

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R032-04

Effective May 12, 2004

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

AUTHORITY: §1, NRS 360.090, 372.290, 372.725, 374.295 and 374.725.

A REGULATION relating to taxation; providing for the administration of certain exemptions from sales and use taxes for qualified sales of baling wire and twine; and providing other matters properly relating thereto.

Section 1. Chapter 372 of NAC is hereby amended by adding thereto a new section to read as follows:

1. If a retailer does not collect the taxes imposed by chapters 372 and 374 of NRS on a sale of baling wire or twine, the retailer shall obtain from the purchaser of that baling wire or twine a sworn statement, on a form prescribed by the Department, stating that the baling wire or twine will be resold as a nonreturnable container with contents. One sworn statement obtained by a retailer from a purchaser pursuant to this subsection may apply to all purchases of baling wire and twine by the purchaser from the retailer during the calendar year in which the purchaser signs the sworn statement.

2. The Department shall make the form required by subsection 1 available at its office and on its Internet website.

3. A retailer who obtains from a purchaser the sworn statement described in subsection 1:

(a) Is not required to collect any taxes from the purchaser pursuant to chapters 372 and 374 of NRS on any sale of baling wire or twine to which the sworn statement applies, unless the retailer obtains the sworn statement with intent to defraud the Department or to evade the payment of those taxes.

(b) Shall file the sworn statement with his records and make the statement available to the Department for inspection upon request.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R032-04

The Nevada Tax Commission adopted regulations assigned LCB File No. R032-04 which pertain to chapter 482 of the Nevada Administrative Code on April 5, 2004.

Notice date: 3/4/2004
Hearing date: 4/5/2004

Date of adoption by agency: 4/5/2004
Filing date: 5/12/2004

INFORMATIONAL STATEMENT

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

The Department of Taxation solicited public comment a public workshop conducted on March 19, 2004. The meeting was held simultaneously, by way of teleconference, at the Department of Taxation's District Offices located in Carson City, Reno, and Henderson, Nevada. Members of the public responded as follows: They provided oral presentations at the above scheduled workshop. A summary of the public response may be obtained by calling the Department of Taxation at (775) 684-2096 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada 89706.

The adoption hearing was held on April 5, 2004 video conferenced between the Nevada Legislative Building, 401 S. Carson Street, Room 3137, Carson City, Nevada and the Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 4412, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed permanent regulation, only affected or interested persons and businesses responded to the proposed permanent regulation and testified at the adoption hearing. A copy of the transcript of the adoption hearing, for which a reasonable fee may be charged, may be obtained by calling the Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada 89706.

The proposed permanent regulation was submitted to the Legislative Counsel Bureau, which completed its review and minor revisions on April 2, 2004. Thus, the proposed permanent regulation, for all practical purposes, was discussed at one public workshop and has been heard and considered at one public adoption hearing of the Nevada Tax Commission.

2. The number of persons who:

(a) Attended each hearing: 3/19/04 – 25; 4/5/04 - 53

(b) Testified at each hearing: 3/19/04 – 2; 4/5/04 - 3

(c) Submitted to the agency written comments: No written comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission by various associations and/or groups, the general public, affected businesses and others.

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.

Notice of hearing for the adoption and amendment of the proposed permanent 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; Department of Taxation, 3550 Paseo Verde, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed permanent 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 emergency regulation were also made available on the Department's web-site 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, 3550 Paseo Verde, Suite 180, Henderson, 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.

Comments were solicited from affected and interested businesses and persons by the notices set forth above, by direct mail to all county assessors, and by direct mail to the approximately 250 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 permanent regulation was not amended at the hearing since no oral comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission by various associations and/or groups, the general public, affected car rental agency businesses and others. However, the Nevada Tax Commission adopted the proposed permanent regulation with one minor correction, since those affected were satisfied with the language changes contained therein.

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.**

The proposed permanent regulation merely implements the container provisions of NRS 372.290 and NRS 374.295. It has no economic impact independent of the economic impact

created by the subject statutory language. The proposed permanent regulation provides clarification for retailers selling baling wire and/or twine, when, and under what circumstances it is exempt from sales/use tax as a container. The beneficial effect of the proposed permanent regulation, both immediate and long-term, is that it provides taxpayer's with specific guidance concerning their obligations in maintaining records and the exemption of tax, if any, in accordance with the provisions of NRS 372.290 and NRS 374.295. The Department of Taxation foresees no adverse effects.

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

Zero. As noted above, the proposed permanent regulation merely implements existing statutory language and provides guidance to affected taxpayers. It is the existing statutory language, not the regulation, which creates a financial burden. The cost of enforcing the proposed permanent regulation is negligible. In fact, the Department anticipates that the proposed permanent regulation will make the enforcement of the subject statutory language less costly by providing specific educational guidance.

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

The proposed permanent regulation implements existing statutory language. It does not duplicate or overlap with any other regulations.

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

Not applicable.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable.