

NEVADA DEPARTMENT OF TAXATION



NEVADA TAX NOTES

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IMPORTANT NOTICE
LEGISLATIVE CHANGES AFFECTING TAXES

The State of Nevada has enacted new legislation affecting the collection of various taxes. The previously enacted reduction in the Collection Allowance to .25% for Sales and Use Tax, Liquor Excise Tax on Sales to Consumers, Liquor Excise Tax, Other Tobacco Products and the Cigarette Tax will remain in effect for all future returns. In addition, the Local School Support Tax portion of the Nevada Sales and Use Tax will be increased from 2.25% to 2.60% effective July 1, 2009.

Based on this increase, the new Sales and Use Tax rate in each County will be as follows:

Churchill	7.600%	Humboldt	6.850%	Carson City	7.475%
Clark	8.100%	Lander	7.100%	Pershing	7.100%
Douglas	7.100%	Lincoln	7.100%	Storey	7.600%
Elko	6.850%	Lyon	7.100%	Washoe	7.725%
Esmeralda	6.850%	Mineral	6.850%	White Pine	7.475%
Eureka	6.850%	Nye	7.100%		

The new legislation has also made changes to the General Business Rate for the Modified Business Tax (MBT-GB). Effective July 1, 2009, the rate for MBT-GB will be changed to 0.5% of the taxable wages amount up to \$62,500 per calendar quarter, plus 1.17% of the taxable wages amount in excess of \$62,500 per calendar quarter.

Effective July 1, 2009, the Business License Fee will increase to \$200 for new business registrations and for the annual renewal fee for businesses with an anniversary date on or after July 1, 2009.

Effective October 1, 2009, the Business License Fee will be administered and collected by the Secretary of State's office.

BARTER OF TANGIBLE PERSONAL PROPERTY

Statute defines a "sale" or a "purchase" to include 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.

"Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise.

Every person making more than two retail sales of tangible personal property during any 12-month period is considered a "Retailer" and is required to register with the Department and collect and remit sales tax on those retail sales.

When a person or 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.

When a person or business receives tangible personal property for use or storage in Nevada in a barter exchange from another state and sales tax is not collected, use tax is due on the sales price of the tangible property whether it is shipped by the seller or transported by the purchaser.

Although Barter Clubs are becoming popular, transactions involving tangible property are still retail sales and are subject to sales or use tax.

GOING PAPERLESS WITH TAX RETURNS

Want to receive less paper? Help the environment? You can contact the Department and request that we no longer mail your tax returns for Sales/Use Tax, Use Tax, Modified Business Tax, and Business License. You can still download these forms from our website at <http://tax.state.nv.us/> or file online at <https://www.nevadatax.nv.gov/web/>.

PREPARED FOOD INTENDED FOR IMMEDIATE CONSUMPTION IS TAXABLE

NRS 372.284 states that food for human consumption is exempt from sales tax but excludes “prepared food intended for immediate consumption” from the exemption making the sale of prepared food taxable.

NRS 360B.460 construes prepared food as:

1. Food sold in a heated state or heated by the seller;
2. Two or more food ingredients mixed or combined by the seller for sale as a single item, unless the food ingredients:
 - (a) Are only cut, repackaged or pasteurized by the seller; or
 - (b) Contain any raw eggs, fish, meat or poultry, or other such raw animal foods requiring cooking by the consumer to prevent food-borne illnesses, as recommended pursuant to the Food Code published by the Food and Drug Administration of the United States Department of Health and Human Services; and
3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. For the purposes of this subsection, “plates” does not include any containers or packaging used to transport food.

Retailers must maintain records which separately indicate the amount of sales of food items exempt from and subject to the tax.

RETAILERS AND SALES TAX

Don't be tempted to use the sales tax you collect to pay your operating or other expenses. You are required to pay the sales tax to the Department of Taxation per NRS 372.105 and 372.360. Sales taxes collected are a debt owed to the State and are to be held in a separate account in trust for the State until paid to the Department per NRS 372.354 and 372.200. Failure to remit the sales tax is a misdemeanor per NRS 372.215. The Department may also revoke your seller's permit which will prevent you from operating your business per NRS 372.145 and 360.490.

RESPONSIBLE PERSONS

A responsible person is an individual who is required to collect or pay any tax or fee administered by the Department. A responsible person may include an officer or employee of a corporation; or a member or employee of a partnership or limited-liability company. A responsible person who attempts to evade the payment of any such tax or fee is jointly and severally liable with any other person who is required to pay such a tax or fee, for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due. An individual does not cease to be a responsible person because he delegates his duties and responsibilities or relies upon others to handle tax matters.

CREDIT NOTICES

Each month the Department mails notices to taxpayers advising them they may have a credit on one of their accounts. If you receive a Notice of Credit from the Department, the credit may be applied toward your next return. However, it is advised that prior to taking any credit, you verify that the credit is correct. You may contact any of your local Taxation offices to verify a credit. You may also register to view and maintain your account online which will enable you to confirm any credits or debits you may have. To register online, go to: www.nevadatax.nv.gov.

“LEMON LAW” POLICY CHANGE

Per an Attorney General's opinion the Department has made a change with regard to the treatment of vehicles which are returned to the manufacturer under Nevada's Lemon Law. When a vehicle is deemed a “lemon”, the manufacturer is required to refund a pro-rated amount to the consumer based on usage. The manufacturer is also required pursuant to Chapter 597 of Nevada Revised Statutes to refund many of the fees the consumer paid when the vehicle was purchased and registered. Among those fees are the sales tax, license fees, registration fees, and other similar governmental fees. In the past, the Department, pursuant to a refund request, allowed a pro-rated amount to be refunded to the manufacturer or dealer based on the amount they refunded to the consumer. The Attorney General's office has issued an informal opinion indicating that this practice is not appropriate. In fact, if the refund is not a full refund made by the retailer who sold the vehicle, there is no sales tax refund allowed. Should you have questions, please call or write the Department.

