

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB FILE NO. R052-21I

**The following document is the initial draft regulation proposed
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LCB File No. xxx

[Date]

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

AUTHORITY: §1, NRS 360.090, Senate Bill 389 (2021)

A REGULATION relating to taxation; concerning the charging and collecting of certain taxes and fees when a passenger car is shared through a peer-to-peer car sharing program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires, with certain exceptions, a person who shares a passenger car through a peer-to-peer car sharing program to another person, to charge and collect a governmental services fee of 10 percent of the total amount for which a passenger car was shared through the program, plus any additional fee imposed on the sharing of the passenger car by authorized counties. Existing law also requires the peer-to-peer car sharing program to remit such fees to the Department of Taxation, along with a quarterly report and to maintain certain records. (Senate Bill 389 (2021))

This regulation also provides what records the peer-to-peer program must retain to verify the quarterly report filed with the Department of Taxation.

Additionally, existing law imposes upon each retailer a sales tax measured by gross receipts of the retailer from the retail sale of tangible personal property in this State. (NRS 372.105, 374.110, 374.111) A person who purchases tangible personal property for the purpose of renting or leasing the property to customers may elect to pay sales and use tax on the purchase price of the tangible personal property or to collect and remit sales and use tax on the rental price of the tangible personal property to a customer.. (NRS 372.060, NRS 372.170, 372.240, 374.065, 374.175, 374.245; NAC 372.938) Existing law also provides that a peer-to-peer car sharing program is responsible to collect and remit, on behalf of the shared vehicle owner, sales and use taxes on the total amount for which a shared vehicle that was placed on a digital network or software application on or after October 1, 2021 for sharing through the program if the owner of the shared vehicle has not paid any sales or use tax due on the purchase of the vehicle or has elected to pay sales and use taxes measured by gross charges for which the vehicle is shared. Furthermore, existing law provides that a peer-to-peer car sharing program is not liable for the failure to collect and remit sales and use taxes on a shared vehicle if the peer-to-peer car sharing program can provide proof that it made reasonable efforts to obtain accurate information regarding whether sales and use taxes were owed on the shared vehicle and the failure to collect and remit the sales and use taxes was due to incorrect or false information being provided by the shared vehicle owner. (Senate Bill 389 (2021))

This regulation provides what information and documentation can be provided by a peer-to-peer car sharing program to support that it made reasonable efforts to obtain accurate

information regarding whether sales and use taxes were owed on the shared vehicle and the failure to collect and remit the sales and use taxes was due to incorrect or false information provided by the shared vehicle owner.

Existing law allows a county whose population is 100,000 or more by ordinance to impose a fee of not more than 2 percent of the total amount for which a passenger car was shared through the program in the county.

Section 1. Chapter xxx of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 5, inclusive, of this act have the meanings ascribed to them in NRS 482.087, NRS 482.135 and in Senate Bill 389 (2021).*

Sec. 3. *1. A peer-to-peer car sharing program must provide to the Department of Taxation upon request, proof that the peer-to-peer program attempted to obtain the following information from each shared vehicle owner:*

(a) An attestation, under penalty of perjury, from the shared vehicle owner attesting that all applicable sales and use taxes have been paid on the vehicle that is to be shared on the peer-to-peer network.

(1) The attestation must include:

i. information regarding the shared vehicle at issue including, but not limited to, the license plate number, year, make, model and full name of the shared vehicle owner and

ii. notification that if the shared vehicle owner attests that all applicable sales and use taxes have been paid on the vehicle that is shared on the peer-to-peer network and it is determined that the applicable sales and use taxes were not paid, the shared vehicle owner will be liable for any sales and use tax due on the shared vehicle measured by gross charges for

which the vehicle is shared plus applicable interest and penalties for failure to pay tax pursuant to NRS 360.417.

2. A shared vehicle owner must retain documentation that supports that sales tax was paid on the shared vehicle participating in the peer-to-peer car sharing program.

(a). Documentation that supports that sales tax was paid on the shared vehicle can include, but is not limited to, the following:

(1) purchase order or notarized bill of sale;

(2) dealer invoice; or

(3) any other document provided by the seller that contains the information required in subsection 4.

(b) Documentation must specify the year and make of the vehicle, the vehicle identification number, date of purchase, full amount paid for the vehicle and the amount of sales tax paid.

3. If the shared vehicle owner provided incorrect or false information regarding sales tax paid on the shared vehicle, the shared vehicle owner will be liable for any sales and use tax due on the shared vehicle measured by gross charges for which the vehicle is shared plus applicable interest and penalties for failure to pay tax pursuant to NRS 360.417.

Sec. 4. 1. Each peer to peer car sharing program shall retain:

(a) A copy of the car sharing program agreement and any records and other pertinent documents verifying the report filed with the Department of Taxation.

(b) Attestation from the shared vehicle owner attesting that all applicable sales and use taxes have been paid on the vehicle that is to be shared on the peer-to-peer platform.

(c) Each such record, attestation and other pertinent documents must be preserved intact for at least 4 years after the date that the record, attestation or document was made.

2. The records, attestation and other pertinent documents must be available at all times during normal business hours for examination and copying by the Department of Taxation or its authorized agents

Sec. 5. 1. *Each peer-to-peer car sharing program will submit a report which contains information on all new vehicles placed on the peer-to-peer platform to the Department on March 31, June 30, September 30, and December 31. The information must include, but not limited to, the following:*

- (a) the shared vehicle owner's name and contact information;*
- (b) the license plate number and vehicle identification number of the shared vehicle;*
- (c) whether the shared vehicle owner attested that the sales and use tax was paid on the shared vehicle;*
- (d) the state where the shared vehicle is registered; and*
- (e) any other information the Department requires.*