

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R110-12

July 23, 2012

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

AUTHORITY: §§1-5, NRS 360.090 and 360.200; §§6-8, NRS 360.090, 360.200 and 372.725;
§9, NRS 360.090, 360.200, 369.150, 370.510, 372.725 and 374.725.

A REGULATION relating to taxation; repealing various obsolete regulatory provisions; and
providing other matters properly relating thereto.

Section 1. NAC 360.425 is hereby amended to read as follows:

360.425 Unless the applicant provides to the Department a decree of emancipation issued to the applicant pursuant to NRS 129.080 to 129.140, inclusive, the application of a person who is under the age of 18 years for a license or permit issued pursuant to NRS ~~[364A.130,]~~ 372.125 or 374.130 must include a statement signed by the parent or legal guardian of the applicant in substantially the following language:

I, the undersigned, hereby acknowledge responsibility until the applicant reaches 18 years of age for reporting or remitting to the Department any taxes imposed pursuant to (chapter ~~[364A,]~~ 372 or 374 of NRS, as applicable) that the applicant fails to report or remit to the Department.

.....

Signature of applicant's parent or legal guardian

Sec. 2. NAC 360.438 is hereby amended to read as follows:

360.438 1. A person may request that the Commission compromise the liability of the person for a tax, contribution, premium, fee, interest or penalty assessed pursuant to the provisions of chapter 360, 360B, 362, 363A, 363B, ~~364A,~~ 368A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313 , or chapter 585 or 680B of NRS as administered or audited by the Department by submitting to the Department, on a form prescribed by the Department, an offer to compromise the liability of the person.

2. An offer to compromise the liability of a person submitted pursuant to subsection 1 must include:

(a) A statement of the grounds upon which the compromise is sought and any other information to support the offer;

(b) Copies of such financial information and documentation as may be required by the Department, including, without limitation, financial statements, bank records, accounting ledgers and a statement or explanation of any assets that may be acquired by the person pursuant to the resolution of a pending claim, cause of action, settlement or insurance disbursement, inheritance or an unsatisfied judgment or court order;

(c) An affirmation, signed under penalty of perjury, attesting to the truthfulness and accuracy of all information and documentation submitted with the offer to compromise; and

(d) A written statement signed by the person consenting to suspend any and all statutory periods of limitation relevant to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets of the taxpayer to satisfy the liability of the taxpayer during the period in which the Commission considers whether to accept or reject the offer of compromise.

3. The Department shall review, analyze and verify an offer of compromise and any accompanying information and documentation submitted pursuant to subsection 1.

4. If, after reviewing, analyzing and verifying the offer pursuant to subsection 3, the Department determines that:

(a) The offer does not comply with subsection 1 or does not include adequate supporting information and documentation, the Department shall return the offer to the person who submitted the offer with a written explanation of the deficiencies.

(b) Except as otherwise provided in paragraph (c), the offer complies with subsection 1, the Department shall forward to the Commission the offer and the recommendation of the Department as to whether the Commission should accept or reject the offer.

(c) The offer complies with subsection 1 and the Department will recommend that the Commission reject the offer, the Department shall advise the person submitting the offer in writing that the Department will recommend that the Commission reject the offer before forwarding the offer and the recommendation of the Department to the Commission pursuant to paragraph (b). A person so advised may withdraw the offer.

5. Except as otherwise provided in this subsection, if a person submits an offer pursuant to subsection 1, the Department shall cease, and shall not commence, any action related to the collection of the liability of the taxpayer or the seizure, attachment, garnishment or execution upon property or assets in satisfaction of the liability until the Commission accepts or rejects the offer. If the Department determines that the offer submitted pursuant to subsection 1 was offered for the purpose of delaying or avoiding the collection of the liability of the person, the Department may continue or commence any action related to the collection of the liability of the

taxpayer or the seizure, attachment, garnishment or execution upon property or assets in satisfaction of the liability.

6. The Commission will review an offer received from the Department pursuant to subsection 4 and issue a written decision as to whether the Commission accepts or rejects the offer of compromise.

7. If the written decision of the Commission issued pursuant to subsection 6 is the acceptance of the offer of compromise, the Commission may:

(a) Make the acceptance of the offer contingent upon the satisfaction of conditions as the Commission deems appropriate, including, without limitation, that all or part of the amount of the compromise be paid within a specific time frame.

(b) Allow the person submitting the offer to pay the amount of the compromise in reasonable installments. If the Commission allows the person submitting the offer to pay the amount of the compromise in reasonable installments, the Commission may make the acceptance of the offer contingent upon the person complying with the schedule of installment payments.

8. If the Commission makes the acceptance of an offer of compromise contingent upon the satisfaction of a condition pursuant to subsection 7, the Commission will hold a hearing before finally accepting or rejecting the offer to determine whether the conditions upon the acceptance of the offer were satisfied. If the Commission determines that the conditions upon the acceptance of the offer were satisfied, the Commission will issue a written decision to accept the offer of compromise. If the Commission determines that the conditions upon the acceptance of the offer were not satisfied, the Commission will issue a written decision specifying the manner in which such conditions failed to be satisfied.

9. Except as otherwise provided in subsection 10, after the Commission has accepted an offer of compromise and the person has tendered the full amount of money offered in the compromise, the compromise will be deemed to be an accord and satisfaction of the liability of the person for that liability which is the subject of the compromise.

10. If, after a hearing, the Commission determines that the acceptance by the Commission of an offer of compromise was procured through fraud, misrepresentation or concealment or resulted from a mutual mistake of fact, the Commission may issue a written decision to reinstate the liability of the taxpayer in the amount originally assessed by the Department. The written decision of the Commission is a final decision for the purposes of judicial review.

11. The acceptance of an offer of compromise by the Commission pursuant to this section shall not be deemed to be a limitation on the rights and remedies of the Department with respect to any person not named or identified in the offer of compromise.

Sec. 3. NAC 360.440 is hereby amended to read as follows:

360.440 1. If a taxpayer fails to file a return as required by the applicable provisions of chapter 360, 362, ~~364A,~~ 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS and he or she wishes to disclose that fact voluntarily to the Commission, the taxpayer or the taxpayer's representative must file with the Department an application for voluntary disclosure on a form prescribed by the Commission before the Department has initiated an audit or investigation of the taxpayer.

2. The Commission will not accept an application filed pursuant to subsection 1 until the application has been approved and signed by the Director. The Director shall not approve and sign the application until he or she has verified that the Department did not initiate an audit or investigation of the taxpayer before the date that the taxpayer filed an application with the

Department pursuant to subsection 1. An application is deemed to be filed with the Department on the date the application is received by the Department.

3. After the Director has signed and approved the application, the Commission will provide the taxpayer with a copy of the approved application.

4. For the purposes of subsection 2, the Department has initiated an audit or investigation of a taxpayer if the Department has:

(a) Contacted the taxpayer by telephone, in person or in writing regarding a possible tax liability; or

(b) Given the taxpayer written notice that an audit will be conducted by the Department concerning liability for the type of tax that the taxpayer wishes to disclose voluntarily pursuant to this section.

