

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB FILE NO. R076-26I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 04/02/2026**

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION  
(PREVIOUSLY LCB File No. R099-24)**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-12 and 14, NRS 360.090, 372.725, 372.751, 374.725 and 374.756; § 13, NRS 360.090, 372.725 and 374.725.

A REGULATION relating to taxation; revising provisions relating to the imposition, collection and remittance of sales and use taxes by marketplace facilitators on behalf of marketplace sellers; revising provisions relating to the imposition, collection and remittance of sales and use taxes by retailers located outside this State; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law imposes upon each retailer a sales tax measured by the gross receipts of the retailer from the retail sale of tangible personal property in this State. (NRS 372.105, 374.110, 374.111) Existing law also imposes a use tax on the storage, use or other consumption in this State of tangible personal property purchased outside of this State from a retailer in a transaction that would have been subject to the sales tax in this State if it had occurred within this State. (NRS 372.185, 374.190, 374.191)

Under existing law a marketplace facilitator, which is defined to include certain persons who directly or indirectly facilitate retail sales to customers in this State, is required to collect and remit sales and use taxes if the marketplace facilitator, in the calendar year or in the immediately preceding calendar year: (1) had cumulative gross receipts from retail sales made to customers in this State, on its own behalf or on behalf of a seller, which exceeded \$100,000; or (2) made or facilitated 200 or more separate retail sales transactions, on its own behalf or on behalf of a seller. (NRS 372.751) **Sections 2-4** of this regulation establish the meaning of certain terms used in existing law governing marketplace sales, as interpreted by the Department. **Section 5** of this regulation provides that the provisions of law requiring the collection of sales and use tax by certain marketplace facilitators does not relieve a retailer from any requirement to file a return or collect and remit sales and use tax which is not collected and remitted by a marketplace facilitator.

**Section 6** of this regulation requires a person who makes a retail sale through a marketplace owned, operated or controlled by a marketplace facilitator, also known as a marketplace seller, to collect and remit sales and use tax owed on any retail sale facilitated by a marketplace facilitator who has not registered with the Department of Taxation or obtained a permit to collect sales and use tax if the marketplace seller has a physical presence in Nevada or sufficient nexus with this State.

**Section 7** of this regulation requires a marketplace facilitator to include in its sales tax return a subaccount with a separate location code for each marketplace seller for whom the marketplace facilitator facilitates a retail sale during any reporting period in which the marketplace facilitator is required to collect sales and use tax on behalf of marketplace sellers.

**Section 8** of this regulation requires a marketplace facilitator, during each calendar year in which the marketplace facilitator is required to collect sales and use tax for retail sales that it facilitates, to issue a certificate to each marketplace seller for whom the marketplace facilitator facilitates a retail sale stating that the marketplace facilitator will collect, remit and report any sales and use tax and will be responsible for any audit on the retail sale. **Section 8** also requires a marketplace facilitator who is not required to collect sales and use tax for retail sales that it facilitates to notify each marketplace seller for whom the marketplace facilitator facilitates a retail sale to a customer in this State of that fact.

Under **section 9** of this regulation, the requirements relating to the imposition, collection and remittance of sales and use taxes apply to a marketplace facilitator who meets the statutory criteria for the application of those requirements on the first day of the first month that begins at least 30 calendar days after the marketplace facilitator meets that threshold.

Existing law provides that a marketplace facilitator is not required to collect and remit sales and use taxes if: (1) the marketplace facilitator and a marketplace seller have entered into a written agreement whereby the seller agrees to assume responsibility for the collection and remittance of sales and use taxes on retail sales made by the marketplace seller through the marketplace facilitator; and (2) the marketplace seller is registered with the Department of Taxation to collect sales and use taxes on retail sales made by the marketplace seller. (NRS 372.751, 374.756) **Section 10** of this regulation establishes requirements applicable to a marketplace seller who enters into such an agreement and certain provisions which must be included in such an agreement.

