

NEVADA DEPARTMENT OF TAXATION

<http://tax.state.nv.us>



NEVADA TAX NOTES

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DEPARTMENT OF TAXATION OFFICES

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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.

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FEDERAL INCOME TAX

The Department of Taxation receives an enormous number of inquiries regarding Federal Income Tax issues. The State of Nevada does not participate in 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 forms. Federal Income Tax inquiries may be researched at the official IRS website, www.irs.gov.

PLANTS, SEEDS, FRUIT TREES AND BERRY VINES

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 constitutes food for human consumption or which are to be sold in the regular course of the purchaser's business.

The sales/use tax does apply to sales of nonannual 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 and NAC 372.540)

CHARCOAL, BRIQUETTES AND PROPANE

Charcoal, briquettes and propane purchased to cook food are subject to sales/use tax. Propane purchased to produce domestic heat or for use in an internal combustion engine is exempt from sales/use tax. (NRS 372.275 & NRS 372.300)

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 re-selling the water and gives the seller a valid resale certificate. Chlorine and all chemicals used as purification agents for swimming pools are subject to sales tax.

ELECTRONIC PAYMENT REQUIRED FOR TAX REMITTANCES OF \$10,000 AND OVER

Effective July 1, 2008, all tax payments of \$10,000.00 or more must be paid through our NevadaTax online system. You may access NevadaTax at <http://www.nevadatax.nv.gov/web/>. This online service can be used to make payments of Sales and Use Tax, Modified Business Tax, Live Entertainment Tax, Governmental Services Tax, Insurance Premium Tax, Bank Excise Tax, Liquor Tax, Other Tobacco Tax, and fees including Business License Fee, Tire Recycling Fee and Exhibition Facilities Fee.

The online service cannot be used for Property Tax, Estate Tax, Cigarette Stamp Fees or Net Proceeds Tax

payments. Additional information will be sent out regarding these fees and taxes.

First-time users of NevadaTax should register no less than 3 business days before their payment is due to allow sufficient time to complete the registration process.

If you have any questions, please call your Nevada Department of Taxation district office.

DELIVERY CHARGES

Sales/use tax is statutorily imposed on the sale, transfer, use or consumption of tangible personal property in Nevada. Services do not fall under the definition of "tangible personal property." However, a charge for services is taxable if the services are provided by the seller as part of a sale, transfer, lease/rental, licensing or other consumption of tangible personal property. Limited exceptions may apply when a contract or agreement for the provision of services is separately negotiated between the purchaser and the seller.

Delivery services are an example of services that may be separately negotiated between the purchaser and the seller. Specifically, if the delivery charge does not pertain to any preparation, handling, crating or packing services performed by the seller before shipment, and the charge is stated separately on the invoice given to the purchaser, then the delivery charge is not considered part of the sale of tangible personal property and, as such, is not subject to sales and use taxes. (NAC 372.101) When separately stated, charges for the installation or application of tangible personal property are treated in a similar manner. In most instances, however, a separate statement of the service charge will not suffice to exempt the charge from taxation. If you believe that a particular service charge may be nontaxable, you are encouraged to seek written advice from the Department concerning the specifics of the anticipated transaction.

DROP SHIPMENT OCTOBER 1, 2007

Effective October 1, 2007, legislative changes to the *Nevada Revised Statutes* permit registered Nevada retailers and sellers to accept out-of-state resale certificates in third-party drop-ship transactions. (NRS 372.155(2) and 372.225(2)) This change only relieves a third-party vendor of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; **and**

(b) His customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

This change is only applicable to drop ship transactions occurring on or after October 1, 2007. All others are subject to requirements as presented below.

Prior to October 1, 2007, vendors registered to collect Nevada sales tax were required to obtain a valid **Nevada** resale certificate for Nevada drop-ship transactions **OR** collect **Nevada** sales tax from customers for whom they drop-shipped tangible personal property into this State. When a vendor delivered tangible personal property within the State of Nevada for another vendor, the entity making the delivery was required to collect Nevada sales tax. (NRS 372.050(2))

Remember, accepting an out-of-state resale certificate is only applicable on third-party vendor drop shipments occurring after September 30, 2007.

COPYING OLD TAX RETURNS FOR CURRENT FILING PERIODS

Making copies of old tax returns to report current tax liabilities creates duplicate returns on the Department's computer system for the periods of the copied returns. Because the return is posted as a duplicate to a prior period, a taxpayer may not get credit for having filed its current taxes in a timely manner. Also, a prior period's tax return may not have the most up-to-date tax rates which could result in a penalty and/or interest assessment if it is short paid. A current tax return may be downloaded from the Department's website at <http://tax.state.nv.us> or may be obtained by calling or visiting your local Department District office.

WHAT IS "USE TAX"?

Perhaps the most misunderstood and confusing tax for businesses in Nevada is "Use Tax." Many businessmen and bookkeepers have seen the "Use Tax" section on their Sales and Use Tax Returns, but don't know what it is, so they either ignore that section or assume it does not apply to their businesses. In reality, almost every business is periodically subject to "Use Tax."

