

NEVADA TAX COMMISSION MEETING
MINUTES

June 27, 2022
9:00 a.m.

Nevada Department of Taxation
1550 E. College Parkway
Carson City, Nevada 89706

Nevada Department of Taxation
700 E. Warm Springs Rd., Ste. 200
Las Vegas, Nevada 89119

Members Present:

Tony Wren, Chairman
Ann Bersi, Commissioner
Francine Lipman, Commissioner
Jeff Rodefer, Commissioner
Randy Brown, Commissioner
H. Stan Johnson, Commissioner
Sharon Byram, Commissioner
Craig Witt, Commissioner

Chairman Wren called the meeting to order at 9:00 a.m.

I. Public Comment.

There was no public comment.

Director Hughes administered an oath to all parties testifying.

II. Meeting Minutes:

A. Consideration for Approval of the May 2, 2022, Nevada Tax Commission Meeting Minutes.

Commissioner Byram made a correction to the minutes of the May 2, 2022 meeting. On page nine, statutory references are incorrect. NRS 377.52 is not a valid statute and NRS 367.50 should be 360.750.

Commissioner Rodefer made a correction to the minutes of the May 2, 2022 meeting. The minutes should read that Commissioner Rodefer has been a lawyer in Nevada for over 30 years.

Commissioner Byram made a motion to approve the May 2, 2022, meeting minutes, as corrected. Commissioner Bersi seconded the motion. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
 - a) Patriot Marketing Inc.
 - b) Richard Kniefel & Anne B Kniefel
 - c) Stonewise LLC

B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure:

- 1) Besweet Creations Inc.
- 2) Caltronics Business Systems
- 3) Cira Infotech Inc.
- 4) Cirkul Inc.
- 5) Franklin Sports Inc.
- 6) Lucchese Inc.
- 7) Masterbuilt Manufacturing LLC
- 8) Outform Inc.
- 9) Premier Specialty Brands LLC
- 10) R1 Concepts
- 11) Ranchmerch.com LLC
- 12) SemaConnect, Inc.
- 13) Silgan Dispensing Systems Corporation
- 14) Tacomoto
- 15) The Exhibit House
- 16) United RV
- 17) Water Purification Technologies
- 18) Websitesales LLC

C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) THC Nevada LLC
- 2) Horizon Products
- 3) Cleanroom Tecs, Inc.
- 4) Host International, Inc.
- 5) Silver State Ford
- 6) Poly West Inc.
- 7) Payless Shoesource Inc.
- 8) Sands Expo & Convention Center Inc.
- 9) Wheeler RV Las Vegas LLC
- 10) Los Angeles Truck Centers LLC
- 11) Nevada Gold Mines LLC
- 12) Portier LLC
- 13) HG Staffing LLC
- 14) Balloonsupply.com LLC
- 15) Boulder Boat Brokers LLC
- 16) Golden Road Motor Inn, Inc.
- 17) MGM Resorts International Operations Inc.
- 18) Bellagio LLC
- 19) Cricut Inc.

D. Consideration for Approval of the Recommended Settlement Agreements and Stipulations

- 1) Einstein and Noah Corp., dba Einstein Bros. Bagels

E. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:

- 1) Shahram Kaghazi
- 2) Anthony and Cheryl Fredericks
- 3) Azucena A. Tena
- 4) James Lam
- 5) Linda J. Figgers
- 6) Reina Sepulveda

7) Setrak Mardirossian

- F. Consideration for the Approval of the Administrative Law Judge's Recommended Decision regarding an Appeal of the Department's Denial of Waiver of Penalty and/or Interest pursuant to NRS 360.419:
- 1) Ojax, LLC dba Ojax Mediterranean Fusion Grill
 - 2) Smoke Shop

Commissioner Byram pulled Item III. B. 18) Websitesales LLC for further discussion.

Commissioner Johnson recused himself from participating in the matter of THC Nevada LLC (Item III. C. 1).

Commissioner Byram recused herself from participating in the matter of Nevada Gold Mines LLC (Item III. C. 11).

Commissioner Lipman pulled Item III. E. 2) Anthony and Cheryl Fredericks for further discussion.

Commissioner Rodefer made a motion to approve the consent calendar, minus items III. B 18), III. C. 1), III. C. 11) and III. E. 2). Commissioner Witt seconded the motion. All in favor. Motion carries.

