

NEVADA DEPARTMENT OF TAXATION



NEVADA TAX NOTES

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TAX NOTES TO GO PAPERLESS

In the near future Tax Notes will be available only online at the Department's website <http://tax.state.nv.us>. If you are not able to access the website you will be able to call and request a copy to be sent to you. We are instituting this new procedure to better serve you by lowering costs and still provide pertinent information on taxes and tax policy.

IMPORTANT NOTICE

The State of Nevada has enacted temporary legislation intended to address the current budget issues for the remainder of FY 2009. These measures include a reduction in the Collection Allowance authorized for taxpayers who collect and remit certain taxes in a timely manner. Taxes affected are Sales Tax, Liquor Excise Tax for Sales to Consumers, Liquor Excise Tax, Other Tobacco Products Tax and Cigarette Tax. The collection allowance for these tax types will be reduced from .5% to .25% for the period beginning on January 1, 2009 and ending on June 30, 2009. Tax returns for these periods will reflect the reduction in the collection allowance.

The temporary legislation also amends NRS 482.313 for the Short-Term Lessors of Passenger Cars. The amount of the recovery surcharge paid to the State will be increased from 25% to 50% for the period beginning on January 1, 2009 and ending on June 30, 2009. Tax returns for these periods will reflect this increase.

USE TAX OVERLOOKED

Use Tax is a tax imposed on tangible personal property used in Nevada upon which Nevada Sales Tax has not been paid. Items purchased for use in this State are subject to sales or use tax, but not both. Use Tax is the counterpart of Sales Tax, and as such the tax rates are the same. Unless you make a purchase for resale, you will usually pay Sales Tax. However, there are many situations when Sales Tax is not collected, including mail order, out-of-state purchases, toll-free "800" numbers, and purchases made over the internet. Also, resale

inventory converted to business or personal use is subject to Use Tax.

Credit will be given for Sales Tax legally paid to another state, up to the Nevada tax rate in the county of use. Use Tax can either be reported on the Consumer Use Tax return, or in column F on the Combined Sales and Use Tax return. If you have further questions, please contact your local Taxation District Office.

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 by Nevada in the audit process of a business. Federal Income Tax inquiries may be researched at the official IRS website, www.irs.gov.

WEDDING CHAPELS

Wedding chapels are the retailers of tangible personal property which they furnish in connection with rendering their services as a wedding chapel. The tax applies to the sale by the wedding chapel of all tangible personal property furnished, to include but not limited to beverages, flowers, photography, gifts, or cards. If the tangible personal property is segregated in the billing to the customer, the tax applies to the charges for the normal taxable property. If the transaction involves one non-itemized price, use tax applies to the retailer on the normal taxable property using the cost of the item to the retailer as the use taxable measure. The sales/use tax does not apply to accommodations, travel tickets, hotel rooms, or ministerial fees (but other taxes may apply).

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM: COUPONS ISSUED BY THE U.S. 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 <http://www.ntia.doc.gov/otiahome/dtv/index.html>.

In accordance with NRS 372.325, coupons issued 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. Government has a face value of \$40.00, the

taxable amount to the purchaser on the sales receipt would then be \$9.99.

AIRCRAFT AND MAJOR COMPONENTS OF AIRCRAFT

Aircraft and major components of aircraft purchased by certain commercial air carriers remain fully subject to sales and use tax.

NRS 372.317 Aircraft and major components of aircraft, was declared unconstitutional in a Nevada Supreme Court decision, *Worldcorp v. State*, Department of Taxation (1997). The Department had requested that the Legislature remove this unconstitutional statute from Chapter 372 based on the Supreme Court finding: "Therefore we conclude that NRS 372.317 must be stricken from our statutory scheme because it runs afoul of the Commerce Clause." Because Chapter 372 may only be amended by a vote of the people, removal of this measure was included as part of Question 4 of the Statewide Ballot Questions for the November 4, 2008, General Election as a housekeeping measure. Although Question 4 was voted down, this does not overturn the Supreme Court decision.

