

Chapters 372 and 374 of NAC

LCB File No. T022-04

**ADOPTED TEMPORARY REGULATION
OF THE NEVADA TAX COMMISSION**

Filed with the Secretary of State on December 13, 2004

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

AUTHORITY: NRS 360.090

NAC 372 & 374 is hereby amended as follows:

Section 1. *“Court reporter” means a person who is technically qualified and registered under Chapter 656 of the Nevada Revised Statutes to practice court reporting.*

Section 2. *“Service of court reporting” means:*

1. Reporting of judicial proceedings, quasi-judicial proceedings, legislative proceedings, quasi-legislative proceedings or other similar proceedings by the use of any system of manual or mechanical shorthand writing of, including but not limited to:

- (a) Grand jury proceedings;*
- (b) Court proceedings*
- (c) Pretrial examinations, depositions, motions and related proceedings of like character;*
- (d) Proceeding of an administrative agency if the final decision of the agency with reference thereto is subject to judicial review;*
- (e) Arbitration proceedings;*
- (f) Board of Director’s meetings;*
- (g) Regulatory proceedings;*
- (h) Any other proceeding/meeting where the court reporter’s certification is of significant value to the client.*

2. Reporting of any proceeding by means or through the provision of:

- (a) Communication Access Realtime Translation (CART);*
- (b) Captioning services; or*
- (c) Convention services.*

Section 3. *“Transcript” means any written reproduction of a proceeding described in this temporary regulation, or any portion thereof, if:*

- 1. The reproduction is on paper;*
- 2. Is delivered on a computer disc or similar medium; or,*
- 3. Is transmitted in an electronic or digital medium or format.*

Section 4. *“Convention Services” means the reporting by means of manual or mechanical shorthand writing of the spoken word at convention proceedings by realtime transmission and/or by a certified transcript.*

Section 5: *“Captioning Services” means the reporting by means of mechanical shorthand writing and realtime of the spoken word with open or closed captioning capabilities, generally to be used in a pre-recorded or live video presentation setting, as for television.*

Section 6: *“CART Services” means Communication Access Realtime Translation reporting by means of mechanical shorthand writing and realtime transmission of the spoken word, generally for use in communication assistance, as for the hearing impaired.*

Section 7: *“Realtime Translation” means the reporting by means of mechanical shorthand writing of the spoken word simultaneously transmitted in realtime from the court reporter’s computer system to a recipient laptop or LED reader board.*

Section 8: *All purchases of tangible personal property by court reporters are subject to the sales tax or use tax, as applicable, if such tangible personal property is purchased for use in providing the service of court reporting and is not otherwise exempt by applicable statute. As an example of the application of this section, if a court reporter purchases office supplies, computer equipment, computer software, or other devices for use in providing the service of court reporting, the court reporter is the consumer of tangible personal property and must therefore pay the tax at the time of purchase in Nevada, or if the property is purchased outside of Nevada, at the time of the first storage, use or other consumption of the property in Nevada.*

Section 9: *The sales tax does not apply to any amount charged for providing the service of court reporting if the amount is separately stated on the invoice or is part of the charge for other services. Amounts charged by a court reporter for providing the service of court reporting may include:*

- 1. Fees or charges for attending a proceeding;*
- 2. Fees or charges for providing a transcript, or copies thereof, to any party to, or litigant in a proceeding described in subsection 1 of section 2 to this temporary regulation, if the transcript relates to such proceeding, or portion thereof;*
- 3. Fees or charges for providing any person with a single copy of the transcript of any meeting or proceeding, or portion thereof, described in section 2 of this temporary regulation, if the conduct of the meeting or the proceeding is subject to the provisions of chapter 241 of the Nevada Revised Statutes;*
- 4. Fees or charges for supervision, consultation or research;*
- 5. Fees or charges for transcribing a proceeding in real time;*
- 6. Fees or charges for condensed transcripts; and*
- 7. Fees or charges for postage, express, telephone, transportation and travel charges, travel expenses, copy charges, exhibit copy charges and computer disks.*

Section10. *When a court reporter sells tangible personal property in connection with the provision of a service other than the service of court reporting, he is a retailer with respect to the sale of that tangible personal property.*

Section 11. *Depository services. Court reporters provide the service of a depository pursuant to an order of the district court. The services provided by a court reporter generally include housing documents used in litigation, copying and imaging of said documents when requested, bate-stamping of said documents, and on-line depository access fees. The sales tax does not apply to any amount charged for providing the service of a depository.*

NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T022-04

The Department of Taxation adopted temporary regulations assigned LCB File No. T022-04 which pertain to chapters 372 and 374 of the Nevada Administrative Code on December 13, 2004.

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 temporary regulations 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; and Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed temporary regulations 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 temporary regulations 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, 2550 Paseo Verde Parkway, 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.

The hearing was held on December 6, 2004 via video conference between the Nevada Department of Transportation at 310 Galletti Way, Reno, Nevada, and 123 East Washington Avenue, Building B, Training Room A, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed temporary regulations, only affected or interested persons and businesses as set forth in #3 below responded to the proposed temporary regulations 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 (775) 684-2096 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada, 89706.

The proposed temporary regulations, for practical purposes, was discussed at one workshop and as been heard and considered at one public hearing of the Nevada Tax Commission.

2. The number of persons who:

(a) Attended the hearing: 51

(b) Testified at the hearing: 2

(c) Submitted to the Tax Commission written comments: Written comments were submitted by legal counsel to the Court Reporters requesting the amendments to the administrative code prior to the hearing. No other written comments by the general public 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 and interested persons, 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.

Comments from the above-referenced industry in #2 were received relative to the original regulations and proposed draft of the temporary regulations with respect to the Department's policy concerning the imposition of sales/use tax to copies provided by court reporters.

4. If the temporary regulations were adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the temporary regulations without change.

The proposed temporary regulations were modified at public workshops prior to adoption, due to issues raised by the Department of Taxation and by the affected court reporters. The proposed temporary regulations was changed at the public hearing reflecting minor technical corrections raised by the affected industry, 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 temporary regulations on the businesses 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 temporary regulations present no foreseeable or anticipated adverse economic effects to businesses or the public. However, the temporary regulations will have a beneficial impact on the court reporters for clarification and procedural purposes with regard to the applicability of sales/use tax. That effect cannot be quantified 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 temporary regulations.

The proposed temporary regulations present no significant foreseeable or anticipated cost or decrease in costs for enforcement. However, it appears that there may be some minor additional administrative costs for the Department of Taxation, which cannot be quantified at this time.

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

The proposed temporary regulations are particular to the Department of Taxation practices and procedures and do not appear to overlap or duplicate regulations of other state or local governmental agencies.

8. If the temporary regulations include 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 temporary regulations.

9. If the temporary regulations provide 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 temporary regulations do not provide a new fee or increase an existing fee.