**Section 11** of this regulation establishes procedures for the handling of the return of merchandise by a customer for a refund of the sales price where the sales and use tax for the sale was collected by a marketplace facilitator.

**Section 12** of this regulation establishes certain responsibilities with respect to tax exemptions of a marketplace facilitator who collects sales and use tax on behalf of a marketplace seller.

**Section 13** of this regulation authorizes a retailer who does not have a physical presence in this State but whose activities previously had a sufficient nexus with this State to voluntarily comply with the requirements relating to the imposition, collection and remittance of sales and use taxes during a calendar year in which the activities of the retailer are not deemed to have a sufficient nexus with this State.

The provisions of existing law relating to the imposition, collection and remittance of sales and use taxes apply to every retailer who has a sufficient nexus with this State to satisfy the requirements of the United States Constitution. (NRS 372.724, 374.724) Existing regulations provide that the activities of a retailer who does not have a physical presence in this State have sufficient nexus in this State if, in the immediately preceding calendar year or the current calendar year, the retailer: (1) had gross revenues from the retail sale of tangible personal property delivered in this State which exceeded \$100,000; or (2) made 200 or more retail sales of tangible personal property for delivery in this State. Existing regulations require a retailer whose activities have sufficient nexus with this State to register with the Department to collect sales and use tax. (NAC 372.856) **Section 14** of this regulation requires retail sales made through a marketplace facilitator to be included when calculating the gross revenue from retail sales or the number of retail sales made by a retailer for delivery in this State for the purposes of determining whether the activities of a retailer have sufficient nexus with this State. **Section 14** also excludes a retailer whose activities have sufficient nexus with this State on the basis of the retailer's amount of gross revenue or number of retail sales in this State from the requirement to register with the Department if all of the retail sales of the retailer are made through a marketplace facilitator who is registered with or has obtained a permit from the Department.

**Section 1.** Chapter 372 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

**Sec. 2.** *As used in NRS 372.748 and 374.753, the Department will construe the term:*

*1. "Brands or otherwise identifies sales as that of the marketplace facilitator" to mean using any means, including, without limitation, a name, logo, sign, symbol or any combination thereof, to identify the marketplace facilitator as the person selling the product of a marketplace seller.*

*2. "Internet advertising service" to mean a person or business that connects a prospective customer with a retailer through Internet advertising.*

*3. "Listing of product for sale" to mean the announcing of goods available for sale through written, verbal, pictorial, graphic or other means.*

4. *“Setting prices” to include, without limitation, establishing the price at which an item must be sold or establishing a minimum or maximum price, below or above which an item cannot be sold.*

5. *“Virtual currency” to:*

(a) *Mean a digital representation of value that functions as a medium of exchange, unit of account or store of value, but which does not have legal tender status in any jurisdiction.*

(b) *Not include coupons or gift cards issued by a retailer.*

**Sec. 3.** *As used in NRS 372.746 to 372.754, inclusive, and 374.751 to 374.759, inclusive, the Department will construe the term “marketplace” to mean any physical or electronic medium through which a marketplace seller may sell or offer for sale tangible personal property, including, without limitation, a store, booth, Internet website, catalog, television or radio broadcast or dedicated sales software application.*

**Sec. 4.** *For the purposes of NRS 372.751 and 374.756, the Department will deem retail sales transactions to be separate if such transactions result in separate invoices. A single retail sales transaction may involve the sale of multiple products which are accounted for on a single invoice. Each required periodic payment made for the rental or lease of tangible personal property constitutes a separate transaction. A deposit of money made in advance of a retail sale does not constitute a separate retail sales transaction from the retail sale.*

**Sec. 5.** *The provisions of NRS 372.746 to 372.754, inclusive, and 374.751 to 374.759, inclusive, do not relieve a retailer from the duty to file any return required by chapter 372 or 374 of NRS and collect and remit any tax imposed pursuant to chapter 372 or 374 of NRS that has not been collected and remitted by a marketplace facilitator on behalf of the retailer.*

