

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R002-17

June 26, 2017

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

AUTHORITY: §1, NRS 360.090, 360B.480, 372.025 and 374.070

A REGULATION relating to taxation; revising provisions governing the application of sales and use taxes to charges for transportation of ready-mixed concrete; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law and regulations provide that a charge for the delivery of tangible personal property is subject to sales and use taxes if the charge is part of or included in the sale of the tangible personal property. Under such law and regulations, a delivery charge is deemed not to be included in the sale of tangible personal property and is not subject to sales and use taxes if the charge is separately stated on applicable invoices or billing documents for the sale of the tangible personal property. (NRS 360B.480, 372.025, 374.070; NAC 372.101) This regulation provides that a charge for transportation of ready-mixed concrete which is separately stated on applicable invoices or billing documents for the sale of the ready-mixed concrete is not subject to sales and use taxes only if the charge does not exceed the actual cost of fuel used to transport the ready-mixed concrete from the batching plant to the purchaser. Under this regulation, if such a charge exceeds the actual cost of such fuel, the charge is deemed to be included in the sale of the ready-mix concrete and the entire charge is subject to sales and use taxes.

Section 1. NAC 372.101 is hereby amended to read as follows:

372.101 1. Delivery charges included in the sale of tangible personal property are subject to sales and use taxes, including, but not limited to, any charges for:

(a) Transportation, shipping or postage which are not stated separately on applicable invoices or other billing documents. ~~Any~~ *Except as otherwise provided in this paragraph, any* charges for transportation, shipping or postage which are stated separately on applicable invoices or other

billing documents shall be deemed not to be included in such a sale and are not subject to sales and use taxes. *A charge for transportation of ready-mixed concrete which is stated separately on applicable invoices or other billing documents shall be deemed:*

(1) Not to be included in the sale of the ready-mixed concrete and is not subject to sales and use taxes only if the charge does not exceed the actual cost of the fuel used to transport the ready-mixed concrete from the batching plant to the purchaser.

(2) To be included in the sale of the ready-mixed concrete and is subject to sales and use taxes if the charge exceeds the actual cost of the fuel used to transport the ready-mixed concrete from the batching plant to the purchaser.

(b) Handling, crating or packing, whether or not separately stated.

2. A delivery charge that is not connected with the sale of tangible personal property is a charge for a service and is not subject to sales and use taxes.

3. If a shipment of tangible personal property which is sold to a purchaser includes both taxable and exempt property, the seller of the property shall comply with the provisions of NRS 360B.255.