

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R089-02

Effective September 20, 2002

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

AUTHORITY: §§1, 2 and 3, NRS 360.090, 374.286 and 374.725.

Section 1. Chapter 374 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *As used in NRS 374.286, the department shall interpret the term:*

1. “Machinery or equipment only incidentally employed for the agricultural use of real property” to mean any item the direct and primary function of which is a use other than the agricultural use of real property.

2. “Implement of husbandry” not to include tools, shop equipment, communication equipment, material for the construction of stationary fencing, building material and supplies used in the construction of farm buildings or household equipment used for residential purposes, including, without limitation, lawn mowers and snowblowers.

3. “Part used in the repair or maintenance of farm machinery and equipment” not to include an item that is consumed through the regular use of such machinery and equipment, including, without limitation, fuel, oil, cleaning agents and solutions.

Sec. 3. *1. If a retailer does not collect the taxes imposed by chapter 374 of NRS on a sale of farm machinery and equipment, he shall obtain from the purchaser of the farm machinery and equipment an affidavit, on a form prescribed by the department, stating that*

the farm machinery and equipment will be employed for the agricultural use of real property pursuant to NRS 374.286. One affidavit obtained by the retailer from the purchaser may apply to all purchases of farm machinery and equipment employed in the agricultural use of real property made:

- (a) By the purchaser from the retailer; and*
- (b) Not later than one year after the date of the affidavit.*

2. The retailer shall file the affidavit required to be obtained pursuant to subsection 1 with his records and make the affidavit available to the department for inspection upon request.

3. If the retailer has knowledge of facts which give rise to a reasonable inference that a purchaser of farm equipment and machinery will not employ that equipment and machinery in the agricultural use of real property as required pursuant to NRS 374.286, the retailer must collect the tax imposed pursuant to chapter 374 of NRS on the sale of that equipment and machinery.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R089-02

The Nevada Tax Commission adopted regulations assigned LCB File No. R089-02 which pertain to chapter 374 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 27, 2002. Thus, the proposed regulation, for practical purposes, was discussed at three workshops 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 the hearing: 1**
- (c) Submitted to the Tax Commission written comments:** No written comments were submitted to, or received by, the Department of Taxation or the Nevada 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.

The proposed regulation was not changed since no concerns were raised by the public, affected or interested businesses or persons, the Department of Taxation, the Attorney General's Office 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 retailers of farm machinery and equipment given the implementation of Assembly Bill 243 of the 2001 Legislative Session. 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.