

**ADOPTED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R082-02**

Effective September 20, 2002

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

AUTHORITY: §1, NRS 360.090, 372.065 and 374.070.

**Section 1.** NAC 372.101 is hereby amended to read as follows:

372.101 1. Except as otherwise provided in subsection ~~{3.}~~ 2, any charge for freight, transportation or delivery included in the sale of tangible personal property is subject to sales and use taxes.

2. ~~{Any charge for freight, transportation or delivery that appears on the invoice of the seller is part of the selling price even if stated separately and is not deductible from the price of the property as shown on the invoice.}~~

~~—3.}~~ A charge for freight, transportation or delivery *included in the sale of tangible personal property* is not taxable if:

(a) It is ~~{invoiced to the purchaser by the freight carrier;}~~ *stated separately on the invoice given to the purchaser;* and

(b) Title to the property passes *to the purchaser, as determined pursuant to NRS 104.2401,* before shipment ~~{.~~

~~As used in this subsection, “freight carrier” means a common, contract or international carrier that is licensed and regulated by the transportation services authority of Nevada or the Surface Transportation Board, or both.~~

~~4.]~~ *pursuant to a written agreement which clearly states that it is the intention of the parties that title to the property pass to the purchaser before shipment.*

3. A charge for freight, transportation or delivery that is not connected with the sale of tangible personal property is a charge for a service and is not subject to sales and use taxes.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R082-02**

The Nevada Tax Commission adopted regulations assigned LCB File No. R082-02 which pertain to chapter 372 of the Nevada Administrative Code on August 5, 2002.

**Notice date:** 7/5/2002  
**Hearing date:** 8/5/2002

**Date of adoption by agency:** 8/5/2002  
**Filing date:** 9/20/2002

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Notices of hearing for the adoption and amendment of the proposed regulation were posted at the following locations: Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada.

A copy of the notice of hearing and the proposed regulation were placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation were also made available and placed on file at the Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Suite 1300, Las Vegas, Nevada; Department of Taxation, 850 Elm Street, No. 2, Elko, Nevada; and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

The hearing was held on August 5, 2002 at the Washoe County Health Department, South Conference Room, 1001 East 9' Street, Reno, Nevada. It appears that due to the primarily procedural nature of the proposed regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed regulation and testified at the hearing. A copy of the transcript of the hearing, for which a reasonable fee may be charged, may be obtained by calling the Nevada Department of Taxation at (702) 687-4896, or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada, 89706.

The proposed regulation was submitted to the Legislative Counsel Bureau, which completed its review and minor revisions on June 11, 2002. Thus, the proposed regulation, for practical purposes, was discussed at one workshop and has been heard and considered at one public hearing of the Nevada Tax Commission.

**2. The number of persons who:**

**(a) Attended the hearing: 37**

**(b) Testified at tie hearing: 3**

**(c) Submitted to the Tax Commission written comments:** Written comments were submitted to and received by the Department of Taxation from the law firm of McDonald, Carano, Wilson, et. al., which were forwarded to the Tax Commission.

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, by direct mail to all county assessors, and by direct mail to the approximately 240 interested businesses and persons on the Department of Taxation's mailing list.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Section 1, paragraph 2(b) of the amended regulation (NAC 372.101) was slightly modified prior to adoption, due to issues raised by the Department of Taxation, the Tax Commission and by affected or interested businesses and persons. The remaining sections of the proposed regulation were not changed since no concerns were raised by the public, affected or interested businesses or persons, the Department of Taxation or Tax Commission members, and the Tax Commission believed no changes other than those made were necessary.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.**

**(a) Adverse and beneficial effects.**

The proposed regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. There may be some beneficial economic effects to businesses concerning the taxability and/or nontaxability of freight charges associated with the sale of tangible personal property. Those anticipated benefits are not quantifiable at this time.

**(b) Immediate and long-term effects.**

Same as #5(a) above.

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

The proposed regulation presents no significant foreseeable or anticipated cost for enforcement. There may be some minor initial administrative costs for the Department, which are not quantifiable at this time.

**7. A description of any regulations of other state or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulation is particular to the Department of Taxation practices and procedures and does not appear to overlap or duplicate regulations of other state or local governmental agencies.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are no known federal regulations pertaining to state sales/use tax procedures, which are the subject of the proposed regulation.

**9. If the 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 provide a new fee or increase an existing fee.