

TAXTOPICS

A Publication of the Nevada Taxpayers Association serving the citizens of Nevada since 1922

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*** * SPECIAL EDITION * ***

TAX AMNESTY PROGRAM ANNOUNCED

The Nevada Tax Commission has authorized a five month amnesty program for persons and companies doing business in Nevada who may have a tax liability. The amnesty also applies to individuals who may have a tax liability. Tax Commission Chairwoman Barbara Smith Campbell said, "The program provides an incentive to businesses to come forward and pay taxes owing without penalties and interest being imposed. Many businesses that file returns are unaware of the full liability they have in reporting and paying taxes." The Department of Taxation is aware that many Nevada businesses believe they have no tax liability on purchases they have made from out of state. These businesses owe the Nevada use tax.

The taxes included in the amnesty program, which will begin February 1, 2002 and end June 30, 2002, are sales and use tax, business tax, tire surcharge fee, short-term lessor fee and other tobacco products tax. The amnesty program relieves the payment of all penalties and interest as provided by Nevada Revised Statutes for the late payment and late filing of tax returns, provided the outstanding debt is paid in full during the amnesty period.

Dave Pursell, Executive Director of the Department of Taxation said, "Records of the last amnesty period in 1993, which applied only to use tax, resulted in 1,850 new accounts and approximately \$2.8 million put into state and local coffers." A number of chambers of commerce and business groups have been involved in the start up of the amnesty program; for example, Las Vegas, Reno/Sparks and Carson City Chambers of Commerce, Nevada Manufacturers Association, Retail Association of Nevada and the Nevada Taxpayers Association.

CONTACT INFORMATION FOR THE DEPARTMENT OF TAXATION

Related forms and full details about the amnesty program are available by contacting your local Department of Taxation office or accessing the Department's web site at:

<http://tax.state.nv.us>

CARSON CITY

Phone: 775/687-4820
Address: 1550 E. College Parkway, Suite 115
Carson City, NV. 89706

LAS VEGAS

Phone: 702/486-2300
Address: 555 E. Washington Ave., Suite 1300
Grant Sawyer Office Building,
Las Vegas, NV. 89101

RENO

Phone: 775/688-1295
Address: 4600 Kietzke Ln., Building O
Suite 263
Reno, NV. 89502

ELKO

Phone: 775/738-8461
Address: P. O. Box 1750
Elko, NV. 89803
850 Elm St.
Elko, NV. 89801

ANSWERING YOUR QUESTIONS

WHO IS THE AMNESTY PROGRAM FOR?

The program is aimed at businesses and individuals who were previously unaware that they owe some unreported sales tax, use tax, business tax, other excise taxes or just became aware that a specific transaction or activity is taxable. (See descriptions of taxes below.)

WHO DOESN'T THE PROGRAM APPLY TO?

Businesses or individuals that have been billed or assessed for taxes by the Department of Taxation are not eligible for the waiver of any penalty and interest through this amnesty program. Nor does the penalty and interest assessed on late-filed returns or on open accounts qualify for the waiver through this program.

WHAT TYPE OF TAX DOES THE AMNESTY PROGRAM APPLY TO?

It applies to sales tax, use tax, business tax, the tire surcharge fee, the short-term lessor fee, and the "other tobacco products" tax.

HOW DO I TAKE ADVANTAGE OF THIS PROGRAM?

The program runs from February 1, 2002 to June 30, 2002. This means the tax must be reported and paid during this period to qualify for the penalty and interest waiver.

If you are an **unregistered business**, you must register with the Department, file tax returns for the periods since your business started to operate, but not earlier than 8 years back, and pay the tax due.

If you are a **registered business** who found a mistake that needs to be corrected, you must file returns showing the corrections for as far back as necessary, but not earlier than 3 years back. You would also need to pay the additional tax due.

If you are an **individual** who purchased an aircraft, vessel, automobile or other tangible personal property, questionnaire about the transaction and pay the tax due.

WILL I HAVE TO FILE TAX RETURNS FOR EACH MONTH SEPARATELY?