Sec. 4. NAC 360.444 is hereby amended to read as follows:

360.444 The Commission will not consider the tax liability of a taxpayer as being voluntarily disclosed if, after filing an application for voluntary disclosure pursuant to NAC 360.440, the taxpayer:

1. Within 90 days after the taxpayer has received a copy of the approved application, fails to file with the Department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to NAC 360.440;

2. Within 90 days after the taxpayer has received a copy of the approved application, fails to pay any tax owed for the period described in subsection 1;

3. Fails to make a good faith effort to comply with the applicable provisions of chapter 360, 362, ~~364A,~~ 369, 370, 372, 372A, 374, 377, 377A ~~]~~ or 444A of NRS, NRS 482.313, or chapter

585 or 680B of NRS, including, without limitation, registering with the Department, filing tax returns, paying any tax liability and remitting any taxes collected; or

4. Fails to provide an accurate estimate of his or her tax liability in the application for voluntary disclosure filed pursuant to NAC 360.440. The taxpayer shall be deemed to have provided an inaccurate estimate of his or her tax liability if:

(a) The tax liability provided in the application for voluntary disclosure is less than the taxpayer's actual tax liability by 10 percent or more; and

(b) The taxpayer is unable to demonstrate to the Department that he or she made a good faith effort to report accurately his or her tax liability in the application for voluntary disclosure.

Sec. 5. NAC 360.480 is hereby amended to read as follows:

360.480 1. Except as otherwise provided in NAC 360.490 to 360.496, inclusive, ~~and 360.502 to 360.516, inclusive,~~ a claim for a refund must be accompanied by:

(a) A statement setting forth the amount of the claim;

(b) A statement setting forth all grounds upon which the claim is based;

(c) All evidence the claimant relied upon in determining the claim, including affidavits of any witnesses; and

(d) Any other information and documentation requested by the Department.

2. A claim for a refund of interest or a penalty that was paid by the taxpayer related to a tax administered by the Department must be filed within 3 years after the date of payment of the interest or penalty.

Sec. 6. NAC 372.190 is hereby amended to read as follows:

372.190 For the purposes of this section and NAC 372.200 : ~~and 372.210;~~

1. “Construction contractor” means any person who acts solely in his or her professional capacity or through others to construct, alter, repair, add to, remodel or otherwise improve any real property. The term:

(a) Includes a subcontractor, an interior decorator and a specialty contractor.

(b) Does not include:

(1) An employee who receives wages as his or her sole compensation;

(2) A licensed architect;

(3) A licensed professional engineer; or

(4) A manufacturer of:

(I) Modular homes;

(II) Sectionalized housing;

(III) Prefabricated homes; or

(IV) Any other factory-built home or unit,

↳ who joins, installs or affixes the prefabricated unit to the real property unless the manufacturer has entered into a construction contract for improvement to real property with a governmental entity, in which case the manufacturer will be considered a construction contractor.

2. “Construction contract for improvement to real property” means a contract for erecting, constructing or affixing a structure or other improvement on or to real property, or the remodeling, altering or adding to or repairing of an improvement to real property. The contract may be formal or informal. The term includes all types of contracts, including, without limitation:

(a) Advertised contracts;

(b) Negotiated contracts;

- (c) Fixed price contracts;
- (d) Cost reimbursable contracts;
- (e) Lump-sum contracts; and
- (f) Time and material contracts.

Sec. 7. NAC 372.390 is hereby amended to read as follows:

372.390 1. Except as provided in NAC ~~[372.410 to 372.450, inclusive,]~~ **372.420 and 372.450**, repairers are retailers of parts and materials furnished in connection with repair work in which the value of the parts and materials is substantial in relation to the total charge. Those repairers who segregate on invoices and in their records the fair retail-selling price of the parts and materials from the charges for labor, installation and other service charges must collect the tax on the retail selling price of the parts and materials. If the labor and other service charges are not separately stated, the tax applies to the entire charge made to the customer.

2. The repairers are consumers of parts and materials furnished in connection with repair work in which the value of the parts and materials is insubstantial in relation to the total charge if no separate charge is made for the parts and materials. To be considered a consumer of the parts and materials used in connection with the repair services rendered, the repairer must pay the tax on the purchase and must not give a resale certificate to his or her suppliers. Even though the value of the parts and materials is insubstantial in relation to the total charge, repairers will be considered retailers, and not consumers, if a separate price is stated for the parts and materials.

3. If the method of repairing or reconditioning certain tangible personal property involves commingling property delivered to a repairer or reconditioner with similar property so that the customer received repaired or reconditioned property which may not be the identical property delivered to the repairer or reconditioner but which is exactly the same kind of property or

derived from exactly the same kind of property as that so delivered, the tax applies to the amount charged by the repairer or reconditioner for the repaired or reconditioned property.

Sec. 8. NAC 372.825 is hereby amended to read as follows:

372.825 1. Except as otherwise provided in subsection 2 and NRS 377B.210, a person who obtains a permit to collect sales tax after July 1, 1985, shall deposit with the Department security in an amount equal to twice the estimated average tax due quarterly if the person files returns for quarterly periods, three times the estimated average tax due monthly if the person files returns for monthly periods or four times the estimated average tax due annually if the person files returns for annual periods.

2. A person is not required to deposit security with the Department pursuant to subsection 1 if the amount of security required pursuant to subsection 1 does not exceed \$1,000.

3. The Department may reexamine the amount of security required by subsection 1 after a business has been in operation for at least 6 months to determine if the original estimated average tax due is accurate. If the Department determines that the original estimated average tax due is not accurate, the Department may adjust the amount of security required pursuant to subsection 1.

4. Except as otherwise provided in subsection 5, after a business that files returns for quarterly or monthly periods has been in operation for at least 12 months, the Department shall not increase the amount of security required pursuant to subsection 1 based solely on business volume or an increase in the tax rate.

5. If the Department determines that a person knowingly made false statements relating to sales volume to minimize the amount of security required pursuant to subsection 1, the

Department may increase the amount of security required pursuant to subsection 1 based on the actual tax due quarterly, monthly or annually.

6. The Department shall require any person who is habitually delinquent to deposit with the Department additional security pursuant to NRS 372.510 and 374.515.

7. If a person who files returns for quarterly periods becomes habitually delinquent, the Department shall require the person to file returns for monthly periods.

8. A person may, if the person's business has been in operation for at least 12 months, submit a written request to the Department for a reexamination of the person's tax-filing history to determine if a reduction in security is warranted pursuant to subsection 1.

9. The Department will accept as security pursuant to this section only:

(a) Cash.

(b) Surety bonds executed by an insurance company.

(c) ~~Liens upon real property created by a recorded instrument vesting the lien in the State of Nevada.~~

~~(d)~~ Irrevocable letters of credit which are issued or confirmed by a bank, savings bank, credit union or savings and loan association situated in the State of Nevada upon the conditions prescribed by the Department.

10. A person may submit a request for a waiver of the security required by this section to the Executive Director of the Department, who shall forward the request to the Commission. The Commission will consider the request and may grant such a waiver if the person satisfies the following requirements:

(a) If the person is not a corporate taxpayer, the person must have a satisfactory payment record.

(b) If the person is a corporate taxpayer, the person must have a satisfactory payment record and substitute for any other form of security required by this section:

(1) The personal surety of not less than two principals of the corporate taxpayer; or

(2) If the corporate taxpayer consists of only one principal, the personal surety of that principal in his or her individual capacity.

11. A waiver granted by the Commission pursuant to this section may be cancelled if the person becomes habitually delinquent.

12. If a business structure changes through incorporation or otherwise, but the principals or officers of the business remain substantially the same, the Department shall consider the reporting history of the previous business structure in determining the security requirements applicable to the new business structure.

13. As used in this section, unless the context otherwise requires:

(a) "Corporate taxpayer" includes, without limitation, a corporation, limited-liability company, business trust and limited partnership, including a partnership that consists of corporations.

(b) "Satisfactory payment record" means a record of tax payments that includes not more than one delinquency, late return, returned check or return filed without full payment of the tax due during the immediately preceding 36-month period.

