

NEVADA DEPARTMENT OF TAXATION



NEVADA TAX NOTES

Official Newsletter of the Department of Taxation

April 2011

<http://tax.state.nv.us>

ISSUE NO. 174

DEPARTMENT OF TAXATION OFFICES

CALL CENTER NUMBER 1-866-962-3707

MAIN OFFICE

1550 College Parkway
Carson City, Nevada 89706

Phone: (775) 684-2000
Fax: (775) 684-2020

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

RENO DISTRICT OFFICE

Kietzke Plaza
4600 Kietzke Lane Building L, Suite 235
Reno, Nevada 89502

Phone: (775) 687-9999
Fax: (775) 688-1303

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**PUBLISHERS OF NEWSPAPERS
AND OTHER PERIODICALS REMINDER**

In order to claim the newspaper exemption in NRS 372.315, a company must pass a two-part test. First, the publication must be classified as a newspaper. Secondly it must be issued regularly at intervals not exceeding one week. Magazines do not qualify as newspapers. The term "issued" refers to publication, not distribution. A newspaper that is distributed daily but is revised only monthly fails both tests. All printing materials related to this publication are therefore subject to Sales and/or Use Taxes. (NRS 372.315, NAC 372.630 to NAC 372.670 inclusive)

If you have any questions regarding the applicability of this statute to your publication, please contact the Department of Taxation.

CASH VS ACCRUAL

Per NAC 372.040, retailers who accept terms other than "cash on delivery" need to be aware that reporting sales to the Department **must** be on an accrual basis. In other words, a sale in April 2011 must be reported on your April 2011 Sales/Use Tax Return even though you may not have received the total sales price yet. Should your business be audited and it is found that sales are reported later than the actual date of the sale, you will be charged interest at the rate of 1% per month (12% annually) on late reported sales.

Retailers unable to collect all or part of the sales price of a sale, considered a bad debt, may claim the bad debt as a deduction on the return that covers the period during which the bad debt is written off in your business records. The bad debt must be eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166. If you have questions please contact the Department for details.

NON-ALCOHOLIC MALT BEVERAGES

The retail sale of non-alcoholic malt beverages including non-alcoholic wines such as Anheuser-Busch's Bevo, Sharp's, O'Doul's, Kaliber, Clausthaler, Pabst's Pablo, Black Label, Fré, Ariel, etc. are not subject to Nevada sales tax when not prepared for immediate consumption. These products are not considered liquor pursuant to NRS 369.040, thus they are not subject to the Nevada liquor excise tax, because they typically contain less than one-half of 1 percent of alcohol by volume.

NRS 369.040 "Liquor" defined. 1. As used in this chapter, "liquor" means beer, wine, gin, whiskey, cordials, ethyl alcohol or rum, and every liquid containing one-half of 1 percent or more of alcohol by volume and which is used for beverage purposes.

WEDDING CHAPELS

Wedding chapels are the retailers of tangible personal property which they furnish in connection with rendering their services as a wedding chapel. Sales 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, the entire transaction is subject to sales tax. The sales/use tax does not apply to accommodations, travel tickets, hotel rooms, or ministerial fees (but other taxes may apply).

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)

**ALCOHOL AWARENESS TRAINING REQUIRED IN NEVADA COUNTIES
WITH A POPULATION OF 100,000 OR MORE**

AB 432 passed during the 2009 Legislative Session revised certain provisions to the provisions of NRS 369.630. This NRS requires owners or operators of liquor establishments whom hire or employ persons to sell or serve alcohol, alcoholic beverages, or act as a security guard at such establishments, to ensure such person completes a State certified Alcohol Beverage Awareness program and holds a valid alcohol education card.

NRS 369.630 now provides that a violation of the requirements of this section is a civil infraction, and that when an owner or operator of an establishment is found in violation a notice of infraction must be issued on a form prescribed by the Department of Taxation. The Notice of Infraction may be found on the Department web site, under Common Forms/Liquor Tax. This NRS also provides that any peace officer as well as any person who is authorized by the Department may issue the notice of infraction.

These provisions apply to establishments in counties whose population is 100,000 or more (Clark and Washoe Counties). An establishment is defined as a business that sells alcoholic beverages by the drink for consumption on the premises and business that sell alcoholic beverages in corked or sealed containers or receptacles for consumption off the premises. These provisions do not apply to a Nevada Licensed Wholesale Dealer, or a private club, or other facility which is not open to the public.

An establishment who violates provisions pertaining to Alcohol Awareness Training is subject to a fine ranging from \$500.00 to \$5000.00.

A list of approved Alcohol Awareness Training Schools can be found at <http://www.cpe.state.nv.us/Alcohol%20Awareness%20Trainer%20List.doc>

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.