Item III. B. 18) Websitesales LLC. Commissioner Byram shared concern regarding the calculation of the tax that the taxpayer unknowingly collected. Karyn Ebright, Revenue Officer, was present on behalf of the Department. Ms. Ebright stated the taxpayer reported the full total sales for each quarter, has paid everything in full and requested that the Department waive the penalty and interest. Commissioner Byram made a motion to approve. Commissioner Brown seconded the motion. All in favor. Motion carries.

Item III. C. 1) THC Nevada LLC. Commissioner Brown made a motion to approve. Commissioner Lipman seconded the motion. Commissioner Johnson abstained. Motion carries.

Item III. C. 11) Nevada Gold Mines LLC. Commissioner Brown made a motion to approve. Commissioner Witt seconded the motion. Commissioner Byram abstained. Motion carries.

Item III. E. 2) Anthony and Cheryl Fredericks. Commissioner Lipman asked for clarification on social security benefits received by the taxpayer, a vehicle purchase and gambling winnings. Lizette Arceo, Tax Manager, was present on behalf of the Department. Ms. Arceo stated the social security benefits were from disability benefits received by the taxpayer. Mr. Fredericks is now considered disabled. Ms Arceo stated the Department did question the vehicle purchase and gambling winnings. Commissioner Lipman made a motion to approve. Commissioner Witt seconded the motion. All in favor. Motion carries.

IV. DIVISION LOCAL GOVERNMENT SERVICES:

- 1) Certification of Ad Valorem Tax Rates for Fiscal Year 2022-2023 pursuant to NRS 361.4547

Kelly Langley, Budget Analyst III, was present on behalf of the Nevada Department of Taxation. Ms. Langley presented the Certification of Ad Valorem Tax Rates for fiscal year 2022-2023 to the Commission. Ms. Langley stated that the Department is requesting that the Commission certify the combined tax rates as submitted. Director Hughes stated an errata sheet was provided to the Commission. Commissioner Brown made a motion to approve the Certification of Ad Valorem Tax Rates for fiscal year 2022-2023. Commissioner Rodefer seconded the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

A. Approval of Refund/Credit Request in Excess of \$250,000:

1) Teradata Operations Inc.

Chris Carrello, Audit Supervisor, was present on behalf of the Nevada Department of Taxation. Mr. Carrello presented the matter of Teradata Operations Inc. to the Commission. Commissioner Rodefer made a motion to approve. Commissioner Lipman seconded the motion. All in favor. Motion carries.

2) Zurich American Insurance Company

Jo Lynn Smith, Tax Manager, was present on behalf of the Nevada Department of Taxation. Ms. Smith presented the matter of Zurich American Insurance Company to the Commission. Commissioner Lipman made a motion to approve. Commissioner Bersi seconded the motion. All in favor. Motion carries.

3) Sierra Health and Life Insurance Company

Jo Lynn Smith, Tax Manager, was present on behalf of the Nevada Department of Taxation. Ms. Smith presented the matter of Sierra Health and Life Insurance Company to the Commission. Commissioner Brown made a motion to approve. Commissioner Johnson seconded the motion. All in favor. Motion carries.

4) Microsoft Corporation

Nadia Vasheko, Tax Manager, was present on behalf of the Nevada Department of Taxation. Ms. Vasheko presented the matter of Microsoft Corporation to the Commission. Commissioner Lipman made a motion to approve. Commissioner Bersi seconded the motion. All in favor. Motion carries.

5) Bonotel LLC

Jennifer Roebuck, Deputy Executive Director, was present on behalf of the Nevada Department of Taxation. Deputy Roebuck presented the matter of Bonotel LLC to the Commission. Commissioner Lipman made a motion to approve. Commissioner Witt seconded the motion. All in favor. Motion carries.

B. Petition for Reconsideration of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes pursuant to NRS 372.3261 (Sales/Use Tax):

1) Quest for Kindness

The Petition for Reconsideration for Quest for Kindness was withdrawn. No action was taken.

2) International Association of Marine Investigators, Inc.

Rost Olsen, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation. Kerry McCook was present on behalf of the International Association of Marine Investigators, Inc. Mr. McCook stated training was requested and is being sponsored by the State of Nevada Department of Wildlife (NDOW). Deputy Olsen stated that the Department does not question the value of the information that is being provided. The organization is coming for one event and has only held one other event in Nevada in the last thirty (30) years. Commissioner Brown made a motion to uphold the Department's denial of exemption status. Commissioner Witt seconded the motion. All in favor. Motion carries.

