

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R077-97

July 26, 1997

EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

AUTHORITY: §§1,2, NRS 360.090, 360.525.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The requirement in NRS 360.525 that a successor or purchaser of a business or stock of goods withhold a sufficient amount of the purchase price to cover the tax liability of the seller arises only in the case of the purchase and sale of a business or stock of goods under a contract which provides for the payment to the seller or person designated by him of a purchase price:

- (a) In money;*
- (b) In property; or*
- (c) Which provides for the assumption of liabilities.*

2. The requirement does not arise in connection with other transfers of a business such as assignments for the benefit of creditors, foreclosures of mortgages and sales by trustees in bankruptcy.

3. The liability of the successor or purchaser of a stock of goods extends to all taxes, interest and penalties incurred during the operation of the business by the predecessor or any former owner, including:

(a) Taxes on the sale of the business, even though the liability for the taxes was not then determined against the successor or purchaser;

(b) Interest to the date of payment of the taxes;

(c) Penalties for nonpayment of taxes;

(d) Penalties for negligence or intentional disregard of the statutes or regulations which govern the sales and use tax and the business license tax; and

(e) Penalties for fraud or an intent to evade the tax determined and unpaid at the time of sale.

4. The purchaser of a business or stock of goods is entitled to be released from further obligation to withhold the purchase price if he:

(a) Obtains a certificate from the commission which states that no taxes, interest or penalties are due from a predecessor; or

(b) Makes a written request to the commission for a certificate and the commission does not issue the certificate or mail to the purchaser a notice of the amount of the taxes, interest and penalties that must be paid as a condition of issuing the certificate within 60 days after:

(1) The commission received the request; or

(2) The records of the former owner were made available for audit,

whichever period expires later, except that no period may exceed 90 days from the date on which the request was received.

Sec. 2. NAC 364A.160 and 372.830 are hereby repealed.

TEXT OF REPEALED SECTION

364A.160 Liability of successor or purchaser of business or stock of goods.

1. The requirement that a successor or purchaser of a business or stock of goods withhold a sufficient amount of the purchase price to cover the tax liability of the seller arises only in the case of the purchase and sale of a business or stock of goods under a contract which provides for the payment to the seller or person designated by him of a purchase price:

- (a) In money;
- (b) In property; or
- (c) Which provides for the assumption of liabilities.

2. The requirement does not arise in connection with other transfers of a business such as assignments for the benefit of creditors, foreclosures of mortgages and sale by trustees in bankruptcy.

3. The liability of the successor or purchaser of a stock of goods extends to all taxes, interest and penalties incurred during the operation of the business by the predecessor or any former owner, including:

- (a) Taxes on the sale of the business, even though the liability for the taxes was not then determined against the successor or purchaser;

- (b) Interest to the date of payment of the taxes;
- (c) Penalties for nonpayment of taxes;
- (d) Penalties for negligence or intentional disregard of the statutes or regulations which govern the business license tax; and
- (e) Penalties for fraud or an intent to evade the tax determined and unpaid at the time of sale.

4. The purchaser of a business or stock of goods is entitled to be released from further obligation to withhold the purchase price if he:

(a) Obtains a certificate from the commission which states that no taxes, interest or penalties are due from a predecessor; or

(b) Makes a written request to the commission for a certificate and the commission does not issue the certificate or mail to the purchaser a notice of the amount of the taxes, interest and penalties that must be paid as a condition of issuing the certificate within 60 days after:

(1) The commission received the request; or

(2) The records of the former owner were made available for audit,

whichever period expires later, except that no period may exceed 90 days from the date on which the request was received.

372.830 Liability of successor upon termination of business.

1. The requirement that a successor or purchaser of a business or stock of goods withhold a sufficient amount of the purchase price to cover the tax liability of the seller arises only in the case of the purchase and sale of a business or stock of goods under a contract which provides for the payment to the seller or person designated by him of a purchase price:

(a) In money;

(b) In property; or

(c) Which provides for the assumption of liabilities.

2. The requirement does not arise in connection with other transfers of a business such as assignments for the benefit of creditors, foreclosures of mortgages, and sales by trustees in bankruptcy.

3. The liability of the successor or purchaser of a stock of goods extends to all taxes, interest, and penalties incurred during the operation of the business by the predecessor or any former owner, including:

(a) Taxes on the sale of the business, even though the liability for the taxes was not then determined against him;

(b) Interest to the date of payment of the taxes;

(c) Penalties for nonpayment of taxes;

(d) Penalties for negligence or intentional disregard of the statutes or regulations which govern the sales and use tax; and

(e) Penalties for fraud or an intent to evade the tax determined and unpaid at the time of sale.

4. The purchaser of the business or stock of goods will be released from further obligation to withhold the purchase price if he:

(a) Obtains a certificate from the commission which states that no taxes, interest, or penalties are due from a predecessor; or

(b) Makes a written request to the commission for a certificate and the commission does not issue the certificate or mail to the purchaser a notice of the amount of the taxes, interest, and penalties that must be paid as a condition of issuing the certificate within 60 days after:

(1) The commission received the request; or

(2) The records of the former owner were made available for audit, whichever period expires later, except that no period may exceed 90 days from the date on which the request was received.