BARTER OF TANGIBLE PERSONAL PROPERTY

"Sale" or "Purchase" means and includes any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. If a business that normally sells tangible personal property, such as televisions, exchanges a television set for a service such as carpet cleaning, the television would be subject to sales tax based on the fair market value of the property or service exchanged. (NRS 372.025, 372.045, 372.060)

EMPLOYERS BEWARE OF PAYROLL COMPANIES NOT FILING MODIFIED BUSINESS TAX RETURNS

In accordance with the 2003 Legislature, NRS 363A and NRS 363B, the Modified Business Tax (MBT), are taxes on total gross wages that must be reported and paid to the Department of Taxation, *by employers*, on a quarterly basis.

It has come to the attention of the Department that many payroll companies who have contracted with Nevada employers for payroll services are filing Unemployment Tax returns, Form 4072, with the Nevada Employment Security Division (ESD) but not filing the required Modified Business Tax (MBT) returns with the Department of Taxation. In some cases the payroll companies are receiving MBT returns for their clients and not informing the client about it, whether they contracted them for this service or not. If the payroll company is receiving the MBT returns in error they should be forwarding them to you.

If the payroll company does not timely pay the tax, pursuant to NRS 360.300 the payroll company, not you the employer, will be notified of an unfiled delinquent return which will be subject to penalties and interest

associated with that return. It is important that employers ensure this tax return is being correctly filed and paid.

MODIFIED BUSINESS TAX DEFICIENCY DETERMINATIONS

You may have recently received one or more deficiency determination billings on your Modified Business Tax (MBT) account. Deficiency determination billings are being sent to taxpayers who have not filed returns or who have underreported the tax due for any quarter. The Department periodically reviews MBT reporting and compares this information to the Employment Security Division's (ESD) reported wage data. The information you should be reporting on Line 1 of your MBT Tax Return should match Line 3 of the Quarterly Wage Contribution Report (ESD form NUCS 4072) for each quarter. If the comparison shows that you did not report, or underreported the tax, your account will be assessed tax based on this information and a deficiency determination billing will be sent.

Common MBT Deficiency Determination Questions and Answers:

- What is Modified Business Tax? MBT is a tax calculated on Nevada total gross wages and paid by the employer. A deduction may be given on employee health insurance if it is paid by the employer. For further information, please refer to the MBT FAQs page on our website at www.tax.state.nv.us or contact your local Department of Taxation office.
- I have already filed and paid MBT for the quarter that I am being billed for. Why am I receiving this bill? You may be receiving this bill because you filed your MBT return incorrectly. Ensure that you completed the tax return correctly and reported the correct amount of Nevada total gross wages by comparing Line 3 on the Employment Security Division (ESD) NUCS 4072 form with Line 1 of the MBT return for the same period. If there is an error on your return, you can amend the tax return and mail it to the Department.
- Why am I being notified now of this deficiency determination? The Department makes a sincere effort to notify taxpayers of delinquent returns prior to sending out deficiency determinations by sending out delinquency notices to the mailing address on record, for periods in which returns have not been filed. You may contact the Department or login to your account at www.nevadatax.nv.gov to ensure your mailing address is up to date.
- I received a deficiency determination for a Taxpayer ID Number (TID) that is not mine: The TID assigned by the Department is separate and distinct from your Federal Identification number or your Unemployment Insurance Identification number. The Department creates your Modified Business Tax account based on information received from ESD. If you submitted tax returns prior to registering with ESD, a temporary account may have been set up. If you have received more than one *Taxation* TID,

please contact the Department immediately to determine if your accounts should be consolidated.

- I reported my wages using my Employment Security Division, Unemployment Insurance (UI) Form. Why is there a discrepancy that is causing this bill? The MBT return Line 1 indicates Nevada gross wages. This amount is the same as Line 3 on the ESD form NUCS 4072. If you incorrectly used the wages from Line 6 of the NUCS form to report on the MBT return, this amount may have been reduced due to the threshold amounts that ESD uses. Your MBT return has been recalculated to use Line 3 of the NUCS 4072 return. The deficiency determination is due for this amount.
- My payroll company should be filing my MBT returns: Some payroll companies prepare MBT returns and some do not. Please contact your payroll company to determine whether they are filing MBT returns on your behalf. It is the responsibility of the taxpayer to ensure taxes are paid properly and as required by law.