Tax withheld from gaming winnings by Nevada casinos is **U. S. Federal Income Tax**. Federal income tax is administered and collected by the *Internal Revenue Service*, regardless of the physical location within the boundaries of the United States, in which an income tax-generating transaction occurs. The Department may only advise those seeking information regarding Federal income tax withheld from gaming winnings to contact the Internal Revenue Service.

CONSTRUCTION CONTRACT VS RETAIL SALE

This is often an area of confusion found in many audits of businesses that are involved in home improvement. Pursuant to NAC 372.190, a construction contract for improvement to real property means a contract for erecting, constructing or affixing a structure or other improvement on or to real property; or the remodeling, altering, adding to, or repairing of an improvement to real property. Construction contractors are considered the consumers of any material purchased to fulfill a construction contract. This means that a contractor is required to pay the **sales tax** when they purchase the material. If purchased from an out-of-state vendor, the contractor must report and pay **use tax** on the purchase price of the material with their monthly or quarterly tax return. When the contractor bills a customer for the finished work there should be no sales tax added to the final contract price or invoice. This is because the tax has already been paid by the contractor when they purchased the material. If any tax is shown on the invoice the Department will consider it a retail sale rather than a construction contract and the contractor will be liable to the Department for that tax.

PLANTS, SEEDS, FRUIT TREES AND BERRY VINES

Nevada Sales and/or Use Tax **does not apply** to the sale 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 constitute food for human consumption or which are to be sold in the regular course of the purchaser's business.

The Sales and/or 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)

VEHICLE, WATERCRAFT AND AIRCRAFT TAX EVASION PROGRAM

If the Department determines that a Nevada resident intended to evade Sales/Use Tax on the purchase of a motor vehicle, watercraft and/or aircraft, by registering the property in a State or jurisdiction which does not levy a Sales/Use Tax or levies tax at a lower tax rate, the resident shall be assessed the applicable Nevada tax, plus a 10% penalty, plus 1% interest per month, and may **also be assessed an additional 300% evasion penalty**. The Department has an

ongoing program of tax evasion discovery and receives information concerning possible tax evasion from law enforcement, Department of Motor Vehicles, and Nevada taxpayers.

The Department is currently receiving buyer information from surrounding States on sales of off-road vehicles, watercraft, aircraft, motor homes, and other vehicles purchased in their State with the intention of bringing the vehicle/craft to Nevada for storage, use, or other consumption. These vehicles/crafts are taxable in Nevada and the Department is pursuing the buyer for tax, penalty, and interest on these transactions. Holding the vehicle/craft in Nevada for 90 days to avoid California Sales/Use Tax will make it taxable in Nevada. The State of California shares affidavit/tax information with Nevada. (NRS 360.340, 2)

CHARCOAL, BRIQUETTES AND PROPANE

Charcoal, briquettes and propane purchased to cook food are subject to Sales and/or Use Tax. Propane purchased to produce domestic heat or for use in an internal combustion engine is exempt from Sales and/or 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 and/or Use Tax, unless the purchaser is in the business of re-selling the chlorine/other chemical agents and gives the seller a valid "Resale Certificate". Chlorine and all chemicals used as purification agents for swimming pools are subject to Sales and/or Use Tax.

GOING PAPERLESS WITH TAX RETURNS

Want to receive less paper? Help the environment? On the Home Page of this Website click on "Go Paperless" under Quick Links. You can request that we no longer mail you tax returns for Sales/Use Tax, Use Tax, and Modified Business Tax. You can also file online with NevadaTax at <https://www.nevadatax.nv.gov> or download the forms from this Website by clicking on the "Common Forms" tab.

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 TAX RETURNS

Please submit all tax returns for your business in the pre-printed envelope(s) enclosed with your returns. The correct mailing address is also pre-printed on the tax returns where it reads "Mail Original To." Using the correct mailing address will ensure the most efficient processing of your returns and payments.

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 and Industry-Specific Training throughout the year. The Henderson Office will include additional presentations by the **Internal Revenue Service** – forms and filing requirements; and **SCORE** – resources available for businesses to guide them to success. **SCORE** is a non-profit organization sponsored by the Small Business Administration. The Reno Office will include presentations by the **Internal Revenue Service**. These **free** workshops include training on 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, 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 12:00 p.m.:

Tuesday, April 19, 2011 — Basic Tax Training

Tuesday, May 17, 2011 — Basic Tax Training

Tuesday, June 21, 2011 — 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 at 12:00 p.m.:

Wednesday, May 18, 2011 — Basic Tax Training, and Construction/Contractors

Reservations are required as classes fill up quickly. Please call (702) 486-2354 for Henderson classes and (775) 687-9961 for Reno classes to reserve seating.

For those not able to attend “Ask the Advisors” training, you may access the Workshop Power Point presentations on our website by clicking on “Ask the Advisors.” You may also view the workshops scheduled for the year.

HOLIDAY CLOSURES

The Department of Taxation District Offices will be closed the following days in the second Quarter of 2011:

Monday • May 30, 2011 • Memorial Day

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