

NEVADA DEPARTMENT OF TAXATION



NEVADA TAX NOTES

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DEPARTMENT OF TAXATION OFFICES

MAIN OFFICE

1550 College Parkway, Suite 100
Carson City, Nevada 89706

Mailing: 1550 College Parkway, Suite 115
Carson City, Nevada 89706

Phone: (775) 684-2000

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

Fax: (702) 486-2373

HENDERSON FIELD OFFICE

2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074

Phone: (702) 486-2300

Fax: (702) 486-3377

ELKO FIELD OFFICE

1010 Ruby Vista Dr., Suite 102
Elko, Nevada 89801

Phone: (775) 753-1115

Fax: (775) 778-6814

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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.

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.

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"TAX AMNESTY – 2008"

On June 2, 2008 the Nevada Tax Commission adopted a regulation detailing a tax amnesty program for the period July 1, 2008 through September 30, 2008. The tax amnesty program will **only** include Sales & Use Tax, Modified Business Tax and the Nevada State Business License Fee. **"Amnesty" must be clearly written** on the outside of the envelope and on the returns and/or documents enclosed in the envelope. Returns and payment for tax due should be mailed to the Department's Carson City District Office.

The tax amnesty will allow for waiver of penalties and interest for the tax types mentioned above if the tax amount due is paid in full before the amnesty period expires. The amnesty applies to businesses that were registered but have not filed returns for periods prior to 6/1/08; businesses or individuals that have filed returns but have not yet paid the tax due; individuals who have purchased aircraft, automobiles, off-highway vehicles, watercraft and vessels or other tangible personal property and have not paid Nevada sales or use tax; prior audit results; and companies and individuals conducting business in this State who have not registered with the Department to collect/pay taxes and fees. For tax returns or for more information, please go to our website at <http://tax.state.nv.us> or you may contact your local district office as listed on page 1. Don't miss this opportunity.

NOTICE OF DECREASE IN WHITE PINE COUNTY'S SALES TAX RATE

The Department of Taxation has been overseeing the financial management of White Pine County since June 27, 2005, when the county was declared to be in a state of severe financial emergency by the Nevada Tax Commission. Under the Department's oversight, the financial condition of White Pine County has steadily improved. The Nevada Tax Commission decided on April 7, 2008 to update the recovery plan for the County by discontinuing the collection of two additional taxes which were imposed to aid in the County's recovery. Both the additional $\frac{1}{4}$ of 1% for Sales and Use Tax (also known as the "White Pine County Tax"), and the additional 1 cent for Governmental Services Tax will be discontinued effective July 1, 2008. The testimony heard at the Commission meeting indicated that White Pine County had developed a financial plan which would replace the revenues that are currently being generated by these two taxes.

Beginning on July 1, 2008, the Governmental Services Tax rate will revert back to the statutory rate of 1% of the valuation of each vehicle, and the Sales and Use Tax rate for White Pine County will return to 7.125% (.07125).

PUBLIC DISCLOSURE OF FRAUD OR INTENT TO EVADE

Pursuant to NRS 372.750, the Department may publicly disclose a determination wherein a penalty for fraud or intent to evade was imposed once the determination has been finalized or affirmed by the Nevada Tax Commission. In February, 2008, the Nevada Tax Commission affirmed an administrative determination for tax, penalty and interest in the amount of \$191,259.98 against a taxpayer for failing to report the purchase of two vessels.

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 ACES 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 in the processing system.

SALES & USE TAX, USE TAX AND MODIFIED BUSINESS TAX RETURNS WILL NO LONGER HAVE COUPONS ATTACHED

As the result of recently implemented processing efficiencies by the Department, the *Combined Sales and Use Tax*, *Consumer Use Tax* and *Modified Business Tax* returns will no longer be printed on legal size paper and will no longer have the coupon attached to the bottom portion of the return. Starting with the period ending June 30, 2008, due July 31, 2008, the returns mailed out to taxpayers will be on letter size paper.

Returns will still need to be completed and mailed in the return envelope so that the return and any associated payment(s) can be processed by the Department in a timely manner. The return envelopes will have the preprinted mailing address on them. The change in the tax returns will help to provide more efficient printing, distribution and timely processing by the Department in our continuous effort to improve taxpayer service.

ELECTRONIC PAYMENT REQUIRED FOR TAX REMITTANCES OF \$10,000 OR MORE

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 the 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 as listed on page 1.

CELLULAR TELEPHONES — BUNDLED SALES

Sellers of telecommunications equipment, such as cellular telephones, pagers, and satellite systems need to be careful when calculating their sales tax when equipment sold is bundled with services. The amount to be used for the calculation of sales tax due from a retailer that sells telecommunications equipment for **less** than the price paid by the retailer, is the amount actually paid for the property by the retailer. Note that this price is not affected by any rebates the retailer may subsequently receive from a third party.

