicemembers Civil Relief Act (SCRA) **does not** exclude the State of "temporary residence" from taxing tangible personal property purchased for use in the State of "temporary residence." The purchase of tangible personal property in this State by a person in the military **does not** qualify for an exemption from the sales tax.

The SCRA only prohibits the annually recurring assessment of personal property taxes on the property of a servicemember by a State of temporary residence outside of his home state.

Servicemembers on permanent change-of-station orders for outside of Nevada (and within 15 days of their departure) may purchase a vehicle ex-tax by purchasing a 15-day Drive Away Permit and executing a notarized affidavit to that effect. This may not preclude them from accruing a use tax liability when they permanently register the vehicle at their next duty station.

UPDATE ON THE COMPLIMENTARY FOOD DECISION

The Supreme Court of the State of Nevada recently issued a decision addressing whether complimentary meals provided to employees and patrons are subject to Nevada use tax. See Sparks Nugget v. State, Dep't of Taxation, 124 Nev. Adv. Op. No. 15 (2008). The Supreme Court concluded that complimentary meals – under the facts of that case – were not subject to use tax when the Nugget provided them to its patrons and employees.

The Department did file a Petition for Rehearing with the Supreme Court. On July 16, 2008 the Supreme Court issued an order denying a rehearing.

The State's next legal options are still being reviewed; however, taxpayers who believe they are similarly situated to the facts contained in the Sparks Nugget decision and who previously remitted use taxes on complimentary meals may preserve their claim for a credit/refund by submitting a request in writing to the Department of Taxation.

Taxpayers will need to provide the Department with an amended return(s) for the period(s) in which the tax was originally reported. Please keep in mind the applicable 3-year statute of limitations set forth in NRS 372.635. Also, these amended returns should only involve taxes associated with food used to prepare complimentary meals – not alcoholic beverages. When amending your return(s) do not use red ink as it will delay your request. Your request for refund/credit and your amended return(s) must be mailed to the Department of Taxation, 1550 College Parkway, Suite 115, Carson City, NV 89706.

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM: COUPONS ISSUED BY THE U. S. FEDERAL GOVERNMENT

The U.S. Department of Commerce National Telecommunications and Information Administration is administering the Digital-to-Analog Converter Box Program as authorized in the Digital Television Transition and Public Safety Act of 2005. Between January 1, 2008 and March 31, 2009, eligible U.S. households can request up to two coupons, worth \$40 each, to be used toward the purchase of up to two coupon-eligible converter boxes. Additional information regarding this program may be found at www.ntiadtv.gov. In accordance with NRS 372.325, coupons issued by the Federal Government under the "Digital Television Transition and Public Safety Act of 2005," reduce the taxable base of cable TV converter boxes purchased with the coupons, by the face value of the coupon. For example; if the retail price of a converter box is \$49.99, and the coupon issued by the U. S. Federal Government has a face value of \$40.00, the taxable amount to the purchaser on the sales receipt would then be \$9.99.

CONSTRUCTION CONTRACT VERSUS RETAIL SALE

This is often an area of confusion found in many audits of businesses that are involved in home improvement. Pursuant to NAC 372.190, a construction contract for improvement to real property means a contract for erecting, constructing or affixing a structure or other improvement on or to real property; or the remodeling, altering, adding to, or repairing of an improvement to real property. Construction contractors are considered the consumer of any material purchased to fulfill a construction contract. This means that a contractor is required to pay the sales tax when they purchase the material. If purchased from an out-of-state vendor, the contractor must report and pay Use Tax on the purchase price of the material with their monthly or quarterly tax return. When the contractor bills a customer for the finished work there should be no sales tax added to the final contract price or invoice. This is because the tax has already been paid by the contractor when they purchased the material. If any tax is shown on the invoice the Department will consider it a retail sale rather than a construction contract and the contractor will be liable to the Department for that tax.

