**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 233B.0608 and NRS 233B.0609**

**LCB File No. R085-26**

## 1. Background

LCB File No. R085-26, establishes requirements related to taxation; combines into one section of Nevada Administrative Code certain rules governing the furnishing of tangible personal property by a mortician; clarifies the application of sales and use taxes to the entire charge by a dispensing optician for eyeglasses and related products furnished in filling a prescription; revises a calculation used to determine the circumstances under which food sold by a retailer is subject to sales and use tax as prepared food intended for immediate consumption; revises the information that a retailer is required to include on a receipt provided to a purchaser of tangible personal property; updates references to sections of the Nevada Revised Statutes that have been reorganized; repeals a provision providing that sales tax does not apply when an owner of property bids on that property at an auction; removes provisions governing an application for an obsolete sales and use tax exemption for aircraft and major components of aircraft; and provides other matters properly relating thereto.

Existing law imposes a sales tax on the gross receipts of a retailer from the retail sale of tangible personal property in this State. (NRS 372.105, 374.110, 374.111) Under existing law, with certain exceptions, a retailer who makes a retail sale of tangible personal property in this State is required to collect the sales tax from the purchaser at the time of the purchase. (NRS 372.110, 374.115) Existing law also imposes a use tax on the storage, use or consumption of tangible personal property in this State. (NRS 372.185, 374.190, 374.191)

Existing regulations establish rules governing the applicability of sales and use taxes on tangible personal property furnished by a mortician in connection with the services provided by the mortician. (NAC 372.280-372.300) Section 8 of this regulation repeals rules governing the applicability of such taxes to tangible personal property furnished by a mortician when a death occurs in this State but burial occurs outside this State, when a death occurs outside this State but burial occurs in this State and when the funeral expenses are paid by the United States or any other governmental entity. (NAC 372.290, 372.300) **Section 1** of this regulation reenacts these rules in an existing section of the Nevada Administrative Code. Thus, **sections 1 and 8** combine into one section the rules governing the applicability of sales and use taxes to tangible personal property furnished by a mortician in connection with the services provided by the mortician.

Under existing regulations, when a dispensing optician furnishes eyeglasses and related products in filling a prescription, the sale is considered a retail sale of tangible personal property and the entire charge by the dispensing optician is subject to sales tax. (NAC 372.320) **Section 2** of this regulation clarifies that the sales tax applies to the furnishing of eyeglasses and related products whether or not a licensed dispensing optician sells the eyeglasses and related products.

Existing law exempts from sales and use tax food for human consumption except that sales and use tax is imposed on prepared food intended for immediate consumption. (NRS 372.284, 374.289) Under existing law, food that is sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws, is prepared food intended for immediate consumption and, thus, subject to sales and use tax. (NRS 360B.460) Existing regulations establish different criteria for determining whether food is sold with eating utensils provided by the seller, and the criteria applicable to a seller is based on the percentage of the total dollar value of food sold by a seller that is prepared food. (NAC 372.607) **Section 3** of this regulation removes dietary supplements from this calculation. Under existing law, dietary supplements are not considered to be food and, thus, are subject to sales and use tax. (NRS 360B.445, 360B.495, 372.284, 374.289)

Existing law includes in the sales price used to calculate sales and use tax the amount of certain price reductions or discounts for which the seller receives reimbursement from a third party. Among other criteria required for such a price reduction or discount to be included in the sales price, existing law requires the price reduction or discount to be identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser. (NRS 360B.480) **Section 4** of this regulation amends the requirements of existing regulations for the information that must be included on a receipt given to a purchaser to additionally require the receipt to state separately the amount of any manufacturer's rebate, any buy down of a sales price by a supplier of the retailer or any third-party price reduction or discount. (NAC 372.770)

Existing law requires a person conducting business in this State as a seller of tangible personal property to register with, or obtain a permit from, the Department of Taxation to collect sales and use tax in this State. (NRS 360.5971) Senate Bill No. 441 of the 2021 Legislative Session consolidated into one provision multiple provisions of law governing such registrations and permits. (Chapter 342, Statutes of Nevada 2021, at page 2007) **Sections 5-7** of this regulation update references in existing regulations to those provisions of law governing registration and permits to collect sales and use tax in this State.

In 1997, the Nevada Supreme Court held that a sales and use tax exemption for the gross receipts from the sale of aircraft and major components of aircraft to an air carrier that maintains its central office and bases a majority of its aircraft in Nevada was unconstitutional because it discriminated against interstate commerce. (Worldcorp v. State, Dep't of Taxation, 113 Nev. 1032 (1997)) Assembly Bill No. 161 of the 2015 Legislative Session repealed this exemption and related provisions governing the administration of the exemption. (Section 12 of Assembly Bill No. 161, chapter 406, Statutes of Nevada 2015, at page 2336) **Section 8** removes an obsolete regulation requiring an air carrier which desires to qualify for this exemption to file a written application on a form prescribed by the Department and submit evidence of its eligibility for the exemption. (NAC 372.715).

**Section 8** also repeals an existing regulation that provides that sales tax does not apply when an owner delivers property to an auctioneer and bids on that property at the auction. (NAC 372.110)

2. **A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

   The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R085-26. The proposed language and questionnaire were dispersed to the following:
   - Emailed by the Department to 214 members of its interested parties list.
   - Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

   The content responses are summarized below:
   - No response was received for LCB Draft of Proposed Permanent Regulation - File No. R085-26.

   Anyone interested in obtaining a copy of the completed Small Business Impact Questionnaire used for this summary can contact:

   Kari Skalsky
   Nevada Department of Taxation
   3850 Arrowhead Drive
   Carson City, NV 89706
   kskalsky@tax.state.nv.us
   Phone: (775) 684-2041

3. **The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small businesses.**

   No response was received for LCB Draft of Proposed Permanent Regulation R085-26 for the questionnaire regarding the impact of the regulation on small businesses. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses.

4. **The estimated economic effect of the proposed regulation on the small businesses which it is to regulate:**

   **Adverse and Beneficial Effects**

   The Department finds that there is no reasonable, foreseeable or anticipated adverse or beneficial economic effect on small businesses.

   **Direct and Indirect Effects**

   The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect economic effect on small businesses.

5. **A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

   The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R085-26. The proposed language and questionnaire were dispersed to the following:
   - Emailed by the Department 214 members of its interested parties list.
   - Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

   As no responses were received from small businesses, the Department determined there was not an impact on small businesses.

6. **The estimated cost to the agency for enforcement of the proposed regulation.**

   The proposed regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

7. **If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

   The proposed permanent regulation does not include new fees or increase an existing fee.

8. **If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions arc necessary.**

   The proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

9. **The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

   The Department has determined that there will be no adverse impacts to small businesses based on its analysis of the proposed regulations and lack of public comment.

**I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared, and the information contained herein is accurate.**

Shellie Hughes

**Shellie Hughes**, Executive Director
August 26, 2026