

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB FILE NO. R073-201**

**The following document is the initial draft regulation proposed  
by the agency submitted on 06/10/2020**

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[Date]

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

AUTHORITY: §1, NRS 360.090, 372.385. 372.725

A REGULATION relating to taxation; concerning replacement parts and materials sold pursuant to the provisions of a mandatory warranty or guaranty included in the original contract for sale; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides that sales and use tax does not apply to the purchase and use of replacement parts or materials by the retailer if the purchase and use of those parts or materials were made for the repair or replacement of tangible personal property pursuant to a warranty or guaranty. (NRS 372.025, 374.030; NAC 372.460)

This regulation revises provisions to clarify that sales and use tax does not apply to the purchase and use of tangible personal property sold pursuant to a mandatory warranty or guaranty that was included in the original contract of sale that was previously taxed and used to make repairs within the duration of such mandatory warranty or guaranty. Under this regulation, any tangible personal property purchased under an extended warranty will be subject to sales and use tax because the extended warranty is separate from the original sale and was not included in the original contract of sale.

**Section 1.** NAC 372.460 is hereby amended to read as follows:

372.460. 1. The sale of tangible personal property by a retailer includes the furnishing of replacement parts or materials to repair or replace the tangible personal property pursuant to the provisions of a *mandatory* warranty or guaranty included in the contract of sale. Sales and use taxes *does* not apply:

*(a) to the purchase and use of replacement parts or materials by the retailer if the purchase and use of those parts or materials was made for the repair or replacement of tangible personal property pursuant to the provisions **and definite terms** of the **mandatory** warranty or guaranty; or*

*(b) in such situations provided the sales or use tax was paid on the purchase price, including the mandatory warranty or guaranty, at the time of the sale.*

*→The purchase and use of parts or materials made for the repair or replacement of tangible personal property that is not pursuant to or required by the provisions and definite terms of a mandatory warranty or guaranty included in the contract of sale is subject to sales and use tax.*

2. If a lessor leases or rents tangible personal property to a:

(a) Retailer who will furnish the tangible personal property to a customer; or

(b) Customer of a retailer,

↪ pursuant to the provisions **and definite terms** of a **mandatory** warranty or guaranty included in a contract of sale, the lessor must not include the gross receipts from that lease or rental of the tangible personal property in the gross receipts that are subject to the **sales use** tax. The lessor shall maintain documentation that indicates that the tangible personal property was leased or rented to a retailer, or the customer of a retailer, pursuant to the provisions **and definite terms** of a **mandatory** warranty or guaranty included in a contract of sale.

*3. For purposes of this regulation, the term “definite terms” does not include terms such as terms indicating that a manufacture may decide to make goodwill repairs or services, or reserves*

*the right to make any repair not covered by the definite terms of the mandatory warranty or guarantee or make decide to provide any sort of gratuitous or promotional repairs or services, such as repairs outside of the durational limits of the mandatory warranty or guaranty.*