For example, a retailer pays its supplier \$50.00 for a cellular phone that has a suggested retail price of \$199.00. However, in order to enhance sales, the retailer offers a year's worth of cellular phone service for \$99.00, plus a free cellular phone to the customer. The sales tax is due on the amount paid by the retailer — \$50.00, **not** the "suggested retail price" of \$199.00. The receipt given to the purchaser must separately state the amount of gross receipts allocated to the telecommunications equipment as well as the amount of the sales tax using that price as the measure. The telecommunications/cellular activation services that are part of the "bundled" sale of the phone are not subject to sales tax. (NAC 372.485)

SALES TAX ON OFF-HIGHWAY VEHICLES

Off-highway vehicles are vehicles that are for off-road use and non-street legal. They include dirt bikes, all-terrain vehicles, utility terrain vehicles, etc. An off-highway vehicle does not meet the definition of a vehicle per NRS 482.135 that would qualify for a sales tax credit on the trade-in amount. When an off-highway vehicle is sold and there is a trade-in involved, sales tax needs to be calculated on the full selling price of the vehicle without any deduction for the trade-in. Also, when selling to customers who are from out-of-state, the purchase of an off-highway vehicle can only be exempted if the dealer can prove the vehicle was shipped out-of-state by a common carrier or by the seller's own shipment. If the dealer cannot provide the information required to show the off-highway vehicle was delivered out-of-state, it will be considered delivered and picked up in Nevada and therefore taxable, regardless if the customer has paid or will pay sales tax in another state. Notarized affidavits and drive-away permits that are acceptable as proof of sales tax exemption for out-of-state vehicles that do fall under NRS 482.135, are not acceptable for the sales tax exemption for off-highway vehicles sold to out-of-state

customers. For further information regarding off-highway vehicles, please refer to NRS 490 or call your local Taxation district office.

RESTOCKING FEES

A reminder to taxpayers of the handling of restocking fees. A restocking fee is sometimes charged on the return of electronic equipment, computers, etc.

NAC 372.090 Merchandise Returned by Customers (NRS 360.090, 372.025, 372.725):

1. For the purposes of the deduction from gross receipts of the sales price of merchandise which was returned by customers, "full sale price" includes the portion of the price which was designated as sales tax.

2. When a charge for restocking or handling is deducted from the refund of the sales price to the customer for merchandise which was returned, the full sale price shall be deemed to have been refunded or credited to the customer if the charge represents, as closely as can reasonably be determined, the actual expense to the retailer of retaking the property and replacing it on the shelves or other place from which it was removed for delivery to the customer.

3. The charge may not include compensation for increased overhead costs because of the return, for refinishing or restoring the property to saleable condition where the necessity therefor was occasioned by customer usage, or for any expense which was incurred before the sale, such as the cost of transferring the title or possession under a conditional sale contract. [Tax Comm'n, Combined Sales and Use Tax Ruling part No. 37, eff. 3-1-68]

For example, a customer is shopping at an electronics store and purchases a GPS for \$100 plus \$7.85 for sales tax. The customer is not happy with the purchase and returns it the following week. The electronics store refunds the price of the GPS including the full amount of the tax to the taxpayer **less** a restocking fee of \$10.00, hence the customer only receives \$97.85 instead of \$107.85 that was initially charged. As long as the restocking fee is for the electronics store incurring the cost to put the goods back on the shelf, it is not taxable.

STREAMLINED SALES TAX (SST)

Nevada was admitted as a full member into the Streamlined Sales Tax Project effective April 1, 2008. The regulation was approved by the Nevada Tax Commission and Legislative Commission effective April 17, 2008. This regulation will modify the Nevada Administrative Code, Chapter 372 – Sales and Use Tax, to comply with the Streamlined Sales and Use Tax Agreement. Several important tax issues addressed in the new regulation include:

Bundled Transactions – A bundled transaction means the retail sale of two or more products in which only some of the products are normally taxable, the products are distinct and identifiable from each other but sold together for a single non-itemized and non-negotiable price. The entire price of a bundled transaction is taxable.

If the primary reason for the transaction is the sale of a service, the transaction is not bundled even if there is tangible personal property involved. Use tax applies to the retailer on the normally taxable tangible personal property using the cost of the item to the retailer as the use taxable measure.

If a transaction that would otherwise meet the criteria to be a bundled transaction involves the sale of food, prescription drugs, durable medical equipment, prosthetic devices or medical supplies and the cost to the seller of these products constitutes 50% or more of the total cost of the items sold, the transaction is not a bundled transaction. Use tax applies only to the normally taxable items sold in the transaction using the cost of the items to the retailer as the use taxable measure.

Prosthetic Devices – Prosthetic devices now include breast implants, dialysis and feeding catheters, insulin pumps, cochlear implants, and amalgams, ceramics, porcelain and other metal alloys to fill teeth. All prosthetic devices are now exempt if they are prescribed or applied by a licensed physician or if they are partially or fully covered by Medicare or Medicaid.

Food – Under the new SST, “Prepared Foods” has the same meaning as ascribed in NRS 360B.460. The definition for “prepared food intended for immediate consumption” under NAC 372.605 was amended and now means prepared food customarily sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws.

Delivery Charges – Amendments were made to NAC 372.101 for delivery charges. References to shipping and freight were deleted as well as the previous “title passage” rule. Per NRS 360B.425, “delivery charges” now mean charges by a seller of personal property for the preparation for delivery of the property to a location designated by the purchaser of the property, including, but not limited to charges for transportation, shipping, postage, handling, crating and packing.

Delivery charges included in the sale of tangible personal property are subject to sales and use tax. However, if the charge does not pertain to any preparation, handling, crating or packing services prepared by the seller before shipment and is separately stated on the invoice, the charge is not taxable.

View the complete details of this article including examples on our website at <http://tax.state.nv.us>. If you have questions, contact your local Taxation district office as listed on page 1.

Additional information regarding the tax issues included in this SST regulation will be forthcoming in future Tax Notes issues.

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” 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 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 and your petition rights.

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, July 15, 2008 — Topics will include:
Leases / Short Term Leases.

Tuesday, August 19, 2008 — Topic to include:
Repairs.

Tuesday, September 16, 2008 — Topic to include:
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, August 13, 2008 — Topics will include:
Repairs / 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 third quarter of 2008:

Friday, July 4, 2008 – Independence Day
Monday, September 1, 2008 – Labor Day