C. Department's Request for Approval of Motion to Dismiss Taxpayer's Appeal and Affirm Decision of the Administrative Law Judge:

1) Super Nutrition LLC dba Nutrition Rush

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Nevada Department of Taxation. A representative for Super Nutrition LLC dba Nutrition Rush was not present. Senior Deputy Nichols presented the case of Super Nutrition LLC dba Nutrition Rush to the Commission. Commissioner Byram made a motion to approve the Motion to Dismiss the Taxpayer's Appeal and to affirm the Decision of the Administrative Law Judge. Commissioner Lipman seconded the motion. All in favor. Motion carries.

VI. REGULATION(S):

- A. Consideration for the Adoption of Permanent Regulation LCB File No. R052-21: A Regulation relating to taxation; requiring a person who operates a peer-to-peer car sharing program to provide proof to the Department of Taxation that the person has obtained or attempted to obtain an electronic certification relating to the payment of sales and use taxes due on the purchase of a shared vehicle; specifying the required contents of the certification; requiring a shared vehicle owner who has paid sales and use taxes to retain documentation revidencing the payment; providing for the liability of a shared vehicle owner who provides incorrect or false information to a car sharing program regarding the payment of sales and use taxes; requiring a person who operates a car sharing program to submit quarterly reports to the Department; establishing requirements for the retention of certain records relating to the operation of a car sharing program; and providing other matters properly relating thereto.

Melissa Flatley presented LCB File No. R052-21 to the Commission.

Public Comment:

Michael Alonso, Esq. of Alonso Law Ltd. appeared on behalf of Turo, a peer-to-peer platform provider. Mr. Alonso provided background on the issue of sales tax that led to the language in the statute. He stated rental car companies typically take advantage of the sales tax exemption that is provided in Nevada law. The rental car companies were trying to add language so we would have to charge sales tax on a transaction by transaction basis regardless of whether the vehicle owner had paid the sales tax or use tax already. The legislators did not like that approach because it was essentially double taxation. We worked with the Department on this through the legislative session, as well as after the session. Somehow something got lost and we did not participate in the workshop. The rental car companies take the exemption when they buy their fleets and don't pay sales tax to the state. They then pay it, collect it, and remit it on a transaction by transaction basis. Toro's position was the vast majority of the vehicle drivers are just like you and me and they are buying a car and paying sales tax on it. They are not applying for a sales tax exemption. They are then going to pay the government service tax and the other fees required by SB 389, but they wouldn't have to pay the sales tax or use tax if they have already paid. We did work with staff on this back in September or October to come up with the language. The reason I'm here today is really just a concern that I shared with the director and staff over subsection 2A of section 3 which requires us to provide in the quarterly report the name and contact information of the shared vehicle owner. The concern we have has to do with a couple of things. One is in our agreement with the vehicle owner, we provide for privacy and confidentiality. We are also concerned under the Federal Store Communications Act that we're potentially violating that Act by providing the name and contact information. There have been some cases out of New York and Massachusetts where those types of requirements were either narrowed or struck down by the Court because of those privacy issues under the Fourth Amendment and Store Communications Act. Mr. Alonso stated he is not an expert on those privacy issues. Mr. Alonso provided links to those cases to the Director and Ms. Flatley and others. The issue that Toro has is to provide the name and contact information. Toro is happy to provide all of the other information. The Department does have audit rights on SB 389. We are not trying to

get out of an obligation. It's just that subsection A is the issue of concern for us because by providing that information, we may be violating federal law and we may be violating our own agreement.

There was no other public comment on LCB File No. R052-21.

Commissioner Byram mentioned that if it is a dealer sale, it would be taxed, but if it was a private party sale, it would not. People can come in from California with a California licensed vehicle and Nevada may never get any sales tax from it. We are requiring that the owner show that they have paid sales tax. It doesn't mean it was Nevada tax. Chief Deputy Flatley stated that the statute doesn't limit the vehicles on the platform to only Nevada vehicles. We do recognize that challenge. If it was a private party sale there would still be some evidence of that transaction so they could show whether the tax was excused in that transaction or not applicable to that transaction.

Commissioner Lipman asked if the vehicle owner's name and contact information would be a confidential and privileged record of the Department. Chief Deputy Flatley stated that the vehicle owner's name and contact information would be a confidential and privileged record of the Department.

