NOTICE OF WORKSHOP

To: To All Interested Parties
From: Shellie Hughes, Chief Deputy Executive Director, Department of Taxation
Date: July 20, 2018
Re: Workshop on Initial Department Draft of Proposed Regulation R189-18

The Department of Taxation will hold a workshop to solicit comments from the interested persons on the following topics:

Initial Department Draft of Proposed Regulation R189-18: This regulation revises 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.

Date and Time of Meeting: August 6, 2018 2:00 p.m.

The workshop will be held at the following locations:

Place of Meeting: Via Video Conference:
Nevada Legislative Building Legislative Counsel Bureau
401 S Carson Street, Room 2134 Grand Sawyer State Office Building
Carson City, Nevada 555 E Washington Ave., Room 4412

This meeting will also be part of a teleconference. Please do not hesitate to contact George Hritz at (775)-684-2059 or ghritz@tax.state.nv.us for a teleconference number or if you require additional information concerning this matter. A copy of the regulation referenced above can be found on the Department’s website at https://tax.nv.gov/ and at the Nevada Legislative website https://www.leg.state.nv.us/Register/2018Register/R189-18I.pdf. All interested parties will have the opportunity to present their ideas. We encourage you to provide us with your suggestions in writing. The Department request interested parties submit written suggestions at least one week in advance so the suggestions can be disseminated at the meeting. Written comments may be accepted at any time. All public input will be considered in preparing a proposed regulation to be presented to the Nevada Tax Commission for adoption.

Members of the public who are disabled and require accommodations or assistance at the meeting are requested to notify the Department of Taxation in writing or by calling 775-684-2030 no later than five working days prior to the meeting.
Notice has been posted at the following locations: The Department of Taxation - 1550 College Parkway, Carson City, Nevada.

Notice has been EMAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Suite 235, Reno, Nevada; Department of Taxation - 555 E. Washington Avenue, Grant Sawyer Office Building, Suite 1300, Las Vegas, Nevada; Department of Taxation - 2550 Paseo Verde Parkway, Suite 180, Henderson; The Legislative Building, Capitol Complex, Carson City, Nevada; and the Nevada State Library, 100 Stewart Street, Carson City, Nevada, Interested Parties Group & Mailing List maintained by the Department & the Nevada Public Notice Website: https://notice.nv.gov/. Notice of this meeting was posted on the Internet through the Department of Taxation website at Notice of this meeting was posted on the Internet through the Department of Taxation website at https://tax.nv.gov/ and on the Legislative website at https://www.leg.state.nv.us/
Nevada Department of Taxation Regulatory Workshop

NEVADA LEGISLATIVE BUILDING
401 S. Carson Street, Room 2134
Carson City, Nevada

VIDEO CONFERENCE

Legislative Counsel Bureau
Grant Sawyer State Office Building 555
E Washington Avenue, Room 4412
Las Vegas, Nevada

August 6, 2018
2:00 PM.

I. Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.

II. The Department will hold a workshop to solicit comments from interested persons on the following general topics: Initial Department Draft of Proposed Regulation R189-18, a regulation that revises 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.

III. **Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.

IV. Adjourn

**This item is to receive public comment on any issue and any discussion of those issues; provided that comment will be limited to areas relevant to and within the authority of the Nevada Department of Taxation. No action will be taken on any items raised in the public comment period. Public Comment may not be limited based on viewpoint.

Please contact George Hritz 775-684-2059 or ghritz@tax.state.nv.us for any support materials. The support materials will be made available at the Department of Taxation, 1550 College Pkwy, Carson City, NV and made available during the meeting located at the Nevada Legislative Building, 401 S. Carson Street, Room 2134 Carson City, NV and the Legislative Counsel Bureau Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 4412 Las Vegas, NV.

Members of the public who are disabled and require accommodations or assistance at this meeting are requested to notify the Department of Taxation in writing or call 775-684-2030 prior to the meeting.

Notice of this meeting has been posted at the Department of Taxation 1550 College Parkway, Carson City, NV.
Notice has been EMAILED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Suite 235, Reno, Nevada; Department of Taxation - 555 E. Washington Avenue, Grant Sawyer Office Building, Suite 1300, Las Vegas, Nevada; Department of Taxation – 2550 Paseo Verde Parkway, Suite 180, Henderson; The Legislative Building, Capitol Complex, Carson City, Nevada; and the Nevada State Library, 100 Stewart Street, Carson City, Nevada, Interested Parties Group & Mailing List maintained by the Department & the Nevada Public Notice Website: https://notice.nv.gov/. Notice of this meeting was posted on the Internet through the Department of Taxation website at https://tax.nv.gov/ and on the Legislative website at https://www.leg.state.nv.us/
PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION

LCB FILE NO. R189-18I

The following document is the initial draft regulation proposed
by the agency submitted on 07/17/2018
A REGULATION relating to taxation; 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 …

Section 1. Section 7 of LCB File No. R137-15 is hereby amended to read as follows:

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 section 5 or 6 of LCB File No. R137-15, a retailer has 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 and: [or]

(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 [or]

(c) Does not have a physical presence in this State, does not have 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 is greater than $100,000; or

(2) The retailer made 200 or more retail sales of tangible personal property for delivery into this State; or

(d) Engages in any other activity that establishes 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 [the presumption] that the activities of a retailer have a sufficient nexus with this State.
3. If the activities of a retailer located outside this State are presumed to have has a sufficient nexus with this State pursuant to subsection 1, the retailer shall:

(a) Impose, collect and remit the sales tax and collect and remit the use tax pursuant to NRS 372.7243, 372.7247, 374.7243 or 374.7247; and

(b) Register with the Department pursuant to NRS 360B.200 before, or at the time of, making the sale of tangible personal property for delivery in this State.

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.

Sec. 2. This regulation, LCB File No. R___-18, is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

1. The Department shall establish the date by which each retailer who satisfies the criteria set forth in paragraph (c) of subsection 1 of section 7 of R137-15, as amended by section 1 of this regulation, is required to:

(a) Begin to impose, collect and remit sales tax and collect and remit use tax in accordance with the provisions of chapters 360B, 372 and 374 of NRS; and

(b) Register with the Department pursuant to NRS 360B.200.

2. Notwithstanding the provisions of section 7 of R137-15, as amended by section 1 of this regulation, and except as otherwise provided in subsection 3, before the date established by the
Department pursuant to subsection 1, the Department shall not require a retailer who satisfies the
criteria set forth in paragraph (c) of subsection 1 of section 7 of R137-15, as amended by section
1 of this regulation to:

(a) Impose, collect and remit sales tax and collect and remit use tax in accordance with the
provisions of chapters 360B, 372 and 374 of NRS; or

(b) Register with the Department pursuant to NRS 360B.200.

3. The provisions of this section do not prohibit a retailer who satisfies the criteria set forth
in paragraph (c) of subsection 1 of section 7 of R137-15, as amended by section 1 of this
regulation, from voluntarily consenting to:

(a) Impose, collect and remit sales tax and collect and remit use tax in accordance with the
provisions of chapters 360B, 372 and 374 of NRS; and

(b) Register with the Department pursuant to NRS 360B.200.