
ASSEMBLY BILL NO. 57—COMMITTEE ON TAXATION

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED DECEMBER 20, 2014

Referred to Committee on Taxation

SUMMARY—Revises provisions governing the taxation of purchases of direct mail. (BDR 32-306)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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

AN ACT relating to taxation; revising provisions governing the taxation of purchases of direct mail to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Nevada Tax Commission to enter into the Streamlined
2 Sales and Use Tax Agreement and take any other actions reasonably required to
3 implement the provisions of the Agreement. (NRS 360B.110) Existing law also
4 provides for the payment of sales and use taxes due on a sale of direct mail. In
5 certain circumstances under existing law, if a seller of direct mail does not maintain
6 a place of business in this State, the purchaser is required to report and pay any
7 applicable sales and use taxes due and the seller, in the absence of bad faith, is
8 relieved of any obligation to collect, pay or remit any sales or use taxes which are
9 applicable. Conversely, if the seller maintains a place of business in this State, the
10 seller is required to collect and remit any sales or use taxes which are due in this
11 State, while the purchaser is required to report and pay any applicable sales due in
12 any other state. (NRS 360B.281) Consistently with the Agreement, this bill
13 removes the distinction between a seller who maintains a place of business in this
14 State and one who does not. In circumstances where the distinction has been
15 relevant, this bill requires the purchaser to report and pay any applicable sales or
16 use taxes, and relieves the seller, in the absence of bad faith, from any obligation to
17 collect, pay or remit any sales or use tax applicable to the transaction.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 360B.281 is hereby amended to read as
2 follows:

3 360B.281 1. Notwithstanding the provisions of NRS
4 360B.350 to 360B.375, inclusive:

5 (a) A purchaser of advertising and promotional direct mail may
6 provide the seller with:

7 (1) Documentation of the direct pay permit of the purchaser
8 issued pursuant to NRS 360B.260;

9 (2) A certificate or written statement, in a form approved by
10 the Department in accordance with the provisions of the Agreement,
11 claiming the direct mail; or

12 (3) An informational statement of the jurisdictions to which
13 the advertising and promotional direct mail is to be delivered to
14 recipients.

15 (b) If the purchaser provides the documentation, certificate or
16 statement pursuant to subparagraph (1) or (2) of paragraph (a), the
17 sale shall be deemed to take place in the jurisdictions to which
18 the advertising and promotional direct mail is to be delivered to the
19 recipients and:

20 (1) ~~[(1) If the seller does not maintain a place of business in this~~
21 ~~State:~~

22 ~~_____ (I) The purchaser shall report and pay any applicable~~
23 ~~sales or use taxes due; and~~

24 ~~_____ [(II) (2) The seller, in the absence of bad faith, is relieved~~
25 ~~of all obligations to collect, pay or remit any sales or use taxes~~
26 ~~applicable to any transaction involving the advertising and~~
27 ~~promotional direct mail to which the documentation, certificate or~~
28 ~~statement applies .];~~ ~~or~~

29 ~~_____ (2) If the seller maintains a place of business in this State:~~

30 ~~_____ (I) The seller shall collect and remit any applicable sales~~
31 ~~or use taxes due in this State;~~

32 ~~_____ (II) The purchaser shall report and pay any applicable~~
33 ~~sales or use taxes due in any other state; and~~

34 ~~_____ (III) The seller, in the absence of bad faith, is relieved of~~
35 ~~all obligations to collect, pay or remit any sales or use taxes~~
36 ~~applicable to any transaction involving the advertising and~~
37 ~~promotional direct mail to which the documentation, certificate or~~
38 ~~statement applies which are due in any other state.]~~

39 (c) If the purchaser provides the informational statement
40 pursuant to subparagraph (3) of paragraph (a):



1 (1) The sale shall be deemed to take place in the jurisdictions
2 to which the advertising and promotional direct mail is to be
3 delivered;

4 (2) The seller shall collect and remit any applicable sales or
5 use taxes due to those jurisdictions; and

6 (3) If the seller complies with subparagraph (2) in
7 accordance with the delivery information provided by the purchaser,
8 the seller, in the absence of bad faith, is relieved of any further
9 obligation to collect any additional sales or use taxes on the sale.

10 (d) If the purchaser does not provide the seller with any of the
11 items listed in paragraph (a), the sale shall be deemed to take place
12 at the location described in subsection 5 of NRS 360B.360. The
13 state to which the advertising and promotional direct mail is
14 delivered may disallow credit for any sales or use taxes paid in
15 accordance with this paragraph.