Sec. 9. NAC 360.405, 360.407, 360.420, 360.442, 360.502, 360.504, 360.506, 360.508, 360.510, 360.512, 360.514, 360.516, 360.750, 360.752, 360.754, 360.756, 360.758, 360.760, 360.766, 360.768, 360.772, 361.042, 361.062, 364A.010, 364A.012, 364A.020, 364A.030, 364A.050, 364A.060, 364A.070, 364A.088, 364A.089, 364A.090, 364A.104, 364A.114, 364A.118, 364A.120, 364A.124, 364A.127, 364A.180, 364A.200, 369.040, 370.110, 372.210,

372.220, 372.310, 372.340, 372.360, 372.410, 372.430, 372.440, 372.485, 372.490, 372.510, 372.550, 372.585, 372.670, 374.010 and 374.020 are hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 360.405 Conditions for relief from penalties and interest on certain taxes or fees due before July 1, 2002. (NRS 360.090, 360.419)

1. Except as otherwise provided in subsection 2, the Department may relieve a person who has not paid a tax or fee imposed pursuant to NRS 370.440 to 370.503, inclusive, chapter 372 or 374 of NRS or NRS 444A.090 or 482.313 of all or part of the penalties and interest imposed pursuant to NRS 360.300, 360.330 or 360.417 with regard to the unpaid tax or fee if:

(a) The person failed to pay the unpaid tax or fee for a reason other than fraud or intentional evasion of the payment of the unpaid tax or fee;

(b) Not earlier than February 1, 2002, and not later than June 30, 2002, the person files with the Department a request for relief pursuant to this section;

(c) The person registers pursuant to NRS 372.220 or NAC 444A.041, if required;

(d) The person obtains a license pursuant to NRS 370.445, if required;

(e) The person pays in full the fee for any permit or license required for any business in which he or she engages that is related to the unpaid tax or fee;

(f) The person pays in full the unpaid tax or fee; and

(g) The Commission authorizes the Department to relieve the person of the penalties and interest.

2. The Department may not, pursuant to subsection 1, relieve the person of any interest that accrues or penalties that are imposed on or after July 1, 2002, on any portion of the unpaid tax or fee that remains unpaid on or after July 1, 2002.

3. A person who requests or receives relief pursuant to this section may be selected for an audit and audited by the Department in the same manner as a person who does not request or receive relief pursuant to this section.

4. The limitations set forth in NRS 360.355 apply to taxes and fees paid pursuant to this section.

NAC 360.407 Conditions for relief from penalties and interest on certain taxes or fees due before January 1, 2006. (NRS 360.090, 360.419)

1. Except as otherwise provided in this section and for the purposes of NRS 360.419:

(a) A person's failure to make a timely return or payment of a tax imposed pursuant to NRS 363A.130, 363B.110 or 368A.200 shall be deemed to be the result of circumstances beyond the person's control and occurring despite the exercise of ordinary care and without intent if the person files any required return and remits the tax on or before December 31, 2005.

(b) A person's failure to make a timely return or payment of a tax imposed pursuant to NRS 372.185 shall be deemed to be the result of circumstances beyond the person's control and occurring despite the exercise of ordinary care and without intent if:

(1) Pursuant to subsection 2 of NRS 372.220, the person is required for the first time to register with the Department; and

(2) The person files any required return and remits the tax on or before December 31, 2005.

2. Except as otherwise provided in this section and for the purposes of NRS 360.784, a person shall be deemed to have submitted the annual fee required to be paid pursuant to that section in a timely manner if the person files any required return and remits the fee on or before December 31, 2005.

3. The provisions of this section:

(a) Apply only to taxes and fees that are due and payable before January 1, 2006.

(b) Do not apply:

(1) If the Department determines that the failure to make a timely return or payment of a tax or fee imposed pursuant to the provisions of NRS 360.784, 363A.130, 363B.110, 368A.200 or 372.185 is due to negligence, an intentional disregard of any of those provisions, fraud or an intent to evade the payment of the tax or fee.

(2) To a taxpayer who has entered into a settlement agreement with the Department that has been approved by the Commission.

NAC 360.420 Lien upon real property as security for payment. (NRS 360.090) If a lien upon real property is given as security for the payment of the tax imposed by chapter 369, 370 or 372 of NRS:

1. Upon the discontinuance of the business for which the security was required and the payment of all amounts due, including taxes, penalties and interest, the Department will prepare and provide to the taxpayer a notice which the taxpayer may record. The notice must be suitable for recording to remove the lien on the property.

2. If any amount due is not paid to the State, the Department may exercise any one or more remedies permitted by law, including, without limitation, requesting that judgment be entered against the person who pledged the property.

3. The taxpayer may furnish other security for the tax as prescribed by the Department. If such other security is furnished, the Department will prepare and provide to the taxpayer a notice which the taxpayer may record. The notice must be suitable for recording to remove the lien on the property.

NAC 360.442 Duties of taxpayer after approval of application. (NRS 360.090) Within 90 days after a taxpayer has received a copy of an application approved pursuant to NAC 360.440, the taxpayer must:

1. File with the Department the delinquent tax returns for the tax owed for the period being disclosed or, if the period being disclosed exceeds 8 years, for the 8 years immediately preceding the date the application was filed pursuant to NAC 360.440;

2. Pay any tax owed for the period described in subsection 1; and

3. Submit documentation to the Department of the methodology the taxpayer used to determine his or her tax liability.

NAC 360.502 “Business tax” defined. (NRS 360.090) As used in NAC 360.502 to 360.516, inclusive, unless the context otherwise requires, “business tax” means the tax imposed before October 1, 2003, for the privilege of conducting business in this State.

NAC 360.504 Filing of claim for refund of overpayment. (NRS 360.090, 360.2935) Any taxpayer who has a claim that the taxpayer overpaid the business tax may file a claim seeking a refund of the overpayment in accordance with NAC 360.502 to 360.516, inclusive.

NAC 360.506 Certification of excess amount collected; provision of credit and refund.

(NRS 360.090, 360.2935) If the Department determines that any business tax, or any penalty or interest relating thereto, has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the business or person from which it was collected or by whom paid. If approved by the State Board of Examiners, the excess amount collected or paid must be credited on any amounts then due from the person or business under this chapter, and the balance refunded to the person or business, or its successors, administrators or executors.

NAC 360.508 Limitations on claims for refund or credit; form and contents of claim; failure to file claim; rejection of claim. (NRS 360.090, 360.2935)

1. Except as otherwise provided in NRS 360.235 and 360.395:

(a) No refund may be allowed on a business tax unless a claim for it is filed with the Department within 3 years after the last day of the month following the close of the period for which the overpayment was made.

(b) No credit may be allowed for a business tax after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.

2. Each claim for a credit or refund of the business tax must:

(a) Be in writing;

(b) State the specific grounds upon which the claim is founded; and

(c) Include documentation supporting the claim.

3. Failure to file a claim for a credit or refund of the business tax within the time prescribed by this section constitutes a waiver of any demand against the State on account of overpayment.

4. Within 30 days after rejecting any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

5. Except as otherwise provided by specific statute, the claimant may appeal the decision in the manner provided in NRS 360.245.

NAC 360.510 Overpayment due to error or omission in previously filed return; authority to request credit or refund; action on approval of claim. (NRS 360.090, 360.2935)

1. If the overpayment of the business tax is due to an error or omission in a previously filed return, the claim should be in the form of an amended return, as prescribed by the Department, for each period in which the business tax was originally reported. The amended return must specify the original amounts reported, the correct amounts and the differences.

2. The person requesting the credit or refund of the business tax must be the person who was legally obligated to remit the business tax to the Department or the person's legal successor or authorized representative.