No. The periods can be combined as long as the tax rates are the same for each reporting period. The Department has developed a package of information and tax returns that will help you report the tax correctly. You will use the returns only for the periods you need. All details, forms and instructions will be available February 1, 2002 by contacting your local Department of Taxation office in Las Vegas, Carson City, Reno or Elko (see "Contact Information List" on Page 1 for phone numbers and addresses), or accessing the Department's website which is available 24 hours a day, 7 days a week at <<http://tax.state.nv.us>>.

WHAT IF I CANNOT PAY THE FULL AMOUNT OWING WITH THE TAX RETURN I FILE?

Contact the Department of Taxation in your area and ask to speak to a tax examiner who will advise you on the procedure to enter into a payment plan. If you do enter into a payment plan you must complete your payments by June 30, 2002 in order for the penalty and interest to be waived under the Amnesty Program.

WHAT IS USE TAX?

Use Tax is the tax imposed upon personal property that was purchased out of state that would have been a taxable sale if it was purchased in the State of Nevada. Use tax is at the same rate as sales tax.

WHAT IS SALES TAX?

Sales Tax is the tax imposed on retailers for the privilege of selling tangible personal property at retail in the State of Nevada.

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THE MOST COMMON ERRORS MADE

Use Tax

1. INCORRECT USE OF RESALE CERTIFICATE

A business that purchases supplies intending to use the supplies for the business' own use should not use its resale certificate for those purchases. If a business purchases items with the intent of resale but then takes them out of inventory and uses them for the business, use tax is due on those items. Examples would be stores that sell office supplies using some of those supplies itself, or a restaurant providing free meals to employees.

Another incorrect use of a resale certificate is by a lessee who re-leases the property. The lessee cannot give the original lessor a resale certificate, and there is no such thing as a re-lease certificate. Instead, the original lessor is responsible for use tax on the lease stream, regardless of what the lessee does with the property, as long as it is used in Nevada.

2. NOT PAYING USE TAX FOR OUT-OF-STATE PURCHASES

When anyone purchases tangible personal property outside of Nevada with the intent to use the property in Nevada, use tax is due to the State of Nevada. This includes purchases made from catalogs and off the Internet, where the retailer is located outside of Nevada. This could include things such as large equipment, supplies and reference materials for businesses that provide professional services, such as an architect, doctor, attorney or CPA. It could also include items such as computers, craft supplies, and books. If the purchaser paid sales tax to the other state, and title transferred prior to delivery or delivery did not occur in Nevada, the purchaser can receive credit for that tax against any Nevada use tax due.

3. NOT PAYING USE TAX FOR MAGAZINES PURCHASED FROM OUT-OF-STATE BUSINESSES

Where magazines are purchased from a company outside of Nevada, Nevada use tax is due on those purchases. (If the magazines are purchased from a Nevada company, sales tax is due on the purchases.) However, newspapers have a specific exemption, so newspaper purchases are not subject to sales and use tax.

4. NOT PAYING SALES OR USE TAX ON MATERIALS PURCHASED FOR COMPLETING CONSTRUCTION CONTRACTS

Construction contractors are considered the consumers of property they purchase for use in fulfilling contracts. If the contractor did not pay sales tax on the purchase of the property, then use tax will be due. Some contractors believe they should report sales tax based on their invoices to their customers. However, as the contractor is considered the consumer of the tangible personal property, the contractor should be accruing use tax on property for which no sales tax was paid. Additionally, contractors should report based on the time of purchase of the property, not based on the time the property is actually affixed to the property of the customer or transferred to the customer.

5. NOT PAYING USE TAX ON VEHICLES PURCHASED OUTSIDE OF NEVADA

Individuals who are Nevada residents and who purchase a vehicle in another state that does not charge sales tax, and register the vehicle in that other state, but purchase the vehicle with the intent to use it in Nevada and actually use it in Nevada, owe use tax to Nevada. The Department of Taxation has a very aggressive program to identify these taxpayers and collect the tax.