Every business in Nevada is required to report and remit "Use Tax" on the storage, use or consumption in the State of Nevada of any tangible personal property purchased from any retailer who did not charge Sales Tax on the purchase transaction. (NRS 372.185, 374.190, 377.040, 377A.030 and 377B.110) This includes any purchase of tangible personal property that is not held for resale. To further define "Use Tax," it is also imposed on all personal property which was acquired from an out-of-state supplier in a transaction that would have been a taxable sale if it had occurred within this State. Every business in Nevada that purchases any tangible personal property such as

equipment or supplies must be registered with the Nevada Department of Taxation and report and remit "Use Tax" on all such transactions and purchases if no sales tax was paid to its vendor. (NRS 372.220) "Use Tax" is calculated at exactly the same rate as the sales tax rate in your county.

Examples of "Use Tax" transactions:

1. An accountant purchases a new desktop computer from a computer warehouse in New Jersey through the internet. The computer warehouse company does not assess and collect Nevada or New Jersey Sales. In this case the accountant should report and remit "Use Tax" on the computer's purchase price and any taxable delivery/shipping charges.

2. A shoe store owner removes a pair of shoes from his store inventory for his own personal use and makes a general ledger entry to adjust inventory for the removal of the shoes. In this case the store owner should declare and remit "Use Tax" on the wholesale value of these shoes.

3. A furniture store owner decides to give away a sofa & loveseat combo for promotional purposes at its grand opening. In this case the store owner should declare and remit "Use Tax" on the wholesale/cost value of the furniture being given away.

4. A casino operator decides to comp or give a free beverage to some of the guests who are regular slot machine customers. The casino should declare and remit "Use Tax" on each drink that is given away at the acquisition or wholesale cost of that drink since it will not be sold at retail.

5. A newly graduated dentist from the UNLV Dental School buys a complete set-up of dental office equipment for his new office from a wholesaler in California that does not charge Nevada Sales Tax on the invoice. In this case the dentist should report and remit "Use Tax" on the purchase price of the equipment being shipped into Nevada plus any taxable delivery/shipping charges.

Exceptions to the Use Tax law could include items purchased and personally picked up out of state. In that case, you may be responsible for paying sales tax in the state where the tangible item was purchased. If the product was purchased specifically for use in Nevada, and the tax rate in the state where you purchased the product is less than the rate in Nevada, you may also be responsible to pay the difference between the two rates. If the paid tax rate is greater than ours, you have no further tax burden. Also, an approved holder of a Nevada Sales/Use Tax Exemption or federal, State and local governmental agencies and instrumentalities would not be required to pay "Use Tax." However, the above exemptions do not extend to individual employees of these organizations/agencies.

In Nevada, all businesses that are required to obtain a State Business License will also be registered for "Use Tax." If you do not sell or retail any tangible products, you will still be registered to report "Use Tax." You will receive a "Use Tax" return on at least an annual basis. If you sell any products at retail, you will be registered to report both Sales & Use Tax in Nevada. The "Use Tax" is calculated and reported in a separate column on your Sales & Use Tax return.

One of the most common errors found by the State tax auditors at many Nevada businesses is the failure to report and remit "Use Tax." You are encouraged to acquaint yourselves with the "Use Tax" statutes and requirements to avoid costly penalties and interest that could be assessed to your business because you did not properly report and remit "Use Tax." Additional information can be found at the Department's website at <http://tax.state.nv.us/> or you may sign up for one of our free "Ask the Advisors" training classes.

STREAMLINED SALES TAX (SST)

The Streamlined Sales Tax Project is a multi-state effort to simplify the sales and use tax system across state boundaries. Nevada is currently an associate member state but is proud to announce it will be a full member state starting April 1. There are currently 22 member states involved in Streamlined Sales Tax. As part of the requirements in becoming a full member, Nevada has had to make changes to the *Nevada Administrative Code* to be contained in NAC 372, which will become effective on or around April 1. The main *Nevada Revised Statute* dealing with Streamlined Sales Tax is NRS 360B. The changes in the regulations have to do mainly with definitions of such things as durable medical equipment, mobility enhancing equipment, drugs, food for immediate consumption and bundle transactions. Additional articles dealing with each of these subjects will be included in future Tax Notes.

Streamlined Sales Tax is a destination-based system of taxation, meaning that where the taxable item lands or the location it is sent to determines the sales tax charged. For example, if an item is sold from a vendor in Ohio to a customer in NV, specifically in Clark County, then the tax rate applied currently would be 7.75 %. The Taxation Department recommends that taxpayers take the time to read and become familiar with NRS 360B to determine how it may affect the way their companies do business. The *Nevada Revised Statutes* (NRS) and *Nevada Administrative Code* (NAC) for Chapter 372 may be found at <http://www.leg.state.nv.us> under the Law Library. Further information regarding Streamlined Sales Tax can be found at <http://streamlinedsalestax.org/>. Registration information on Streamlined Sales Tax can be found at <https://www.sstregister.org/sellers/Entry.aspx>.

"ASK THE ADVISORS" BASIC 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 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 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, April 15, 2008 — Topics will include: Automotive / Basic Training.

Tuesday, May 20, 2008 — Topics will include: MBT / Other Tobacco Products / Basic Training.

Tuesday, June 17, 2008 — Topic to include: Basic Training.

NORTHERN REGION – The following future 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, May 14, 2008 — Topics will include: MBT / Other Tobacco Products / Basic Training.

"Ask the Advisors" information may also be accessed from the Department's website at <http://tax.state.nv.us> and click 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 full year.

Reservations are required as the 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 second quarter of 2008:

Monday, May 26, 2008 – Memorial Day Holiday