Commissioner Lipman asked Chief Deputy Flatley, when you forward this to LCB, if we do approve it, will you forward the cases that the industry has provided and its concerns so they will look at this again with that input. Chief Deputy Flatley stated it will be included. The regulation will also be heard at the Legislative Commission and there will be another opportunity for public comment before they approve the adoption of the regulation.

Commissioner Byram made a motion to adopt LCB File No. R052-21. Commissioner Bersi seconded the motion. Commissioner Brown abstained. Motion carries.

VII. INFORMATIONAL ITEMS:

- A. Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- B. Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

There were no questions from the Commission.

VIII. BRIEFING:

- A. Briefing to/from the Commission and the Executive Director. (for discussion only)

Director Hughes reported the Federation of Tax Administrators held its annual conference last week in Scottsdale, Arizona. Deputy Director Jennifer Roebuck and Director Hughes attended the conference and attended several informative presentations. Some of the subjects covered at the conference were hiring issues, remote work, taxes on cannabis and digital goods.

The Nevada State Bar has recognized Commissioner Bersi's service as a past president of the Nevada State Bar where she along with eight other female past presidents of the Bar received the Brian K. Scott Trailblazer Award. The Trailblazer Award is presented to members of the State Bar who exemplify the importance of diversity, equity and inclusion in Nevada's legal community. Commissioner Bersi was only the third female president of the State Bar since the first president served in 1927. She served as the President from 1999 through 2000.

The next item is regarding the Department's bill draft requests (BDR's). A BDR is a request submitted to the Legislative Counsel Bureau proposing additions, deletions and/or changes to the Nevada Revised Statutes. At this time the Department has only general information to provide to the Commission because the budget and accepted proposed legislation has not been approved or released from Governor's Office. Today I can tell you about the process and timeline for submitting the Department's requests to the Governor's Office and give a general overview of what the Department has proposed. The process and timeline of submitting proposed BDR's is determined by the Governor's Office and this year was presented at the Budget Kickoff on March 9th. Non-budgetary BDR's are those having a fiscal impact of less than \$2,000 in our housekeeping measures and they were submitted to the Governor's Office on June 1st. The Department has three proposals under consideration. The first proposed legislation is to remedy a failure to comply with the terms of the Streamlined Sales and Use Tax Agreement caused by the sales tax holiday for members of the Nevada National Guard and their families which was created by SB440 during the 2021 session. This legislation required that the qualified Nevada National Guard members provide a certificate to sellers in order for a purchase to be exempted from sales tax which is prohibited by the Streamline Sales and Use Tax Agreement. The Executive Committee made a recommendation to the Governing Board to impose sanctions on Nevada prohibiting the State from participating in votes on other states' compliance. If not corrected by the 2023 Legislature, they can consider further sanctions against Nevada. In order to remain a member of the Streamline Sales and Use Tax Agreement, with full voting privileges, it is important to remedy the issues identified. The Department, the Governor and the members of the legislature will continue to work on language to accomplish this goal. The next proposed legislation is to make various clarifying changes for the Commerce Tax in NRS Chapter 363C. The final proposed non-budgetary legislation is to clarify the payment of interest under NRS 360.2935 on refunds of taxes over collected by the taxpayer. These concepts are currently under review with the Governor's Office and any adopted by the Governor will be sent to the Legislative Counsel Bureau at the end of July. The final language is not public until the BDR is presented to the relevant committees during the 2023 Legislative Session. The Department has also been working on our agency budget which is due along with any budgetary BDR's on September 1, 2022. We have been instructed that our agency request a budget for the 2023 - 2025 biennium that shall not exceed two times the Department's fiscal year 2023 legislatively approved funding level. We are still in the early phases of our budget creation. Director Hughes stated that she will report back to the Commission on the agency's budget at a future meeting.

Today is Melissa Flatley's last meeting as our Chief Deputy. Melissa's last day with the department is June 30, 2022. We are very thankful for everything she has done for the Department and we wish her the best. Our new Chief Deputy, Yvonne Nevarez-Goodson, started today. We are glad to have her join the Department

IX. Next Meeting Date: August 15, 2022

X. Public Comment.

There was no public comment.

XI. Items for Future Agendas. (for discussion only)

No items for future agendas were discussed.

XII. Adjourn.

Meeting adjourned.