**Sec. 6.** *If a marketplace facilitator has not registered with the Department pursuant to NRS 360B.200 or obtained a permit pursuant to NRS 360.5971, a marketplace seller who has a physical presence in this State or sufficient nexus with this State pursuant to NAC 372.856 shall collect and remit the sales and use tax due on any retail sale of the marketplace seller that is facilitated by the marketplace facilitator. The provisions of this section apply regardless of whether the marketplace facilitator was required to register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to NRS 360.5971.*

**Sec. 7.** *For any reporting period for which a marketplace facilitator is required to file a return pursuant to NRS 372.360 or 374.365 and collect and remit sales and use tax pursuant to NRS 372.751 or 374.756, the marketplace facilitator shall include in the return a subaccount with a separate location code for each marketplace seller for whom the marketplace facilitator facilitated a retail sale to customers in this State during the reporting period.*

**Sec. 8.** *1. Each calendar year that a marketplace facilitator is subject to the provisions of chapter 372 and 374 of NRS relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, pursuant to NRS 372.751 and 374.756, the marketplace facilitator shall issue a certificate on a form prescribed by the Department to every marketplace seller for whom the marketplace facilitator facilitates a retail sale in this State during the calendar year stating that the marketplace facilitator will register, collect, remit and report all sales and use tax due on the retail sale and will be responsible for any audit conducted by the Department on the retail sale. A marketplace facilitator is not required to issue a certificate pursuant to this section to a marketplace seller with whom the*

*marketplace facilitator has entered into an agreement pursuant to subsection 2 of NRS 372.751 and subsection 2 of 374.756.*

*2. A marketplace facilitator to whom the provisions of chapter 372 and 374 of NRS relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, do not apply or cease to apply pursuant to NRS 372.751 and 372.756 shall notify each marketplace seller for whom the marketplace facilitator facilitates a retail sale to a customer in this State that the marketplace facilitator is not required to collect, remit and report sales and use tax on retail sales facilitated by the marketplace facilitator to customers in this State.*

**Sec. 9.** *Beginning on the first day of the first calendar month that begins at least 30 calendar days after a marketplace facilitator satisfies the criteria set forth in paragraph (a) or (b) of subsection 1 of NRS 372.751:*

*1. The provisions of chapters 360B, 372 and 374 of NRS relating to the imposition, collection and remittance of the sales tax and the collection and remittance of the use tax apply to the marketplace facilitator; and*

*2. The marketplace facilitator shall register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to NRS 360.5971.*

**Sec. 10.** *1. A marketplace facilitator who enters into a written agreement pursuant to paragraph (a) of subsection 2 of NRS 372.751 or paragraph (a) of subsection 2 of NRS 374.756 shall:*

*(a) Publish a notification on the Internet website of the marketplace facilitator stating that sales tax will be collected, remitted and reported by the marketplace seller; and*

*(b) Provide the written agreement to the Department prior to facilitating any retail sale on behalf of the marketplace seller without collecting and remitting the sales tax.*

*2. An agreement entered into pursuant to paragraph (a) of subsection 2 of NRS 372.751 or paragraph (a) of subsection 2 of NRS 374.756 must state that the marketplace seller is responsible for collecting, remitting and reporting sales and use tax due pursuant to chapter 372 and 374 of NRS on any retail sale of the marketplace seller that is facilitated by the marketplace facilitator.*

**Sec. 11.** *1. If a customer returns to a marketplace seller property for which sales and use tax was collected by a marketplace facilitator, either the marketplace seller or the marketplace facilitator may refund the full sales price charged for the property, including the amount of any sales or use tax. If the marketplace seller is required or permitted by the marketplace facilitator to refund the full sales price to the customer, the marketplace seller may seek reimbursement for the portion of the price that was attributable to sales and use tax from the marketplace facilitator. The marketplace facilitator shall reimburse the portion of the price that was attributable to sales and use tax to the marketplace seller once the marketplace seller adequately demonstrates that the marketplace seller returned the portion of the price that was attributable to sales and use tax to the customer in conjunction with the return of the property by the customer to the marketplace seller.*