6. NOT PAYING USE TAX ON BOATS PURCHASED OUTSIDE OF NEVADA

Individuals who purchase boats in another state and bring the boats to Nevada owe use tax to Nevada. Registration under the Coast Guard registration provisions does not exempt the purchase transaction from Nevada tax.

7. NOT PAYING USE TAX ON PROPERTY PURCHASED AT AUCTIONS – PARTICULARLY EQUIPMENT AND VEHICLES

Purchases of tangible personal property at auctions outside of Nevada are subject to Nevada use tax, where sales tax is not collected, and the property is purchased with the intent of using it in Nevada.

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The tangible personal property generally does not have to be registered with the Department of Motor Vehicles, so the tax obligation is not picked up at the time of registration.

8. NOT PAYING USE TAX ON PROPERTY PURCHASED THROUGH PRIVATE PARTY SALES

Purchases of goods, equipment and supplies, and vehicles that do not have to be registered, from a private party outside of Nevada are subject to use tax from the purchaser if the property is used in Nevada. If the sale takes place in Nevada, sales tax would be due. However, if the private party making the sale can claim an occasional sale exemption, then no tax would be due unless it is a vehicle sale. In the case of a vehicle sale by a private party, tax is still due except for the 2% state tax; county and local taxes would still be due.

9. LESSORS NOT PAYING USE TAX ON LEASES/RENTALS TO TAX-EXEMPT ENTITY

If renting to an exempt entity, the lessor is still liable for use tax. When a retailer chooses to pay use tax on the lease stream instead of sales or use tax based on the purchase price, the retailer as the lessor is the one with the use tax obligation, regardless of what type of entity the property is leased to.

Sales Tax

1. IMPROPERLY ACCEPTING RESALE CERTIFICATES OR REGISTRATION INFORMATION

Resale certificates must be taken in good faith. If a retailer accepts a resale certificate and does not collect sales tax on the transaction, but the retailer did not accept the resale certificate in good faith, the retailer is liable for the sales tax that was due.

Additionally, retailers should accept only a properly issued resale certificate and not accept just registration or identification numbers from the purchaser. Taking a properly issued Nevada resale certificate in good faith takes the burden off the retailer for proving the sale is exempt from sales tax.

2. NOT COLLECTING SALES TAX ON BARTER SALES

Nevada sales tax applies to barter exchanges, where one party receives tangible personal property in exchange for a payment in something other than money. This is most common when one business is a service provider and the other is a retailer of tangible personal property.

3. SERVICE PROVIDERS NOT COLLECTING SALES TAX ON SALES OF TANGIBLE PERSONAL PROPERTY

Service providers such as doctors, dentists, veterinarians, etc., that occasionally sell products in their office such as vitamins, lotions, dog food, etc., must collect and remit sales tax on sales of tangible personal property.

4. NOT COLLECTING SALES TAX ON FREIGHT CHARGES

Freight charges for transportation of tangible personal property, where the freight charges are connected with the sale of that property, are subject to sales tax unless title passed to the purchaser prior to the transportation. The fact that the freight charges are invoiced separately by the seller does not exempt the freight charges from taxation, unless either the charge for freight is not connected with the sale of tangible personal property or title to the property passed to the purchaser before shipment.

5. NOT COLLECTING SALES TAX ON FABRICATION LABOR

Fabrication labor is taxable where the fabrication operation results in the creation of a new item of tangible personal property or changes an item so that it has a new use. For example, where a customer provides the lumber to a cabinetmaker for the cabinetmaker to make a book cabinet, or where a customer takes fabric to a seamstress to make a dress for that customer. The fabrication labor by the cabinetmaker or the seamstress is taxable. This is not "installation or repair" labor but labor which is required to create a new item.

