

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB FILE NO. R076-201

**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,

A REGULATION relating to taxation; concerning the levy and payment of Other Tobacco Products taxes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides the imposition of tax upon the purchase or possession of other tobacco products by a customer in this State a tax of 30 percent of the wholesale price of those products. The tax was collected and paid by the wholesale dealer to the Department after the sale or distribution of the other tobacco products by the wholesale dealer (NRS 370.450).

Pursuant to the 2018 Legislative session, Senate Bill 81, section 73.3 subsection 3 (a) and (b) revised the collection and payment of the tax to require the tax to be imposed upon the wholesaler dealer (1) at the time the other tobacco products are first possessed or received by a wholesale dealer who maintains a place of business in this State for sale or disposition in this State; (2) at the time the other tobacco products are sold by a wholesale dealer who does not maintain a place of business in this State to a retail dealer or ultimate consumer in this State; or (3) for other tobacco products manufactured, produced, fabricated, assembled, processed, labeled or finished in this State, at the time the other tobacco products are sold in this State to a wholesale dealer of other tobacco products, a retail dealer or an ultimate consumer.

The regulation is to provide language to conform with the revisions based upon the passage of Senate Bill 81. As such, NAC 370.150 should be repealed in its entirety and to repeal subsection 2 and subsection 3 of NAC 370.165 .

Section 1. Chapter 370 of NAC is hereby amended to repeal NAC 370.150

~~**NAC 370.150— Indicating tax on invoice; tax not to be charged to retail dealer as separate item.** (NRS 370.510)— A wholesale dealer in products made from tobacco, other than cigarettes, shall indicate on his or her invoices of sale the amount of the tax he or she is required to pay pursuant to NRS 370.450 as a part of the total price of those products. This amount must not be charged to the retail dealer as a separate item.
— (Added to NAC by Dep’t of Taxation, eff. 10-10-83)~~

Section 2. Chapter 370 of NAC is hereby amended to repeal subsection 2 and subsection 3 of NAC 370.165

NAC 370.165 Allowance of tax credits. (NRS 370.490, 370.510)

1. The Department will allow a credit authorized by NRS 370.490 only if the wholesale dealer who files the claim for the credit is the wholesale dealer who originally reported and paid the tax to the Department.

~~—2.— A wholesale dealer who did not originally report and pay the tax to the Department may request from the wholesale dealer who originally reported and paid the tax to the Department payment of an amount equal to the credit authorized by NRS 370.490. Such a request must include a credit memo of the manufacturer for proof of returned merchandise or a duplicate or copy of the invoice as proof of the sale outside the State.~~

~~—3.— A wholesale dealer who is allowed a credit authorized by NRS 370.490 and who, pursuant to subsection 2, makes a payment to a wholesale dealer who did not originally report and pay the tax to the Department may complete and file with the Department an amended return.~~

~~—(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)~~