

LCB File No. T022-02

PROPOSED TEMPORARY REGULATION OF THE
NEVADA TAX COMMISSION

November 4, 2002

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

AUTHORITY: NRS 360.090, 372.055, 372.728, 374.060 and 374.728.

Section 1: Amending NAC 372.160 to read as follows:

372.160 ~~[Brokers]~~ *Consignees and pawnbrokers.*

~~[Brokers and p]~~ *1. Pawnbrokers having possession of tangible personal property for ~~the purpose of~~ resale ~~[sale]~~ are retailers with respect to *the* sales of the property *sold* and the tax applies to the gross receipts from such sales.*

2. Consignees having possession or the authority to sell tangible personal property owned by another and the power and/or authority to cause title to that property to be transferred to a third party; and who exercise such power and/or authority, are retailers with respect to sales of the property sold and the tax applies to the gross receipts from such sales.

3. This section does not apply to sales pursuant to NRS 372.035 and NRS 374.040

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INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 372.

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Notices of hearing for the adoption and amendment of the proposed temporary regulation was posted at the following locations: Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada.

A copy of the notice of hearing and the proposed temporary regulation was placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed temporary regulation was also made available and placed on file at the Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Suite 1300, Las Vegas, Nevada; Department of Taxation, 850 Elm Street, No. 2, Elko, Nevada; and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

The hearing was held on November 4, 2002 at the Grant Sawyer Office Building, LCB Room 4401, 555 E. Washington Avenue, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed temporary regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed temporary regulation and testified at the hearing. A copy of the transcript of the hearing, for which a reasonable fee may be charged, may be obtained by calling the Nevada Department of Taxation at (702) 687-4896 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada, 89706.

The proposed temporary regulation, for practical purposes, was discussed at two workshops and has been heard and considered at one public hearing of the Nevada Tax Commission.

2. The number of persons who:

- (a) **Attended the hearing:** 38
- (b) **Testified at the hearing:** 2
- (c) **Submitted to the Tax Commission written comments:** Written comments were

submitted by the Nevada Taxpayers Association, and representatives of brokerage firms requesting the amendments to the administrative code prior to the hearing. No other written comments by the general public were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission.

3. A description of how comment was solicited from affected and interested persons, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, by direct mail to the approximately 240 interested businesses and persons on the Department of Taxation's mailing list.

Comments from the above-referenced industry in #2 were received relative to the original regulations and proposed draft of the temporary regulation with respect to broker/pawnbroker issues in regard to sales/use tax jurisdiction.

4. If the temporary regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the temporary regulation without change.

The proposed temporary regulation was modified at public workshops prior to adoption, due to issues raised by the Department of Taxation and by the affected industry. The proposed temporary regulation was further modified at the public hearing since concerns were raised by the affected industry, the Department of Taxation and Tax Commission members. The Tax Commission believed no changes other than those made at the public hearing were necessary.

5. The estimated economic effect of the adopted temporary regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

(a) Adverse and beneficial effects.

The proposed temporary regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. However, the temporary regulation may impact the business practices of brokers and pawnbrokers, which could have an economic effect on businesses and the general public. That effect cannot be quantified at this time.

(b) Immediate and long-term effects.

Same as #5(a) above.

6. The estimated cost to the agency for enforcement of the adopted temporary regulation.

The proposed temporary regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement. However, it appears that there may be some minor additional

administrative costs for the Department of Taxation, which cannot be quantified at this time.

7. A description of any regulations of other state or governmental agencies which the temporary regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the temporary regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed temporary regulation is particular to the Department of Taxation practices and procedures and do not appear to overlap or duplicate regulations of other state or local governmental agencies.

8. If the temporary regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no known federal regulations pertaining to state sales/use tax procedures, which are the subject of the proposed temporary regulation.

9. If the temporary regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed temporary regulation does not provide a new fee or increase an existing fee.