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6. NOT COLLECTING SALES TAX ON SERVICES ASSOCIATED WITH THE SALE OF TANGIBLE PERSONAL PROPERTY

Where a business furnishes services that are associated with the sale of tangible personal property, the taxable sales price includes the price of the services that are part of the sale. An example would be a trophy shop that sells engraved items should charge tax on the entire selling price of the trophy, plaque, etc., including the engraving, as it took this service to get the product the consumer wanted. Services that are paid for later, that are indirectly associated with the sale of tangible personal property, may not be taxable, such as car repairs, or in the trophy shop example, where a customer brings in a trophy and wants it engraved, then the service is not tied to a sale of tangible personal property and the engraving is not taxable.

7. NOT COLLECTING SALES TAX ON SALES TO OUT-OF-STATE RESIDENTS

Sales to out-of-state residents, where the out-of-state resident takes title and possession of the tangible personal property in Nevada, are subject to Nevada sales tax because the sales transaction was completed in this state.

8. IMPROPER USE OF DRIVE AWAY PERMITS

When a vehicle is sold to someone who is not a Nevada resident and who properly executes a drive away permit, stating the vehicle will be taken out of Nevada within 15 days, the sale is not subject to sales tax. However, where the purchaser is a Nevada resident, that purchaser must pay sales tax. Nevada residents cannot execute a drive away permit to be exempt from tax, even if the Nevada resident is planning on taking the vehicle out of Nevada and using it elsewhere. The sales transaction still occurs in Nevada and Nevada sales tax is due.

Note: Sales and Use Tax, particularly the Use Tax component is difficult at best for non-retail businesses to understand. If you have questions about a specific application of the tax, call the Department of Taxation office closest to you and ask to speak to a tax examiner.

Business Tax

1. NOT OBTAINING A STATE BUSINESS LICENSE FROM THE DEPARTMENT.

All businesses, including out of state, that do business in Nevada must obtain a license even though they have no employees in Nevada. Only the \$25 registration fee must be paid if there are no employees.

2. NOT PAYING BUSINESS TAX ON CORPORATE OFFICER

An officer who receives remuneration, or contract employees, are both considered employees for business tax purposes.

Tire Surcharge Fee

1. FAILURE TO NOTIFY DEPARTMENT OF TIRE SALES

Retailers failing to notify the Department that their business sells new tires.

2. IMPROPER USE OF TIRES RESULTING IN FEE NOT BEING PAID

Retailers using new tires for personal or business use, other than for retail sale, and not paying the tire surcharge fee.

Short-term Lessor Fee

1. FAILURE TO REGISTER

Not registering with the Department of Motor Vehicles as a short-term lessor.

2. INCORRECT CALCULATION OF TAX

Failure to report and pay the fee based on gross lease charges.

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WHAT IS BUSINESS TAX?

Business Tax is the tax imposed upon businesses for the privilege of conducting business in this state. The tax is based on the total number of equivalent full-time employees in this state or who come into the state to work for the business in the quarter. The amount of tax due per quarter for a business is \$25.00 for each equivalent full-time employee employed by the business in the quarter. If a business has employees, including an out-of-state business, it must pay business tax for those employees working in Nevada. In addition, an individual or business conducting business in this state must pay a one-time business license fee of \$25.00.

WHAT IS A SHORT-TERM LESSOR FEE?

“Short-term Lessor” means an individual or business who leases a passenger car to another individual or business for a period of 31 days or less, or by the day, or by the trip. “Passenger Car” means a motor vehicle designed for carrying 10 individuals or less, except a motorcycle, power cycle or motor-driven

cycle. The short-term lessor shall charge and collect from the short-term lessee a fee of six percent (6%) of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity.

WHAT IS “OTHER TOBACCO PRODUCTS” TAX?

Other Tobacco Products are products made from tobacco other than cigarettes. Some examples are cigars, chewing tobacco, pipe tobacco and loose tobacco used for “roll your own” cigarettes. A 30% excise tax is due on the wholesale price of Other Tobacco Products sold and is paid to the Department by the wholesaler. There are instances where a retailer or manufacturer may owe the tax.

WHAT IS A TIRE SURCHARGE FEE?

Any individual or business who sells a new tire for a vehicle to a customer is required to collect a fee of \$1.00 per tire.

NEVADA

TAXPAYERS

ASSOCIATION

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