*2. The marketplace seller and marketplace facilitator shall keep adequate records that document any refund or credit made to a customer.*

*3. If a marketplace facilitator credits or refunds to a customer the full sales price of returned goods or the marketplace seller adequately demonstrates that the marketplace seller has credited or refunded to a customer the full sales price of returned goods:*

*(a) Before the marketplace facilitator remits the tax to the Department, the amount of the sales price so credited or refunded must not be included in the gross receipts of the marketplace facilitator in the return filed by the marketplace facilitator for that period. A marketplace facilitator shall file a return as required by NRS 372.360 or 374.365, as applicable, even if, as a result of the credit or refund to a customer, there is no tax due from the marketplace facilitator.*

*(b) After the marketplace facilitator has remitted the tax to the Department, the marketplace facilitator may deduct the amount of the sales price so credited or refunded from gross receipts on the return filed by the marketplace facilitator for the period in which the credit was given or refund was made if the tax rates in the two periods are the same. If the tax rates are not the same, the marketplace facilitator must submit to the Department an amended return for the period in which the original sale was made. If a marketplace facilitator has insufficient gross receipts during the period in which a credit or refund has been made to a customer to offset the credit or refund so made, the marketplace facilitator may take that amount as a credit against gross receipts and report a negative amount. Unless the marketplace facilitator has requested a refund, the Department shall issue a statement to the marketplace facilitator allowing a credit that may be applied against future tax liability of the marketplace facilitator. If the marketplace facilitator requests a refund, the Department shall*

*issue a refund to the marketplace facilitator in an amount that is equal to the amount of the credit owed to the marketplace facilitator at the time the request is made.*

*4. If a customer has erroneously paid sales tax to a marketplace seller or marketplace facilitator, the customer must first seek a credit or refund of the tax from the marketplace seller or marketplace facilitator, as applicable. If the customer attempts, but is unable, to receive the credit or refund from the marketplace seller or marketplace facilitator, the customer may apply for the credit or refund directly from the Department. When applicable, the Department shall deduct from the credit or refund to be paid to the customer an amount equal to the amount deducted and withheld by the marketplace seller or marketplace facilitator for reimbursement pursuant to NRS 372.370 or 374.375, as applicable, for the cost of collecting the tax being credited or refunded.*

**Sec. 12. 1.** *A marketplace facilitator who collects and remits the sales and use tax on behalf of a marketplace seller is responsible for:*

- (a) Correctly applying any exemption from the sales and use tax;*
  - (b) Obtaining and maintaining any certificate of exemption from a purchaser who claims an entity-based exemption;*
  - (c) Maintaining any resale certificate described in NAC 372.730 submitted by a purchaser;*
- and*
- (d) Otherwise complying with the duties imposed on a retailer pursuant to NRS 372.347, 372.348, 374.352 and 374.353.*

*2. As used in this section, “entity-based exemption” means an exemption based on who purchases the product or who sells the product, and which is not available to all.*

**Sec. 13.** *A retailer who does not have a physical presence in this State but whose activities previously had sufficient nexus with this State pursuant to subsection 1 of NAC 372.856 may voluntarily comply with the requirements of chapters 360B, 372 and 374 of NRS relating to the imposition, collection and remittance of sales and use taxes during a calendar year in which the activities of the retailer are not deemed to have sufficient nexus with this State pursuant to subsection 1 of NAC 372.856. If a retailer voluntarily complies with the requirements of chapters 360B, 372 and 374 of NRS relating to the imposition, collection and remittance of sales and use taxes, the provisions of chapter 360 of NRS relating to the payment, collection, administration and enforcement of taxes, and the provisions of chapters 360B, 372 and 374 of NRS relating to the imposition, collection and remittance of sales and use taxes, apply to the retailer.*