16 2. Notwithstanding the provisions of NRS 360B.350 to
17 360B.375, inclusive:

18 (a) Except as otherwise provided in this subsection, the sale of
19 other direct mail shall be deemed to take place at the location
20 described in subsection 3 of NRS 360B.360.

21 (b) A purchaser of other direct mail may provide the seller with:

22 (1) Documentation of the direct pay permit of the purchaser
23 issued pursuant to NRS 360B.260; or

24 (2) A certificate or written statement, in a form approved by
25 the Department in accordance with the provisions of the Agreement,
26 claiming the direct mail.

27 (c) If the purchaser provides the documentation, certificate or
28 statement pursuant to paragraph (b), the sale shall be deemed to take
29 place in the jurisdictions to which the other direct mail is to be
30 delivered to the recipients and:

31 (1) ~~If the seller does not maintain a place of business in this~~
32 ~~State:~~

33 ~~(I) The purchaser shall report and pay any applicable~~
34 ~~sales or use taxes due; and~~

35 ~~(II) (2) The seller, in the absence of bad faith, is relieved~~
36 ~~of all obligations to collect, pay or remit any sales or use taxes~~
37 ~~applicable to any transaction involving the other direct mail to~~
38 ~~which the documentation, certificate or statement applies. ~~I; or~~~~

39 ~~(2) If the seller maintains a place of business in this State:~~

40 ~~(I) The seller shall collect and remit any applicable sales~~
41 ~~or use taxes due in this State;~~

42 ~~(II) The purchaser shall report and pay any applicable~~
43 ~~sales or use taxes due in any other state; and~~

44 ~~(III) The seller, in the absence of bad faith, is relieved of~~
45 ~~all obligations to collect, pay or remit any sales or use taxes~~



1 ~~applicable to any transaction involving the other direct mail to~~
2 ~~which the documentation, certificate or statement applies which are~~
3 ~~due in any other state.]~~

4 3. This section does not apply to any transaction that includes
5 the development of billing information or the provision of any data
6 processing service that is more than incidental, regardless of
7 whether any advertising and promotional direct mail is included in
8 the same mailing.

9 4. If a transaction is a bundled transaction, as defined by a
10 regulation of the Department in accordance with the provisions of
11 the Agreement, that includes advertising and promotional direct
12 mail, this section applies only if the primary purpose of the
13 transaction is the sale of products that meet the definition set forth in
14 paragraph (a) of subsection 6.

15 5. The provisions of this section do not limit any purchaser's:

16 (a) Liability for any sales or use taxes to any states to which the
17 direct mail is delivered;

18 (b) Rights under local, state, federal or constitutional law, to a
19 credit for sales or use taxes due and paid to other jurisdictions; or

20 (c) Right to a refund of any sales or use taxes overpaid to any
21 jurisdiction.

22 6. As used in this section:

23 (a) "Advertising and promotional direct mail" means direct mail,
24 the primary purpose of which is to attract public attention to a
25 product, person, business or organization, or to attempt to sell,
26 popularize or secure financial support for a product, person,
27 business or organization. As used in this paragraph, "product"
28 means tangible personal property, a product transferred
29 electronically or a service.

30 (b) "Direct mail" means printed material delivered or distributed
31 by the United States Postal Service or another delivery service to a
32 mass audience or to addresses contained on a mailing list provided
33 by a purchaser or at the direction of a purchaser when the cost of the
34 items purchased is not billed directly to the recipients. The term
35 includes tangible personal property supplied directly or indirectly by
36 the purchaser to the seller of the direct mail for inclusion in the
37 package containing the printed material. The term does not include
38 multiple items of printed material delivered to a single address.

39 (c) "Other direct mail" means any direct mail that is not
40 advertising and promotional direct mail, regardless of whether any
41 advertising and promotional direct mail is included in the same
42 mailing. The term:

43 (1) Includes, but is not limited to:



1 (I) Transactional direct mail that contains personal
2 information specific to the addressee, including, but not limited to,
3 invoices, bills, statements of account and payroll advices;

4 (II) Any legally required mailings, including, but not
5 limited to, privacy notices, tax reports and stockholder reports; and

6 (III) Other nonpromotional direct mail delivered to
7 existing or former shareholders, customers, employees or agents,
8 including, but not limited to, newsletters and informational pieces;
9 and

10 (2) Does not include the development of billing information
11 or the provision of any data processing service that is more than
12 incidental.

13 **Sec. 2.** This act becomes effective on July 1, 2015.