3. Upon a determination that an overpayment was made by the taxpayer and upon approval of the State Board of Examiners, the Department shall issue a statement to the taxpayer allowing a credit in the amount of the overpayment unless the taxpayer has specifically requested a refund on the claim. The credit may be applied to any future tax liability of the taxpayer. If the taxpayer requests a refund, the Department shall issue a refund to the taxpayer in an amount which is equal to the amount of the credit owed to the taxpayer at the time the request for a refund is made.

NAC 360.512 Extension of period for filing formal claim. (NRS 360.090, 360.2935)

The taxpayer may submit a formal claim for a credit or refund of the business tax, and any

information relating thereto, after the 3-year period if, before the end of that period, the taxpayer notifies the Department in writing of his or her intent to submit the claim. If the Department agrees to extend the period allowed for filing such a claim, the date on which the taxpayer filed the claim shall be deemed to be the date on which the taxpayer notified the Department in writing of his or her intent to submit the claim.

NAC 360.514 Claims filed on or before September 30, 2003: Disallowance and appeal; judicial enforcement. (NRS 360.090, 360.2935)

1. The provisions of this section apply to claims for a credit or refund of the business tax that were filed with the Department of Taxation on or before September 30, 2003.

2. If the Department fails to mail notice of action on a claim for a credit or refund of the business tax within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Nevada Tax Commission within 30 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

3. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited toward any fee or tax due from the plaintiff.

4. The balance of the judgment must be refunded to the plaintiff.

NAC 360.516 Claims filed on or after October 1, 2003: Disallowance and appeal; judicial enforcement. (NRS 360.090, 360.2935)

1. The provisions of this section apply to claims for a credit or refund of the business tax that are filed with the Department of Taxation on or after October 1, 2003.

2. If the Department fails to mail notice of action on a claim for a credit or refund of the business tax within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal for an oral hearing within 45 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the hearing officer rendered on appeal, the claimant may, within 30 days after the decision is rendered, file an appeal with the Commission. If the claimant is aggrieved by the decision of the Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

3. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited toward any fee or tax due from the plaintiff.

4. The balance of the judgment must be refunded to the plaintiff.

NAC 360.750 Definitions. (NRS 360.090) As used in NAC 360.750 to 360.772, inclusive, unless the context otherwise requires, the words and terms defined in NAC 360.752 to 360.758, inclusive, have the meanings ascribed to them in those sections.

NAC 360.752 “Average annual wage” defined. (NRS 360.090) “Average annual wage” means the average annual wage for a calendar year as computed pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

NAC 360.754 “Business” defined. (NRS 360.090) “Business” has the meaning ascribed to it in NRS 360.765.

NAC 360.756 “Federal tax year” defined. (NRS 360.090) “Federal tax year” means any period of 12 months for which a person is required to report income, tax deductions and tax

credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.

NAC 360.758 “State business license” defined. (NRS 360.090) “State business license” means the business license required by NRS 360.780.

NAC 360.760 “Person who operates a business from his or her home” interpreted. (NRS 360.090, 360.765, 360.780) For the purposes of NRS 360.760 to 360.798, inclusive, and NAC 360.750 to 360.772, inclusive, the Commission interprets the term “person who operates a business from his or her home” to mean a natural person who individually operates or a married couple who jointly operate a business from a personal residence if:

1. No part of the personal residence is held open to the general public for use in furtherance of that business; and

2. No real property is owned, leased, rented or licensed by the natural person or the married couple for use in furtherance of that business, other than the personal residence and any real property owned, leased, rented or licensed for the sole purpose of:

(a) Maintaining a post office box;

(b) Posting a business license in accordance with the requirements of a municipal or county ordinance; or

(c) Periodically exhibiting or selling goods or services at a temporary fair, market, show or exhibition.

NAC 360.766 Home-based businesses: Applicability of exemption from licensing; requirement to obtain license. (NRS 360.090, 360.765, 360.780)

1. The exemption for a home-based business does not apply to a person who operates a business from his or her home during a federal tax year in which:

(a) The person at any time failed to qualify as a person who operates a business from his or her home, as that term is interpreted pursuant to NAC 360.760; or

(b) The person's net earnings from that business were greater than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the last day of that federal tax year.

2. Except as otherwise provided in NRS 360.782, a person described in subsection 1 shall obtain a state business license for that business not later than 180 days after the last day of a federal tax year in which the exemption for a home-based business does not apply to him or her.

3. As used in this section:

(a) "Exemption for a home-based business" means the provisions of paragraph (c) of subsection 2 of NRS 360.765.

(b) "Federal tax year" means a federal tax year ending on or after December 31, 2003.

NAC 360.768 Home-based businesses: Liability for annual fee. (NRS 360.090, 360.765, 360.784)

1. If a person who operates a business from his or her home is required to obtain a state business license as a result of his or her net earnings from that business, the person's liability for each annual fee required by NRS 360.784 depends upon the net earnings of the person from that business for the most recent federal tax year ending before the date on which that fee would otherwise become due. The person is not liable for that fee if he or she establishes to the reasonable satisfaction of the Department that those net earnings were less than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the date on which that fee would otherwise become due.

2. For the purposes of this section, the Department will accept a copy of a federal income tax return filed with the Internal Revenue Service for a business which a person operates from his or her home as satisfactory evidence of the net earnings of the person from the business for the period covered by the return.

NAC 360.772 Exemption of certain persons from requirement to obtain license for activity conducted in furtherance of business. (NRS 360.090, 360.765, 360.780)

1. If a person, other than a natural person, has a state business license for the conduct of a business by that person, no natural person is required to obtain a state business license for any activity conducted in furtherance of that business solely because any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from a partnership, S corporation, estate, trust or real estate mortgage investment conduit on a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form.

2. If a partnership or limited-liability company has a state business license for the conduct of a business by that person, no partner or member thereof is required to obtain a state business license for any activity conducted in furtherance of that business solely because any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from:

(a) A sole proprietorship on a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form; or

(b) A farm on a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form.

3. For the purposes of this section:

(a) “Limited-liability company” means a person organized pursuant to chapter 86 of NRS or the equivalent laws of another jurisdiction.

(b) “Partnership” means any association of two or more persons described in NRS 87.060, regardless of whether that association reports to the Internal Revenue Service partnership income, tax deductions or tax credits on Form 1065, U.S. Return of Partnership Income, or its equivalent or successor form.

NAC 361.042 Determination of value. (NRS 360.090, 361.068, 361.186) To determine the value of a work of fine art for public display for the purposes of sub-subparagraph (II) of subparagraph (1) of paragraph (b) of subsection 5 of NRS 361.068, the Department shall consider:

1. For an arm’s-length transaction, documentation of the sale, including, without limitation, the purchase price, the name of the seller or the seller’s agent, the date of the sale and any other documentation that the county assessor required.

2. For any other transaction, a written appraisal which has been completed by an independent and qualified appraiser of fine art not more than 3 years before the date on which the affidavit for an exemption required pursuant to paragraph (a) of subsection 3 of NRS 361.068 is filed and any additional documentation that the county assessor required.

NAC 361.062 Personal property in transit. (NRS 360.090, 361.170) Pursuant to NRS 361.170, each claim for an exemption for personal property in transit must be made on a form approved by the Commission. Such a claim must be filed with the office of the county assessor of each county in which a warehouse is located, when the personal property in transit is first consigned to the warehouse and by the first day of July of each year thereafter.

NAC 364A.010 Definitions. (NRS 364A.060) As used in this chapter, unless the context otherwise requires:

1. “Commission” means the Nevada Tax Commission.
2. “Department” means the Department of Taxation.
3. “Executive Director” means the Executive Director of the Department of Taxation.