CHARGES FOR SERVICES

A charge for a service is subject to sales tax if the service is necessary to complete the sale of tangible personal property. A charge for the installation or the delivery of the property is generally taxable unless the charge is separately stated on the invoice to the purchaser. Charges for packing, crating or handling the property are generally taxable even when the charges are separately stated on the invoice. If you have questions about whether a charge for a particular service is taxable, you should request a written opinion from the Department of Taxation.

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 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* 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.

WINDOW TINTING

If you are in the business of tinting motor vehicle windows, you may report sales/use tax in one of the following two methods; however, reporting must be consistent once a method is chosen. The method of billing will have a direct bearing on how tax is calculated.

1. When a billing is rendered to the customer in total, i.e. \$200.00, tax must be collected on the entire amount and reported as sales tax.
2. When billings are rendered to the customer breaking out charges for material and charges for labor, only the material is taxable.

FABRICATION VERSUS REPAIR LABOR

Fabrication includes any operation which results in the creation or production of tangible personal property, whether the materials are provided by the fabricator or the customer, and is subject to sales tax. Examples of fabrication include the creation or production from raw materials of items, including but not limited to, clothing, draperies, furniture, welding items together so they have a different use, or threading a piece of pipe.

Repairing or reconditioning are processes which refit or restore damaged or worn tangible personal property to the use for which it was originally produced. Repair labor, when separately stated on the invoice, is exempt. Repair parts or materials which are substantial in value in relation to the total charge must be separately stated and taxed. If the repair labor is not broken out, the entire charge on the invoice is subject to the sales/use tax.

Repairs to tires, tubes, clothing, watches, jewelry and shoes; or the repair of a table by filling a dent with wood putty and staining or varnishing, are repairs where the cost of the materials are insubstantial in relation to the total charge. The costs of those materials would be taxable to the repairman and need not be itemized.

REGISTERING ONLINE WITH NEVADATAX

The Nevada Department of Taxation currently has an online website where you can safely and securely file a return, pay an outstanding liability and renew your business license. Registering to file online is simple; you will need to have your current 10 digit taxpayer's identification number (TID); a recent payment amount; and general knowledge of your business. Go to the NevadaTax website www.nevadatix.nv.gov or click on the quick link on the Department's website www.tax.state.nv.us and select "Enroll Nevada Tax". Follow the steps to enter your user and business information; verify the business TID and a recent payment amount. Once the information is verified you will be sent two e-mails. One email confirming your chosen user name and the second with a temporary password. You will then return to www.nevadatix.nv.gov and click on "Returning User", type in your chosen user name and the temporary password you received in the e-mail. The system will prompt you to retype the temporary password for verification and ask you to choose a new password. You are now registered to use the Department's online filing system.

GIFT BASKETS CONTAINING BEER, WINE OR OTHER ALCOHOL

Florists and other sellers of gift baskets that may contain any alcoholic beverage(s) must be licensed by the State, and, generally, by the county in which they are operating as a liquor retailer. It is unlawful to possess, sell or transport liquor without the required license, permit or certificate (NRS 369.090 and 369.190).

Additionally, retailers may only purchase their liquor from state-licensed wholesalers (NRS 369.487). They may not purchase alcohol for resale from another retailer. "Liquor" is defined as beer, wine, gin, whiskey, cordials, ethyl alcohol or rum and every liquid containing one-half of one percent or more of alcohol by volume and which is used for beverage purposes (NRS 369.040).

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 on-line system. You may access NevadaTax at <http://www.nevadatix.nv.gov/web/>. This on-line 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 on-line service cannot be used for Property Tax, Estate Tax, Cigarette Stamp Fees or Net Proceeds Tax payments.

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.

FEDERAL INCOME TAX ON GAMING WINNINGS

Tax(es) withheld from gaming winnings by Nevada casinos, are ***U. S. Federal Income Tax***. Federal income tax is administered/collected by the *United States Federal Government*, regardless of the physical location within the boundaries of the United States, in which an income tax-generating transaction occurs.

The *State* of Nevada does not participate in the administration/collection of *Federal* tax. The Nevada Department of Taxation may only advise those seeking information regarding Federal income tax withheld from gaming winnings to contact the United States Federal Agency(ies), such as the Internal Revenue Service and/or the Department of the Treasury, involved in the administration of Federal income tax.

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 WORKSHOPS

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, 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:

Topics will include:

Tuesday, July 14, 2009 — Repairs
Tuesday, July 21, 2009 — Basic Tax Training
Tuesday, August 11, 2009 — Bars/Comps
Tuesday, August 18, 2009 — Basic Tax Training
Tuesday, September 15, 2009 - Basic Tax Training

NORTHERN REGION – The following workshops 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:

Topics will include:

Wednesday, June 10, 2009 — Basic Tax Training &
Repairs
Wednesday, August 12, 2009 — Basic Tax Training &
Leases

Reservations are required as classes fill up quickly. Please call (702) 486-2354 for Henderson classes; and (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 third quarter of 2009:

Friday, July 3, 2009 – Independence Day
Monday, September 7, 2009 – Labor Day

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