If you have further questions or need clarification, please contact your local Taxation District Office for assistance.

RETAIL TOBACCO LICENSE REQUIRED FOR TOBACCO RETAIL DEALERS AND INTERNET RETAILERS

Nevada Revised Statutes Chapter 370 – Tobacco: Licenses & Taxes contains provisions for age verification, licensing, shipment and the levy of cigarette excise taxes. During the 2005 Legislative Session, Assembly Bill (AB) 464 was passed which requires retailers of tobacco products in Nevada to possess a State tobacco license. The retailer's license authorizes the holder thereof to purchase cigarettes from any wholesale dealer holding a Nevada Cigarette Wholesale Dealer's License and sell those cigarettes at the location specified within the license. Over the next few months and based on our current records, the Department will be issuing Tobacco Retail Dealer's Licenses to retailers. Renewal notices for Cigarette licenses were recently mailed and are renewable on December 31, 2008. The notice must be fully completed, including checking the box to renew or cancel your license. If you are cancelling this license, please provide a cancellation date. After January 1, 2008, the previous designation on your Sales/Use Tax permit authorizing the sale of tobacco products will no longer be valid. If you have not received a new Tobacco Retail Dealer's License, please contact the Department so we may issue you a new license. Also, if you are operating under a fictitious firm name, you must supply a current fictitious firm name certificate.

As sales of cigarettes over the internet increase, you/everyone should be aware that Nevada law prohibits shipping of cigarettes to children under the age of 18 and requires a State Tobacco Retail Dealer's License and payment of all applicable taxes by persons accepting orders for delivery of tobacco. The cigarette excise tax is levied at 4 cents a stick or 80 cents per pack of 20. This equates to \$8.00 a carton. In addition,

cigarettes delivered to residents of this State are subject to taxation on the "use" thereof. A Nevada consumer of cigarettes purchased on the internet should verify all applicable excise tax and use taxes have been paid prior to contacting the Department to remit these taxes.

SALES TAX IS HELD IN TRUST FOR THE STATE

Every retailer maintaining a place of business in this State and making sales of tangible personal property shall, at the time of making the sales, collect the tax from the purchaser and give the purchaser a receipt. A retailer shall hold the amount of all taxes collected in a separate account, in trust for the State. (NRS 372.195, 372.354)

TAX RETURN ACCOUNT NUMBERS

The Department requests that when submitting tax returns you use the **ten-digit** Taxpayer Identification Number (TID) assigned by the Department on your tax returns. Many taxpayers continue to use their previous nine-digit account number from our old system. The use of these numbers causes a delay in processing the tax returns and may in some cases cause the tax returns to suspend.

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.

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

"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 Sales and Use Tax, Modified Business Tax, Business License Fee requirements, 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 approximately at 12 noon:

Topics will include:

Tuesday, January 13, 2009 — Construction
Tuesday, January 20, 2009 — Basic Tax Training
Tuesday, February 10, 2009 — Automotive
Tuesday, February 17, 2009 — Basic Tax Training
Tuesday, March 10, 2009 — Online Registration & Filing
Tuesday, March 17, 2009 — Basic Tax 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 approximately at 12 noon:

Wednesday, February 11, 2009 — Topics will include: Construction and Contractors, and Basic Tax Training.

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.

For those not able to attend "Ask the Advisors" training, you may access the Workshop Power Point presentations at the Department's website <http://tax.state.nv.us> by clicking on "Ask the Advisors." At this site you may also view the workshops scheduled for the entire year.

HOLIDAY CLOSURES

The Department of Taxation offices will be closed the following days in the first quarter of 2009:

Thursday, January 1, 2009 – New Year's Day
Monday, January 19, 2009 – Martin Luther King Day
Monday, February 16, 2009 – Presidents Day

DEPARTMENT OF TAXATION OFFICES

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RENO DISTRICT OFFICE

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ELKO FIELD OFFICE

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