NAC 364A.012 Interpretation by Department of certain terms used in chapter 364A of NRS. (NRS 364A.060) As used in chapter 364A of NRS, the Department shall interpret:

1. “Governmental entity” to mean:
 - (a) The United States and its unincorporated agencies and instrumentalities;
 - (b) An incorporated agency or instrumentality of the United States;
 - (c) A corporation that is wholly owned by the United States;
 - (d) Any state and its unincorporated agencies and instrumentalities; and
 - (e) A county, city, district or other political subdivision of a state.
2. “Independent contractor” to mean a self-employed person who makes available to the public a specific trade or profession and who is responsible for estimating and filing his or her own federal self-employment and income taxes. Such a person may be identified by the fact that the person:
 - (a) Has a recognized trade or profession.
 - (b) May employ others to assist in the completion of his or her contract.
 - (c) Owns, rents or leases the tools or equipment used in the completion of his or her work required by the contract.
 - (d) Normally contracts with more than one business for more than one project.

(e) Is in a position to make a financial gain or suffer a financial loss as a result of the contract.

3. Except as otherwise provided in this subsection, “organization that conducts an activity for profit” to mean a business entity, association, partnership, business association or other organization which has not qualified as a tax-exempt organization pursuant to 26 U.S.C. § 501(c). The term does not include an informally structured investment venture between spouses, children, grandchildren, parents, grandparents, brothers, sisters, aunts, uncles, cousins or any combination thereof.

4. “Personal service” to include the significant services rendered to a partnership for which the person who renders the service is compensated.

5. “Remuneration” to mean any form of compensation for services, including, but not limited to, monetary payments and tangible and intangible property. The term does not include payments that represent a reasonable return on an investment, loan repayments or expense reimbursements.

NAC 364A.020 Notification of change in business affecting administration of tax.

(NRS 364A.060) Each licensed business shall inform the Department in writing of any change within the business which will affect the administration of the business license tax, including, without limitation, any change in:

1. The name of the corporation or business.
2. The mailing address and physical location of the business in Nevada, including the addition or deletion of physical locations.
3. The mailing address and physical location of the principal place of business, wherever located, including the addition or deletion of physical locations.

4. General partners and owners of unincorporated businesses.

NAC 364A.030 Date for receipt of material transmitted by mail. (NRS 364A.060)

1. Any report, return or remittance which is transmitted through the United States mail shall be deemed to have been received on the date shown by the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the Commission establishes that the document or remittance was timely deposited in the United States mail, postage prepaid and properly addressed to the Commission.

2. A receipt for material sent by certified or registered mail, if different than the post office cancellation mark, will prevail if the date on the receipt is earlier than the cancellation date.

3. A record authenticated by the post office that the cancellation date on certain batches of mail was erroneous is proof satisfactory to the Commission that the mailing was made on a date other than the post office cancellation date.

4. If it is known that the postal service was inoperative at a certain time due to strikes, riots, warfare, acts of God or other reasons, the Commission will consider the circumstances, and if there is other evidence of timely mailing, will accept the evidence and deem the return or payment timely.

5. Under no circumstances will:

(a) The cancellation date affixed by a postage meter in the possession of the taxpayer or other person; or

(b) Statements by the taxpayer or the taxpayer's employees,

↪ be considered sufficient to refute the post office cancellation date as the date of mailing.

NAC 364A.050 Payment of fee for license. (NRS 364A.060, 364A.130)

1. Each business that operates in Nevada shall register with the Department and pay a fee for licensing. The fee will only be required once during the term for which a business operates in Nevada unless the license is:

(a) Revoked for failure to comply with the provisions of title 32 of NRS or any regulation adopted pursuant thereto; or

(b) Voluntarily cancelled by the taxpayer or an authorized representative of the taxpayer.

2. A taxpayer whose account is closed for seasonal or temporary reasons will not be required to pay an additional fee upon reopening the business.

3. A business that is incorporated pursuant to chapter 78 or 78A of NRS but has no employees in Nevada shall pay the fee required by NRS 364A.130 pursuant to subsection 1 but is not required to file the tax returns otherwise required by NRS 364A.140.

NAC 364A.060 Suspension or revocation of license. (NRS 364A.060, 364A.135)

1. Upon the receipt of a notice of the suspension or revocation of a state business license, the business shall, upon demand, immediately surrender the license to any employee of the Department.

2. Any subsequent violation of the laws or the regulations of the Commission will be cause for the permanent revocation of a business license for habitual violations. The suspension or revocation of temporary or provisional licenses shall be deemed prima facie evidence of habitual violations.

3. A new license will only be issued for a previously suspended or revoked account if the business:

(a) Pays all outstanding amounts, including the amounts of tax, penalties, interest and costs, if any costs were incurred;

- (b) Files all returns due and outstanding;
- (c) Pays the required fees for renewal or issuance of licenses; and
- (d) Confirms in writing that it will henceforth comply with all the provisions of the laws and regulations prescribed by the Commission.

4. A license issued for a previously suspended or revoked account will be prominently marked temporary or provisional and will include an effective date and an expiration date no earlier than 1 calendar year later.

5. If during the 1-year period the business becomes delinquent or otherwise fails to comply with the applicable statutes and regulations, the Department shall immediately initiate proceedings to permanently revoke the license.

6. Full compliance with applicable laws and regulations for the period of the temporary or provisional licenses entitles the holder to apply for and receive a regular business license upon request without an additional fee.

7. The Department shall not issue a business license to the previous holder of a business license which has been permanently revoked without the express action of the Commission.

NAC 364A.070 Methods of payment of tax; waiver of requirement for direct deposits.
(NRS 364A.060, 364A.140)

1. Remittances to the Department must be by money order, bank draft or check payable to the Department. Remittances in currency or coin are wholly at the risk of the remitter and the Department assumes no responsibility for loss thereof, unless payment is tendered directly to an authorized employee of the Department and a receipt for payment is issued.

2. All payments of the business license tax must be:

- (a) Mailed to the Department's lock box facility or an office of the Department; or

(b) Hand delivered to an office of the Department.

3. The Department is unable to accept direct deposits as provided in subsection 4 of NRS 364A.140. Therefore, the requirement is waived until such time as a direct deposit mechanism can be established for the Department.

4. Postage stamps will not be accepted as remittances.

NAC 364A.088 “Natural person who performs all of his or her duties for the business outside of this state” interpreted. (NRS 364A.040, 364A.060) As used in paragraph (d) of subsection 3 of NRS 364A.040, the Department shall construe the phrase “natural person who performs all of his or her duties for the business outside of this state” to include a natural person whose only contact with the State is a business meeting conducted in this state which is:

1. Not a part of the regular operations of the business or its reason for being in business;
2. Conducted for training, education or enhancement of management quality; or
3. Not held in conjunction with the display or sale of tangible personal property or services either in this state or subsequently out of state.

NAC 364A.089 “Operator” and “trade show or convention” interpreted; effect of payment by operator of annual fee. (NRS 364A.060, 364A.152)

1. As used in NRS 364A.152, the Commission will interpret:
 - (a) “Operator” to mean:
 - (1) If referring to the operator of a facility which is owned by a governmental entity, the governmental entity or subdivision of the governmental entity that is directly responsible for the daily operation of the facility, such as a convention authority.
 - (2) If referring to the operator of a facility which is owned by a business, the business that is directly responsible for the daily operation of the facility, such as a subsidiary of a corporation.

(b) “Trade show or convention” to mean a meeting or assembly of businesses which are in the same field or related fields which is held for purposes related to the conduct of business.

