

**REVISED PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R002-17

August 11, 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 postage or the transportation or shipping of tangible personal property in connection with a sale of that property; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides 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 existing law, 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 revises provisions governing the application of sales and use taxes to certain types of charges for postage or the transportation or shipping of tangible personal property in connection with the sale of the property. Under this regulation, the following charges are subject to sales and use taxes: (1) a charge which exceeds the actual cost for postage or the transportation or shipping of the tangible personal property from the seller’s place of business to a location designated by the purchaser, plus a reasonable mark-up that is customary in the seller’s industry; (2) a charge which is separately stated on applicable invoices or billing documents as a charge for transporting or shipping tangible personal property to the retailer’s place of business or any other location from which the tangible personal property will be subsequently delivered to the purchaser of the tangible personal property; and (3) a charge for manufacturing, assembling or preparing tangible personal property during the transportation or shipping of the property to a location designated by the purchaser.

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 section, 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 shall be deemed not to be a charge for transportation, shipping or postage and is subject to sales and use taxes if the charge exceeds an amount equal to the actual cost for postage or to transport or ship the tangible personal property from the seller's place of business directly to a location designated by the purchaser, plus a mark-up that is reasonable and customary in the industry of the seller.*

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

2. *If a retailer includes on applicable invoices or other billing documents a separately stated charge for postage or the transportation or shipping of tangible personal property to the retailer's place of business or any other location from which the tangible personal property will subsequently be delivered to a location designated by the purchaser of the tangible personal property from the retailer, the charge is subject to sales and use taxes.*

3. *A charge for manufacturing, assembling or preparing tangible personal property during the transportation or shipping of the tangible personal property to a location designated by the purchaser of the tangible personal property is subject to sales and use taxes, whether or not separately stated on applicable invoices or billing documents.*

4. 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.

~~13.1~~ 5. 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.