

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R052-21

February 23, 2022

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

AUTHORITY: §§ 1 and 4, NRS 360.090 and sections 11.3, 11.5 and 11.7 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at pages 1842-44 (NRS 482C.230, 482C.240 and 482C.245); § 2, NRS 360.090 and section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240); § 3, NRS 360.090 and sections 11.3 and 11.5, Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at pages 1842 and 1843 (NRS 482C.230 and 482C.240).

A REGULATION relating to taxation; requiring a person who operates a peer-to-peer car sharing program to provide proof to the Department of Taxation that the person has obtained or attempted to obtain an electronic certification relating to the payment of sales and use taxes due on the purchase of a shared vehicle; specifying the required contents of the certification; requiring a shared vehicle owner who has paid sales and use taxes to retain documentation evidencing the payment; providing for the liability of a shared vehicle owner who provides incorrect or false information to a car sharing program regarding the payment of sales and use taxes; requiring a person who operates a car sharing program to submit quarterly reports to the Department; establishing requirements for the retention of certain records relating to the operation of a car sharing program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governs the licensing and operation of peer-to-peer car sharing programs, which connect shared vehicle owners with shared vehicle drivers. (Sections 2-30.67 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at pages 1841-52 (Chapter 482C of NRS)) If a shared vehicle owner has not paid any sales or use taxes due on the purchase of a shared vehicle or has elected to collect sales and use taxes measured by the gross charges for the sharing of the vehicle, a car sharing program that makes the vehicle available for sharing is required under existing law to collect and remit sales and use taxes on behalf of the shared vehicle owner. Before a shared vehicle is made available for sharing by a car sharing program, existing law also requires the program to request from the shared vehicle owner an electronic certification as to whether the shared vehicle owner paid all sales and use taxes due on the purchase of the vehicle. (Section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240))

Section 2 of this regulation requires a person who operates a peer-to-peer car sharing program to provide the Department of Taxation, upon request of the Department, with proof that the car sharing program has obtained or attempted to obtain the required certification from each shared vehicle owner who places a vehicle on the digital network or software application of the program. **Section 2** also specifies the information that must be included in the certification, and requires a shared vehicle owner who has paid sales and use taxes due on the purchase of the vehicle to retain certain documentation evidencing the payment. If such an owner provides incorrect or false information regarding the payment of sales and use taxes, **section 2** provides that the owner is liable for any sales or use tax due on the purchase of the vehicle, measured by the gross charges for the sharing of the vehicle plus any applicable interest and penalties.

Section 3 of this regulation requires each operator of a peer-to-peer car sharing program to submit to the Department, at the end of each calendar quarter, a report containing specified information about each shared vehicle placed on the program's platform during the quarter.

Existing law authorizes the Department to specify by regulation the types of records that must be kept by a car sharing program to determine the fees and taxes owed in connection with the operation of the program. (Section 11.7 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1844 (NRS 482C.245)) **Section 4** of this regulation sets forth the records to be retained and the period for which they must be retained.

Section 1. Chapter 482C of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *A person who operates a peer-to-peer car sharing program shall submit to the Department of Taxation, upon request, proof that the person has obtained or attempted to obtain, from each shared vehicle owner who places a vehicle on the digital network or software application of the peer-to-peer car sharing program, the electronic certification required by section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240).*

2. The electronic certification must include, for each such shared vehicle:

(a) The full name of the shared vehicle owner;

(b) The license plate number, year, make and model of the shared vehicle;

(c) An attestation by the shared vehicle owner, under penalty of perjury, as to whether the shared vehicle owner has paid all sales and use taxes due on the purchase of the shared vehicle; and

(d) A notice to the shared vehicle owner that if the shared vehicle owner attests that all sales and use taxes due on the purchase of the shared vehicle have been paid and it is determined that any sales or use tax has not been paid, the shared vehicle owner is liable for any sales or use tax due on the shared vehicle, measured by the gross charges for the sharing of the shared vehicle plus any applicable interest and penalties for failure to pay tax.

3. A shared vehicle owner who has paid sales and use taxes due on the purchase of a shared vehicle shall retain documentation evidencing the payment. The documentation:

(a) Must set forth the:

- (1) Year, make and model of the shared vehicle;*
- (2) Vehicle identification number of the shared vehicle;*
- (3) Date of purchase of the shared vehicle;*
- (4) Full amount paid for the shared vehicle; and*
- (5) Amount of sales or use tax paid on the purchase of the shared vehicle.*

(b) May consist of:

- (1) A purchase order or notarized bill of sale;*
- (2) A dealer invoice; or*
- (3) Any other document provided by the seller of the shared vehicle that contains the information required by paragraph (a).*

4. If a shared vehicle owner provides incorrect or false information to a peer-to-peer car sharing program regarding the payment of sales and use taxes due on the purchase of the shared vehicle, the shared vehicle owner is liable for any sales or use tax due on the purchase of the shared vehicle, measured by the gross charges for the sharing of the vehicle plus any applicable interest and penalties for failure to pay tax.

Sec. 3. 1. *On or before March 31, June 30, September 30 and December 31 of each year, a person who operates a peer-to-peer car sharing program shall submit to the Department of Taxation a report containing information about each shared vehicle placed on the digital network or software application of the peer-to-peer car sharing program during the immediately preceding calendar quarter.*

2. The report must be in the form prescribed by the Department of Taxation and include, for each such shared vehicle:

- (a) The name and contact information of the shared vehicle owner;*
- (b) The license plate number and vehicle identification number of the shared vehicle;*
- (c) Whether the shared vehicle owner has certified that all sales and use taxes due on the purchase of the shared vehicle have been paid;*
- (d) The state in which the shared vehicle is registered; and*
- (e) Any other information required by the Department of Taxation.*

Sec. 4. 1. *Each person responsible for retaining the records of a peer-to-peer car sharing program shall retain:*

- (a) A copy of each car sharing program agreement entered into by the peer-to-peer car sharing program;*
- (b) Any records or other pertinent documents substantiating the information contained in each report filed on behalf of the peer-to-peer car sharing program pursuant to section 3 of this regulation; and*
- (c) Each electronic certification obtained by the peer-to-peer car sharing program from a shared vehicle owner pursuant to section 11.5 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1843 (NRS 482C.240).*

2. The records described in subsection 1 must be retained:

(a) For not less than 4 years after the date of any such agreement, record, certification or other document; or

(b) Until any litigation or prosecution pursuant to chapter 360 of NRS or audit pursuant to section 11.3 of Senate Bill No. 389, chapter 313, Statutes of Nevada 2021, at page 1842 (NRS 482C.230) is finally determined,

↳ whichever is longer.

3. Each person responsible for retaining the records of a peer-to-peer car sharing program shall make the records retained pursuant to this section available for inspection and copying by the Department of Taxation or any of its authorized agents upon demand at reasonable times during regular business hours.