
NEVADA DEPARTMENT OF TAXATION

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Tax Bulletin MBT 14-0005 **Issue Date: December 8, 2014** **Employee Leasing Modified Business Tax**

Introduction

This bulletin discusses Nevada Attorney General Opinion (AGO) No. 2013-03, which concerns the imposition of the Modified Business Tax (MBT) on employee leasing companies.

Statutes and/or Regulations referenced

NRS 363B.110; NRS 616B.670

Employee Leasing Companies Generally

In general, an employee leasing company provides employees to a client company for a fee. NRS 616B.670 provides a more detailed definition of the term "employee leasing company." Employee leasing companies are distinguishable from staffing companies insofar as they furnish employees to their client companies for an indefinite duration of employment as opposed to a finite or temporary term of employment. Employee leasing companies maintain the employees on their own payroll. The typical employee leasing company has multiple client companies to whom it provides employees.

Computation of the MBT

Under NRS 363B.110, there is imposed ". . . an excise tax on each employer at the rate of 1.17 percent of the amount by which the sum of all the wages . . . paid by the employer during a calendar quarter . . . exceeds \$62,500¹." Accordingly, with respect to each calendar quarter, NRS 363B.110 exempts an employer's first \$62,500 in wages as paid to its employees for that quarter.

In AGO 2013-03, the Attorney General addressed whether, in computing its aggregate liability for the MBT, an employee leasing company may segregate payroll in reference to the employees that it provides for each of its client companies. By separating payroll in this manner, an employee leasing company would claim an exemption of \$62,500 with respect to each of its client companies.

¹ At the time this AGO was written, the statutory exemption amount in NRS 363B.110 was \$62,500. At the time this bulletin was adopted, the statutory exemption amount was \$85,000. The conclusion of this AGO applies regardless of the exemption amount.

MBT Imposed on Aggregate Payroll

The MBT is imposed upon the aggregate payroll of an employee leasing company. In other words, the employee leasing company is considered to be the employer, not the client company.

Therefore, the statutory exemption amount in NRS 363.110 may be claimed by an employee leasing company only once during a calendar quarter. This is true regardless of whether the employee leasing company characterizes its employees as being “co-employed” by the client company.

A copy of AGO 2013-03 is attached hereto.