

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

LCB File No. R123-15

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

Currently there are no existing businesses that would be affected by this regulation in Nevada, The Department prepared a questionnaire that asked for input regarding the potential impact that was sent to the Department's contact list of 203. The Nevada Taxpayers Association ("NTA") sent the questionnaire to their NTA list of interested taxpayers. The Department also mailed a copy of the questionnaire to the main Public Libraries in the counties where an office of the Department of Taxation is not located in an attempt to receive input regarding any potential significant and direct economic impact on small businesses.

Only 2 of 203 people contacted through the Department's contact list returned the questionnaire. The Department received other general comments which have been displayed on the Department website. Below is the summary of the responses collected from the survey.

1. The first respondent states that the regulatory provision will have an adverse economic effect on their respective businesses, because it will reduce the amount of money that they will be able to lend, and their customers will have fewer funds in deposit.
2. The second respondent anticipates that the regulation will not have an adverse effect on their businesses because of the 4 million dollar exemption and, if the revenue from the Commerce Tax has a positive impact on education, it will be a benefit to their business and the State.

The Department also received response from other members of the public who did not complete the questionnaire but voiced their opinion via e-mails and correspondence. All of the correspondence can be found on the Departments web site at <http://tax.nv.gov/comtax>. A summary of the public responses can be found below:

1. One taxpayer requested to minimize the filing requirement for entities that are exempt from the Commerce Tax.
2. Four taxpayers requested that the Department create a simple Commerce Tax return for businesses with less than 4 million in Nevada gross revenue.
3. Ten taxpayers requested that the filing requirement for the Commerce Tax match the federal filing date.
4. Two taxpayers requested that exempt entities not register with the Nevada Secretary should not have to register for the Commerce Tax.
5. Seven taxpayers requested that the Department clarify the definition of "Nevada Gross Revenue".
6. Ten requests were made to allow for affiliated groups to take the MBT credit.
7. One taxpayer informed the Department that federal law prohibits the taxation of air commerce or air transportation.
8. Three taxpayers requested clarification of complimentary goods, to include goods or services provided at no charge or exchanged for loyalty program points, credits, coupon, vouchers or certificates.

9. Two taxpayers requested to include other documents besides the bill of lading as proof of delivery.
10. Two taxpayers requested to clarify origin and destination.
11. Six taxpayers requested clarification for pass through revenue.
12. Eleven taxpayer requests were submitted seeking clarification of the applicability of the Commerce Tax to a trust and that the definition of “business entity” should exclude trusts.
13. Two taxpayers inquired about the time frame for which the Department would respond to a taxpayer that is requesting to change their NAICS code.
14. One taxpayer requested to change the term of “taxable entity” to “business entity”.
15. Nine taxpayers requested the Department to define “business entity”.
16. Three taxpayers requested clarification on how to apply the “recovery charge”
17. Two taxpayers requested to clarify the healthcare uncompensated cost and the taxability from government-funded programs such as Medicaid and Medicare.
18. Two taxpayers submitted recommendations on how to account for uncompensated care.
19. Four taxpayers requested clarification of “passive entity”.
20. Eight taxpayers requested the Department to clarify, real estate brokers Nevada gross revenue as defined in NRS 645.030.
21. One taxpayer requested to clarify if a business sells a building, and buys another building, whether Commerce Tax is due on the sale of the building that was sold.
22. One taxpayer requested to clarify the definition of “revenue” and whether venture capital investment in research and development activities should be included as revenue.
23. One taxpayer wanted clarification of revenue when a wholesaler moves product to a retailer and title never transfers.
24. Three taxpayers submitted comments that when calculating the Commerce Tax liability using GAAP, this creates a conflict when the business is told to use the same accounting method for federal income tax purposes.
25. One taxpayer requested the Department to clarify “pass-through entity”
26. One taxpayer submitted a request to clarify “interest income” and the situs of the income.

The Department held a workshop on July 07, 2015 for public comment. A total of 39 people attended the workshop; 13 people testified and 13 written comments were submitted. The Department held a second workshop on September 9, 2015 for public comment. A total of 58 people attended the workshop; 10 people testified and 10 written comments were submitted. The Department held a third workshop on September 25, 2015. A total of 44 people attended the workshop; 11 people testified and 8 written comments were submitted. The Department held a fourth workshop on December 07, 2015. A total of 59 people attended the workshop; 16 people testified and 14 written comments were submitted. The Department held a fifth workshop on February 23, 2015 for public comment. A total of 64 people attended the workshop; 13 people testified and 11 written comments were submitted. The Department held a sixth workshop on March 18, 2016. A total of 39 people attended the workshop; 4 people testified and 2 written comments were submitted. The Department held an adoption hearing on April 11, 2016. A total of 85 people attended the adoption hearing; 4 people testified at the hearing and no written comments were submitted, however, 3 written comments were submitted after the hearing. No one indicated any economic burden of this regulation.

A copy of the summary, audio and video recordings of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2030, by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, by e-mailing the Department at croberts@tax.state.nv.us or by reviewing them on the Departments website at <http://tax.nv.gov/comtax>.

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

The Department used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes.

Initially, the Department did its own analysis by considering the extent of the regulatory provisions contained in LCB File No. R123-15. The LCB File No. R123-15 regulation established provisions for the administration, calculation and payment of the Commerce Tax enacted as part of Senate Bill 483 of the 2015 Legislature. There are requirements related to the process or procedure for filing and paying the required tax. In other words, the regulations are administrative and do not contain interpretations of statutory provisions.

Additionally, the Department surveyed all 203 contacts on the Department's contact list. The NTA sent the questionnaire to the NTA list of interested taxpayers. Only 2 participants responded and the Department received several general comments. However, no one indicated that this regulation would have a direct and significant economic burden upon a small business.

Based on our own analysis of the regulation and the response from the public to both the questionnaire and at the hearings on the regulation, the Department concluded that there was not a significant economic burden on small businesses.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(a) Both adverse and beneficial effects.

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to the public. The benefit of this regulation is that the industry along with the Department will be provided more clarity.

(b) Both direct and indirect effects

The proposed permanent regulations present no reasonably foreseeable or anticipated direct or indirect economic effects to the public.

4. 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 proposed permanent regulation presents no reasonably foreseeable or anticipated adverse impact to small business; therefore no efforts were required to reduce the impact on small businesses.

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

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

- 6. 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 regulation does not include new fees nor increases an existing fee.

- 7. 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 are necessary.**

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

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

The Department used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes. The reason for adoption of the proposed permanent regulation is to provide some guidance to taxpayers in calculating, filing and paying the tax. The proposed changes do not imply any additional taxes.

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.



Deonne E. Contine, Executive Director
April 28, 2015