2. Payment by an operator of the annual fee set forth in paragraph (b) of subsection 4 of NRS 364A.152 satisfies the operator’s duty, set forth in subsection 1 of that section, to pay the taxes imposed by chapter 364A of NRS on behalf of the persons who:

(a) Do not have a business license issued pursuant to chapter 364A of NRS; and

(b) Take part in a trade show or convention held at a facility he or she operates for a purpose related to the conduct of a business,

↳ for all facilities that he or she operates.

NAC 364A.090 “Previous calendar quarter” and “preceding quarter” interpreted. (NRS 364A.060, 364A.130, 364A.140) For the purposes of paragraph (c) of subsection 2 of NRS 364A.130 and subsections 1, 3 and 4 of NRS 364A.140, the terms “previous calendar quarter” and “preceding quarter” mean the immediately preceding 3 months ending with the day on which the tax for that quarter is due.

NAC 364A.104 Application of tax to estates and trusts. (NRS 364A.020, 364A.040, 364A.060)

1. An estate or trust which is:

(a) Organized to conduct activities for profit is subject to the fee imposed pursuant to NRS 364A.130 and the tax imposed pursuant to NRS 364A.140.

(b) Not organized for profit and is created to hold assets is not subject to the fee imposed pursuant to NRS 364A.130 or the tax imposed pursuant to NRS 364A.140.

2. An example of a trust which is subject to the fee imposed pursuant to NRS 364A.130 and the tax imposed pursuant to NRS 364A.140 is a trust which:

- (a) Is established for purposes relating to the federal tax on personal income; and
- (b) Employs seven employees and owns a chain of department stores.

3. An example of an estate which is not subject to the fee imposed pursuant to NRS 364A.130 or the tax imposed pursuant to NRS 364A.140 is an estate which:

- (a) Has no employees; and
- (b) Consists of residential rental property which was owned by the deceased owner of the estate.

4. For the purposes of NRS 364A.040, an estate or trust:

- (a) Is not a natural person.
- (b) Which is part of a partnership is not an employee.

NAC 364A.114 Counting of partners or equivalent full-time employees. (NRS 364A.040, 364A.060)

1. If a partner is compensated for services rendered, the Department shall consider the personal services to be significant and the partner must be counted as an employee for the purposes of the tax. A partner who works less than 36 hours per week may be counted as a part-time employee if the partnership maintains a record of the actual number of hours worked by that partner.

2. A partnership must calculate its number of equivalent full-time employees and then, if one of the partners is a natural person, subtract one for the partner not subject to the tax.

NAC 364A.118 Determining average number of employees: Corporate officers; members of boards of directors, advisory boards or other similar boards. (NRS 364A.040, 364A.060)

1. For the purposes of chapter 364A of NRS, the Department shall treat the members of a board of directors, advisory board or other similar board as independent contractors if those members do not provide other services to the business in the State of Nevada.

2. The Department shall consider corporate officers as employees of the corporation if they receive wages, compensation or other benefits for services rendered. The Department shall consider the officer an employee if the compensation or other benefits are reported or required to be reported to any other state or federal agency as salary or wages. Examples of compensation or benefits that must be considered salary or wages include, but are not limited to:

- (a) An automobile provided by the corporation for the use of the officer or employee.
- (b) Expenses incurred in operating or maintaining such an automobile.
- (c) Travel expenses.
- (d) The cost of providing medical insurance.
- (e) Pensions, profit-sharing or similar contributions.

NAC 364A.120 Determining average number of employees: Extension of due date of tax for business. (NRS 364A.060, 364A.180)

1. A business may request a 15-day extension of the due date of the tax. The Department will grant the extension if the business makes its request in writing to the Department on or before the date the taxes are due for the first quarter for which the business is liable for taxes of each fiscal year. The request must include the specific reasons for which the extension is requested.

2. A business may submit a request to the Department for an extension of longer than 15 days. Such a request must include specific reasons concerning the necessity of the longer extension.

NAC 364A.124 Exclusion of hours worked by pupil in calculation of hours worked by employees: Requirements. (NRS 364A.060, 364A.151) A business that, in calculating the total number of hours worked by all employees pursuant to NRS 364A.150, excludes any hours pursuant to NRS 364A.151, shall:

1. Record the number of hours worked by each pupil, in the same manner and form used for other employees; and
2. Retain a copy of the authorization received from each pupil's school district which allows the pupil to participate in a program supervised by the school district which combines work and study.

NAC 364A.127 Application for certificate of exemption of payment of taxes on behalf of other persons. (NRS 364A.060, 364A.152, 364A.1525)

1. To be designated as an organization that is created for religious, charitable or educational purposes that is not responsible for the payment of taxes on behalf of other persons pursuant to subsection 1 of NRS 364A.152, an organization must, not later than 30 days before the date on which the first trade show or convention of the calendar year begins, submit to the Department an application for a certificate of exemption in the form prescribed by the Department.
2. Upon request of the Department, the organization shall provide any one or more of the following to the Department:
 - (a) A copy of the organization's bylaws;
 - (b) A copy of the organization's articles of incorporation;
 - (c) A copy of any of the organization's financial statements for the previous year;
 - (d) A copy of any certificate of exemption issued to the organization by any governmental agency; and

(e) Any other information requested by the Department.

3. If an organization applying for a certificate of exemption has provided all necessary information, the Department will approve or deny the application not later than 30 days after the date on which the application is received. If an organization applying for a certificate of exemption has not provided all necessary information, the Department will approve or deny the application not later than 30 days after the date on which all necessary information has been received by the Department. The Department will notify an organization applying for a certificate of exemption in writing of the Department's decision regarding the approval or denial of the application.

4. If the Department approves the application, the Department will issue a certificate of exemption. The certificate of exemption is valid for the calendar year in which it is issued, and is not transferable.

5. The Department may deny an application for a certificate of exemption or revoke a certificate of exemption if the Department determines that the organization:

(a) Made a false statement of material fact on its application; or

(b) Does not meet or has ceased to comply with the requirements necessary to qualify as an organization created for religious, charitable or educational purposes pursuant to NRS 364A.1525.

6. An organization may appeal the denial of an application for a certificate of exemption or the revocation of a certificate of exemption in the same manner, and in accordance with the procedures and rules of practice, for a contested case pursuant to NAC 360.043 to 360.200, inclusive.

NAC 364A.180 Form of evidence of compliance required before issuance of business license by local government. (NRS 364A.060) Each local government shall require evidence of compliance with chapter 364A of NRS before issuing a business license. The evidence of compliance must be in one of the following forms:

1. A copy of a valid state business license or a written receipt for such a license; or
2. A signed and completed certificate of compliance, affirming the fact that the business is in compliance with chapter 364A of NRS as it related to obtaining a business license.

NAC 364A.200 Documentation required to be supplied by subcontractor to general contractor. (NRS 364A.060, 364A.340)

1. Before entering into initial written contracts with general contractors in this state, a subcontractor based in Nevada must supply the general contractors with either:

(a) Evidence of having obtained a state business license and evidence of being in good standing with the Department, including:

- (1) A receipt for or copy of a Nevada state business license; or
 - (2) A receipt for taxes paid to the Department for the most recent calendar quarter; or
- (b) A clearance letter provided by the Department indicating a Nevada state business license is not required.

2. An out-of-state subcontractor entering into written contracts with general contractors in this state shall supply the general contractors with the document required by paragraph (a) or (b) of subsection 1 on an annual basis.

3. The provisions of subsections 1 and 2 do not apply to suppliers who are based in Nevada and registered with the Department as sellers or consumers and who, through verbal contracts, furnish and install tangible personal property for general contractors.

4. As used in this section, the term “general contractor” includes a subcontractor who contracts with or otherwise employs another subcontractor.