**Sec. 14.** NAC 372.856 is hereby amended to read as follows:

372.856 1. For the purpose of determining whether the activities of a retailer located outside this State have a sufficient nexus with this State to satisfy the requirements of the United States Constitution, except as otherwise provided in NRS 372.7243, 372.7247, 374.7243 or 374.7247 or NAC 372.848 or 372.851, the activities of a retailer have a sufficient nexus with this State if the retailer is making a sale of tangible personal property, whether at retail or for storage, use or other consumption in this State, and the retailer:

(a) Is part of a controlled group of corporations that has a component member with physical presence in this State and the activities performed in this State by the component member are:

(1) Listed in paragraph (b) of subsection 1 of NRS 372.7243 or paragraph (b) of subsection 1 of NRS 374.7243; or

(2) Significantly associated with the retailer's ability to establish or maintain a market in this State for the retailer's products or services;

(b) Enters into an agreement with a resident of this State under which the resident, for a commission or other consideration based upon the sale of tangible personal property by the retailer, directly or indirectly refers potential customers to the retailer, and the cumulative gross receipts from sales by the retailer to customers in this State who are referred to the retailer by all residents with such an agreement with the retailer is in excess of \$10,000 during the preceding four quarterly periods ending on the last day of March, June, September and December;

(c) Does not have a physical presence in this State, does not have a sufficient nexus with this State pursuant to paragraph (a) or (b) and in the immediately preceding calendar year or the current calendar year:

(1) The gross revenue of the retailer from the retail sale of tangible personal property delivered in this State, *including retail sales of tangible personal property facilitated by a marketplace facilitator*, is greater than \$100,000; or

(2) The retailer made 200 or more retail sales of tangible personal property for delivery in this State ~~is~~, *including retail sales of tangible personal property made through a marketplace facilitator*; or

(d) Engages in any other activity that establishes a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

2. If a retailer is unable to determine which sales to customers in this State were the result of an agreement with a resident of this State as described in paragraph (b) of subsection 1, all gross receipts from sales by the retailer to customers in this State will be considered for purposes of

establishing that the activities of a retailer have a sufficient nexus with this State pursuant to paragraph (b) of subsection 1.

3. If the activities of a retailer located outside this State have a sufficient nexus with this State pursuant to:

(a) Paragraph (a), (b) or (d) of subsection 1:

(1) The provisions of chapters 360B, 372 and 374 of NRS relating to the imposition, collection and remittance of the sales tax and the collection and remittance of the use tax apply to the retailer; and

(2) The retailer shall register with the Department pursuant to NRS 360B.200 before, or at the time of, making the sale.

(b) Paragraph (c) of subsection 1:

(1) Beginning on the first day of the first calendar month that begins at least 30 calendar days after the retailer satisfied the criteria set forth in subparagraph (1) or (2) of paragraph (c) of subsection 1, the provisions of chapters 360B, 372 and 374 of NRS relating to the imposition, collection and remittance of the sales tax and the collection and remittance of the use tax apply to the retailer; and

(2) Not later than the first day of the first calendar month that begins at least 30 calendar days after the retailer satisfied the criteria set forth in subparagraph (1) or (2) of paragraph (c) of subsection 1, the retailer shall register with the Department pursuant to NRS 360B.200 ~~and~~,

*unless all of the sales made by the retailer in this State are facilitated by a marketplace facilitator who is registered with the Department pursuant to NRS 360B.200 or has obtained a permit pursuant to NRS 360.5971.*

4. As used in this section, “commission or other consideration based upon the sale of tangible personal property” includes, without limitation, an agreement to pay an amount of money based on the level of sales completed, cost per mille advertising, the payment of a flat fee in exchange for a referral, the payment of a fixed price in exchange for providing a referral link, or any other item of value given in exchange for a referral.

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