

# PROPOSED REGULATION OF THE NEVADA TAX COMMISSION

## LCB File No. R073-13

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

AUTHORITY: NRS 360.090, 372A.050 and Section 24.4 of Senate Bill No. 374 of the 77<sup>th</sup> Session of the Nevada Legislature.

**Section 1.** Chapter 372A of NAC is hereby amended by adding thereto the provisions set forth as sections 1 to 16, inclusive, of this regulation.

**Sec. 2.** *As used in sections 1 to 18, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Commission” means the Nevada Tax Commission.*

**Sec. 4.** *“Cultivation facility” has the meaning ascribed to it in paragraph (a) of subsection 6 of section 24.4 of Senate Bill No. 374 of the 77th Session of the Nevada Legislature.*

**Sec. 5.** *“Department” means the State Department of Taxation.*

**Sec. 6.** *“Edible marijuana products” has the meaning ascribed to it in paragraph (b) of subsection 6 of section 24.4 of Senate Bill No. 374 of the 77th Session of the Nevada Legislature.*

**Sec. 7.** *“Excise tax on medical marijuana” means any of the taxes imposed pursuant to section 24.4 of Senate Bill No. 374 of the 77th Session of the Nevada Legislature.*

**Sec. 8.** *“Facility for the production of edible marijuana products or marijuana-infused products” has the meaning ascribed to it in paragraph (c) of subsection 6 of section 24.4 of Senate Bill No. 374 of the 77th Session of the Nevada Legislature.*

**Sec. 9.** *“Marijuana-infused products” has the meaning ascribed to it in paragraph (d) of subsection 6 of section 24.4 of Senate Bill No. 374 of the 77th Session of the Nevada Legislature.*

**Sec. 10.** *“Medical marijuana” means marijuana, edible marijuana products, and marijuana-infused products sold for a medical use as authorized by chapter 453A of NRS.*

**Sec. 11.** *“Medical marijuana dispensary” has the meaning ascribed to it in paragraph (e) of subsection 6 of section 24.4 of Senate Bill No. 374 of the 77th Session of the Nevada Legislature.*

**Sec. 12.** *“Seller” means a taxpayer who makes any sale of medical marijuana.*

**Sec. 13.** *“Taxpayer” means a cultivation facility, a facility for the production of edible marijuana products or marijuana-infused products, or a medical marijuana dispensary.*

**Sec. 14. 1.** *For the purposes of section 24.4 of Senate Bill No. 374 of the 77th Session of the Nevada Legislature, the Commission will interpret the term “sales price” to mean the total amount for which medical marijuana is sold, valued in money, whether received in money or otherwise, without any deduction for:*

*(a) The seller’s cost for the medical marijuana sold;*

*(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, and any other expense of the seller;*

*(c) Any amount for which credit is given to the purchaser by the seller;*

*(d) Any charges by the seller for any services necessary to complete the sale; and*

*(e) Except as provided in subsection 2, all taxes imposed upon the seller or the seller’s predecessors in the supply chain.*

**2.** *“Sales price” does not include the amount of the seller’s obligation for the excise tax on medical marijuana.*

**3.** *For purposes of this section 14, the legal incidence of the excise tax on medical marijuana is deemed to be on the seller even though the seller may pass the cost of that tax onto the purchaser.*

**Sec. 15. 1.** *Each taxpayer shall, on or before the last day of the month immediately following each calendar quarter for which the taxpayer is subject to the imposition of the excise tax on medical marijuana:*

*(a) File with the Department a return on a form prescribed by the Department; and*

*(b) Remit to the Department any tax due for that calendar quarter.*

**2.** *Each taxpayer shall file the return required by subsection 1 even if he has no liability to report.*

**Sec. 16.** *Each taxpayer shall:*

*1. Keep such records as may be necessary to determine the amount of the taxpayer's liability for the excise tax on medical marijuana.*

*2. Preserve those records for 4 years, or until any litigation or prosecution pursuant to the provisions of NRS 360.300 to NRS 360.400, inclusive, becomes final, whichever is longer.*

*3. Make the records available for inspection by the Department upon demand at reasonable times during reasonable business hours.*

**Sec. 17.** *If a taxpayer believes that he has overpaid his liability for the excise tax on medical marijuana, he may submit a claim for a refund or credit of the amount of the alleged overpayment. The claim shall be submitted in the manner prescribed by NRS 363B.150 for claiming a refund or credit of the modified business tax. The Department shall process and administer the claim in the manner prescribed by NRS 363B.140 to 363B.230, inclusive.*

**Sec. 18.** NAC 372A.020 is hereby amended to read as follows:

372A.020. *1. Each dealer in controlled substances who purchases revenue stamps from the department pursuant to NRS 372A.090 shall affix the stamps to each package, packet or container of a controlled substance he sells.*

*2. This section does not apply to sales that are subject to the imposition of the excise tax on medical marijuana.*