CHANGES TO SHORT-TERM LESSOR FEES

Waiver of Damages

Assembly Bill (AB) 595 from the 2007 Legislature added to the language in Nevada Revised Statutes (NRS) 485.31565 to increase from \$15 to \$22 the maximum amount for which a short-term lessor may sell a waiver of damages. It also provided that this amount be adjusted for each fiscal year that begins on or after July 1, 2008 by adding thereto the product of that amount multiplied by the percentage increase in the Consumer Price Index West Urban for All Urban

Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made.

The CPI factor has been calculated at 6.7% for the fiscal year 2008. Therefore, effective July 1, 2008, the \$22 charge increases to **\$23.47** based on a CPI factor of 6.7% ($\$22.00 \times 6.7\% = \1.47 ; $\$22.00 + \$1.47 = \$23.47$).

Each year, on or before March 1, the Department will publish the adjusted amount for the next fiscal year to its website and will otherwise make that information available to short-term lessors.

Opinion Update

Based on legal advice, it has been determined that short-term lessor fees should not be collected on the amount of any Sales or Use Tax which is also imposed on the short-term lease of a passenger car pursuant to NRS 482.313. Effective with the fees charged beginning July 1, 2008, short-term lessors should not include any Sales or Use tax in the calculation of fees due the Department.

OUT-OF-STATE SALES, SHIPMENTS AND DELIVERY

Nevada retailers making sales to out-of-state customers, please remember that the exemption is only applicable on sales delivered or shipped outside Nevada. Sellers should maintain in their files complete records to document the exemption. For shipments of goods out of Nevada by common carrier, the requirement would be a bill of lading or a receipt from the carrier. Examples of documents accepted by the Department as proof of delivery out-of-state are: a notarized affidavit signed by the purchaser and executed at the time of delivery; truck log establishing the trip to another state and corresponding to the dated sales invoice; customer's purchase order showing how and where the merchandise is to be delivered out-of-state. For further information, ask for a copy of NAC 372.712.

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 district office. If you are filing a tax return, please use the envelope the Department provided because it is addressed directly to the bank.

FEDERAL INCOME TAX

The Department of Taxation receives an enormous amount of inquiries regarding Federal Income Tax issues. The State of Nevada does not participate in the administration of Federal Income Tax and **does not** levy a **State** personal, business or corporate income tax of its own. The Nevada Department of Taxation **does not** require informational copies of Nevada residents'

Federal Income Tax returns or forms. **But** the Federal Income Tax Return is still utilized in the audit process of a business. Federal Income Tax inquiries may be researched at the official IRS website, www.irs.gov.

"ASK THE ADVISORS" TRAINING

The Department will be presenting basic tax training as well as industry-specific training throughout the year. The free workshops include training on Business License Fee 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, your petition rights, etc.

SOUTHERN REGION – The following workshops will be held in the Henderson Department of Taxation Office located at 2550 Paseo Verde Parkway, Suite 180, and will begin at 9:00 a.m. and conclude at 12 noon:

Tuesday, October 21, 2008 — Topics will include: Medical Exemptions and Basic Training.

NORTHERN REGION – The following workshop will be held in the Reno Department of Taxation Office located at 4600 Kietzke Lane, Bldg. B, Suite 111, and will begin at 9:00 a.m. and conclude at 12 noon:

Wednesday, November 12, 2008 — Topics will include: Automotive Issues and Basic Training.

"Ask the Advisors" information may also be accessed at the Department's website <http://tax.state.nv.us> by clicking on "Ask the Advisors." At this site you may view a Power Point presentation of the Department of Taxation workshop information or view the schedule for the entire year.

Reservations are required as classes fill up quickly. Please call (702) 486-2354 for Henderson classes or (775) 688-1740 for Reno classes to reserve seating.

HOLIDAY CLOSURES

The Department of Taxation offices will be closed the following days in the fourth quarter of 2008:

Friday, October 31, 2008 – Nevada Day
Tuesday, November 11, 2008 – Veteran's Day
Thursday, November 27, 2008 – Thanksgiving Day
Friday, November 28, 2008 – Family Day
Thursday, December 25, 2008 – Christmas Day

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