NAC 369.040 Lien on real property as security for payment of tax. (NRS 360.090, 369.150, 369.350) The Department will accept an undertaking or obligation vesting in the State of Nevada an interest in real property which is located within this state, constituting a lien on the real property pledged for the payment of the tax due pursuant to chapter 369 of NRS in the amount prescribed by the Department as security for the tax.

NAC 370.110 Lien on real property as security for payment of tax. (NRS 360.090, 370.155, 370.510) The Department will accept an undertaking or obligation vesting in the State of Nevada an interest in real property which is located within this State, constituting a lien on the real property pledged for the payment of the tax due pursuant to NRS 370.165 in the amount prescribed by the Department as security for the tax.

NAC 372.210 Construction contractors: Resale certificates. (NRS 360.090, 372.725)

1. Construction contractors who are registered sellers in this State may give their suppliers resale certificates and report the use tax to the State in the tax period in which that tangible personal property is committed to the performance of a construction contract.

2. If the construction contractor, who is also a registered seller in this State, purchases tangible personal property from a vendor who does not have a valid Nevada seller’s permit, the liability for the use tax arises when the property is committed to a use other than retention for sale in the regular course of business.

3. A construction contractor may not purchase construction materials, supplies or tools which are ordinarily used by a construction contractor in the performance of a construction

contract under a resale certificate unless he or she is actually engaged in the business of selling the property without previously using it.

4. The tax does not apply to construction contractors who issue valid resale certificates to vendors for tangible personal property which is purchased for subsequent incorporation into real property outside this State in the performance of a construction contract to improve the real property outside this State if the tangible personal property is not commingled with the tangible personal property which is purchased for use in the performance of a construction contract in this State.

5. If a construction contractor, who also holds a seller's permit, sells tangible personal property on which the sales or use tax has been paid on the sales price or purchase price but which has not been used, he or she may obtain a credit for the tax which was paid by taking a deduction pursuant to NAC 372.780.

NAC 372.220 Dentists and dental laboratories. (NRS 360.090, 372.283, 372.725)

1. Dentists are the consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. Except as otherwise provided in NRS 372.283, the tax applies to the sales price of their purchases of such property.

2. Dental laboratories are the retailers of the plates, inlays and other products which they manufacture for dentists or other consumers. Except as otherwise provided in NRS 372.283, the tax applies to the entire charge for such a product regardless of whether the prices of the materials and services are separately stated.

3. All dental work comprised of prosthetic devices is exempt from the tax.

NAC 372.310 Movers, carriers and storers of household goods. (NRS 360.090, 372.725)

1. Packing containers and materials which are furnished by a carrier in an interstate movement shall be deemed to be used by the carrier in the performance of his or her services.

For a carrier who is based in Nevada, the tax applies to:

(a) Twenty-five percent of all the packing containers and materials which the carrier purchases; or

(b) If the carrier makes an actual accounting, the purchase of all the packing containers and materials which are not exempt under section 66 of chapter 397, Statutes of Nevada 1955, (NRS 372.335).

2. The tax applies to outright sales of packing containers and materials and all other tangible personal property such as, furniture, household goods and office equipment.

3. The furnishing of packing containers and materials for use incident to the storage of personal property is subject to either the sales or use tax, depending upon whether the customer or the storage company is entitled to keep the packing containers and materials at the termination of the storage period.

4. The tax applies to all other tangible personal property which is purchased by a carrier for use in performing his or her services and is measured by the sales price to the carrier. Examples include but are not limited to pallets, pads, dollies, insect repellants, waterproofing materials and rust preventatives.

NAC 372.340 Photofinishers. (NRS 360.090, 372.725)

1. Photofinishers are the consumers of the tangible personal property which they use incidentally in the conduct of their business. The sales tax must be paid by the photofinisher on the purchase of such materials. As an example of the application of this subsection, a

photofinisher must pay the sales tax at the time he or she purchases office supplies, photofinishing equipment, accessories and chemicals.

2. A photofinisher is the retailer of any tangible personal property he or she sells and the sales tax must be collected and remitted accordingly. As an example of the application of this subsection, the gross receipts from the sale of photographic paper, film, mats, mounts and frames are subject to the sales tax.

3. Charges for photographic prints, enlargements and duplications made from film supplied by a customer are subject to the sales tax. The sales tax does not apply to charges for developing the film if the charge for developing the film is stated separately on the invoice and the film is not returned to the customer with substantive additional material such as mounts. The sales tax does not apply to film returned to the customer with incidental material such as protective sleeves. As an example of the application of this subsection, if a customer brings in a roll of film to a photofinisher for development of the film and for the furnishing of prints from the negatives, the sales tax does not apply to the charge for developing the film if it is stated separately on the invoice but the sales tax does apply to the charge for making the prints from the negatives because this charge is payment for the sale of tangible personal property.

4. The sales tax applies to the sale of photographic proofs or contact sheets made directly from negatives except that the tax does not apply to the portion of the charge that is for developing film supplied by a customer if stated separately on the invoice. As an example of the application of this subsection, if a customer brings a roll of film to a photofinisher for development and for the provision of contact sheets (positive images) made directly from the negatives, the sales tax does not apply to the portion of the charge that is attributable to the

development of the film if it is stated separately on the invoice but it does apply to the charge for the contact sheets.

5. The sales tax does not apply to any charges for supervision, consultation, research, postage, express, telephone and telegraph messages, transportation and travel expenses, or talent fees, if the charge is stated separately on the invoice or is part of a charge for other services.

NAC 372.360 Printed material; color separators; mailing services and mailing lists.
(NRS 360.090, 372.060, 372.725)

1. The tax applies to the gross receipts for:

(a) Printing, imprinting, silkscreen printing, copying or other similar operations, whether or not the paper or other materials are furnished by the customer.

(b) Services in connection with the sale of printed matter, such as die cutting, embossing, folding and binding operations.

2. Except as otherwise provided in subsection 3, printers are the consumers of all tangible personal property which they purchase for use in the manufacture of the printed matter which does not become a part of or incorporated into the printed matter, including, without limitation, pressroom equipment, light tables, cameras and camera supplies, computer equipment, equipment and chemicals used in the development and processing of plates and negatives, dies, and art supplies. The tax applies to the purchase of such tangible personal property by a printer.

3. Printers are the retailers of tangible personal property which they purchase if such tangible personal property:

(a) Becomes a part of or incorporated into the printed matter, including, without limitation, paper, ink and pressroom chemicals used to print the finished product; or

(b) Was purchased for use in completing a specific order for a customer and the printer specifically indicates on the invoice to the customer that title to such tangible personal property has passed to the customer.

↳ The tax applies to the gross receipts from the sale of such tangible personal property to the customer.

4. The tax does not apply to charges to a printer for the purchase of services of another business in completing an order for the customer of the printer. Such charges may include, without limitation, charges for die cutting, embossing, folding and binding. The printer must collect sales tax on the gross receipts from its customer for such charges for services as a part of the sale of tangible personal property.

5. Color separators are the retailers of the color separations that they produce and sell. The tax applies to the gross receipts from the sale of the color separations. The tax does not apply to the purchase by the color separator of any medium used to store a customer's color separation if the color separator specifically states in writing to its customer on the invoice or other contract that title to the medium used to store the color separation has passed to the customer.

6. Any charges for services which are not rendered in connection with the sale of tangible personal property, such as addressing, folding, enclosing, sealing, preparing for mailing, or mailing letters or other printed matter are not subject to the tax to the extent those charges are separately stated in the invoices and segregated in the accounting records. The tax applies to charges for envelopes. The tax does not apply to charges by the United States Postal Service.

7. Persons engaged in the business of providing addressing or other mailing services to others are the consumers of the tangible personal property used in performing the services, and

the tax applies to the sale to the person engaged in the business of all tangible personal property which he or she uses in performing services. This includes charges for printing.

8. The sale or license of a mailing list, without restriction as to the manner of use by the purchaser or licensee, is a sale of tangible personal property and the gross receipts derived therefrom are taxable.

NAC 372.410 Repairing and reconditioning: Motors and transformers. (NRS 360.090, 372.725) The tax applies to sales of materials and supplies furnished in connection with the rewinding of motors and transformers. If one charge is made for both the materials and labor, 50 percent of the charge shall be deemed to be the sales price of the supplies and materials.

NAC 372.430 Repairing and reconditioning: Tires. (NRS 360.090, 372.725)

1. Tire retreaders and recappers are the retailers of the tangible personal property which they furnish and the tax applies to sales of such property. If one charge is made for the retreading or recapping, 75 percent of the charge shall be deemed to be the sales price of the property.

2. The tax applies to sales of retreaded or recapped tires, the sales price of which includes any amount allowed for the customer's old tires or other merchandise traded in. If the method of retreading or recapping the tires involves the commingling of old tires delivered to the retreader or recapper with similar property so that the customer receives retreaded or recapped tires which may not be the identical tires delivered to the retreader or recapper, but which are similar to those delivered, the tax applies to the amount charged by the retreader or recapper for the tires.

NAC 372.440 Repairing and reconditioning: Watches and jewelry. (NRS 360.090, 372.725) Watch and jewelry repairers are consumers of the watch, clock and jewelry repair parts and materials such as crystals, findings and chain links used in repairing watches, clocks

and jewelry. They are retailers of wrist watch straps, metal bands, watches, clocks, chains and other tangible personal property which they sell in the regular course of business.

NAC 372.485 Telecommunications equipment. (NRS 360.090, 372.725)

1. The gross receipts from the retail sale of cellular telephones, pagers, satellite dishes and other similar types of telecommunications equipment are subject to the sales and use taxes.

2. When the retailer makes a retail sale of this equipment to a purchaser in a transaction together with the sale of telecommunications services which will be provided either by the retailer or a provider of the telecommunications services and:

(a) The price charged to the purchaser by the retailer for the telecommunications equipment is less than the price paid by the retailer to its supplier for the equipment; and

(b) The purchaser is required to subscribe to or purchase service from a provider of telecommunications services to obtain the equipment at the reduced price,

↳ the gross receipts from the retail sale of this type of equipment shall be deemed to be the sales price paid by the retailer to the supplier for that equipment. The Department will consider the cost of the telecommunications equipment as reflective of the true gross receipts from the retail sale of the tangible personal property in such a transaction.

3. The receipt given to the purchaser must separately state the amount of the gross receipts allocated to the telecommunications equipment pursuant to subsection 2 as well as the amount of sales tax using that price as the measure, together with such service credits or adjustments as are necessary to arrive at the net charge made to the purchaser at the time of the transaction.

4. The purchase of access to or a subscription to telecommunications services that is not made in connection with the purchase of telecommunications equipment is not subject to the tax.

NAC 372.490 Tools used in drilling oil wells. (NRS 360.090, 372.385, 372.725)

1. Except as provided in subsection 3, the tax applies to charges for the use of tools to drill an oil well that are not ordinarily substantially consumed during one run, or under one lease agreement, such as disc bits, conventional core barrels and bits, wire line core barrels and bits, differential bits, reamers, underreamers, and wall scrapers in the same manner as it applies to rental transactions generally.

2. Charges for the use of tools that are ordinarily substantially consumed during one run, or under one lease agreement, such as rock bits, are taxable as retail sales even if they are designated as rental charges.

3. If no segregation is made between the charges for tools which are consumed and the rental charges for tools which are not consumed, the entire charge is taxable as a retail sale.

NAC 372.510 Vending machines: Records; reports. (NRS 360.090, 372.725)

1. Adequate and complete records must be kept by each operator of vending machines showing the location and serial number of each of the machines operated by him or her, all purchases and inventories of merchandise bought for sale through the machines and the gross receipts derived from the operation at each location.

2. Each person making a sale of tangible personal property of a kind the gross receipts from the retail sale of which are taxable, to an operator of vending machines to be resold through the machines, shall notify the Commission of the name and address of each operator who fails to furnish a valid resale certificate. In the event the person fails to so notify the Commission, or desires to assume tax liability for the operations of particular vending machines, the operators are regarded as the agents of the persons from whom they obtain the tangible personal property, and the persons are regarded as the retailers of the property for the purposes of that law, and are

required to return the tax to the State, measured by the receipts from the retail sale of the property.

NAC 372.550 Fertilizer; herbicides and insecticides. (NRS 360.090, 372.280, 372.725)

1. For the purposes of this section and section 56 of chapter 397, Statutes of Nevada 1955, (NRS 372.280), the term “fertilizer” includes commercial fertilizer, agricultural minerals and manures. The term does not include chemical insecticides or herbicides.
2. The tax applies to fertilizer sold to enrich land for growing flowers, shrubs, lawns and plants, the products of which are not food for human consumption.
3. If a chemical insecticide or herbicide is mixed with a fertilizer in one product and the proportions are shown on the label or container, the seller may determine the proportion which is fertilizer and exempt that amount from the tax. If the proportions are not shown on the label or container, the tax applies to the entire amount for which the product is sold.

NAC 372.585 Food: Application of tax to items sold in containers. (NRS 360.090, 372.284, 372.725) If otherwise exempt food is sold:

1. In the same container as taxable tangible personal property, all items in the container are taxable unless the price of the otherwise exempt food is separately stated.
2. In a container to which the retailer purchased and added the food, the container is taxable. The otherwise exempt food is also taxable unless the price of the food is separately stated.
3. In a container to which the manufacturer added the food, the container is taxable if the retail price of the container is more than the retail price of the food. The otherwise exempt food is also taxable unless the price of the food is separately stated.

NAC 372.670 Newspapers: Alternate method for computing amount of exemption in retail sales. (NRS 360.090, 372.315, 372.725, 372.735) A retailer who sells newspapers as a

side line may, for the purpose of filing returns, in lieu of a detailed segregation of the receipts from the sale of exempt newspapers, compute the amount of his or her receipts from the sale of the newspapers by adding 25 percent to the net amount charged him or her for the newspapers by the publishers or distributors. The retailer must maintain an accurate record of the amount charged him or her for the newspapers and a complete file of the invoices from the publishers or distributors.

NAC 374.010 Verification that vehicle taken in trade on purchase of another vehicle. (NRS 360.090, 374.030, 374.725, 374.740) For verification of the acceptance of a vehicle taken in trade on the purchase of another vehicle, the dealer shall have the buyer complete a notarized affidavit on a form prescribed by the Department. The dealer shall remit one copy of the affidavit to the Department and retain one copy of the affidavit in his or her permanent record for the period specified in NRS 374.740.

NAC 374.020 Interpretation of term “used vehicle” by Department of Taxation for purposes of NRS 374.030 and 374.070. (NRS 360.090, 374.030, 374.070, 374.725) To calculate the amount of the allowance provided in subparagraph (1) of paragraph (e) of subsection 3 of NRS 374.030 and paragraph (f) of subsection 3 of NRS 374.070, the Department shall interpret the term “used vehicle” to:

1. Have the meaning ascribed to the term “vehicle” in NRS 482.135; and
2. Exclude special mobile equipment. As used in this subsection, “special mobile equipment” has the meaning ascribed to it in NRS 482.123.