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Electronically Filed
Oct 27 2016 04:37 p.m.
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**SUPREME COURT
OF THE STATE OF NEVADA**

K-KEL, INC., d/b/a Spearmint
Rhino Gentlemen's Club, et al.,

Appellants,

vs.

**NEVADA DEPARTMENT OF
TAXATION**, et al.,

Respondents.

Supreme Court Docket: 69886

District Court Case: A-11-648894-J
Consolidated with A-14-697515-J

Appellants' Appendix

APPELLANTS' APPENDIX
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EXHIBIT Q

EXHIBIT Q



WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX

Effective 1/1/04, A live entertainment tax has been approved by the 20th Special Session of the Nevada Legislature. This tax is being administered by two state agencies, the Gaming Control Board for live entertainment events taking place within licensed gaming establishments; and the Department of Taxation for live entertainment events taking place outside of licensed gaming establishments. The live entertainment tax rate is two tiered. The questions and answers have been updated to include changes to Live Entertainment Tax approved by the 2005 Session of the Nevada Legislature effective as of July 1, 2005. (Nevada Revised Statute Chapter 368A-Tax on Live Entertainment; Nevada Administrative Code Chapter 368A-Tax on Live Entertainment). This information pertains to the Live Entertainment Tax administered by the Department of Taxation that takes place outside a licensed gaming establishment. If you are a licensed gaming establishment please refer to the Nevada Gaming Control Board website at <http://gaming.nv.gov>.

1. *Q. What are the live entertainment tax rates?*

The Live Entertainment Tax is two tiered with a 10% tax rate and a 5% tax rate based upon the "maximum occupancy" of the facility where live entertainment is taking place. The maximum occupancy threshold for the 10% tax rate was lowered by the 2005 Legislature.

(a) Effective 1/1/04 through 6/30/05, the 10% tax rate was applicable to admission charges, merchandise, food and refreshments sold at the event where the occupancy for patrons was at least 300 up to 7,499 at a non-gaming facility.

Effective 7/1/05, a non-gaming facility where the occupancy for patrons is at least 200 patrons up to 7,499 patrons, the tax rate is 10% on admission charges, merchandise, food and refreshments sold at the event.

(b) A non-gaming facilities and licensed gaming establishments where the occupancy for patrons is 7,500 or more patrons, the tax rate is 5% on admission charges only.

2. *Q. How is "maximum occupancy" determined?*

A. The "maximum occupancy" of the facility where the live entertainment is taking place is determined by using the following criteria in order of priority: a) The maximum occupancy established for the facility by the State Fire Marshall, or by other local government agency; b) If the facility occupancy is not established, then by the maximum occupancy designated on any permits required for the event; or c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility will be used.

3. *Q. What is the registration fee for live entertainment tax?*

A. There is no registration fee for this tax. A taxpayer who intends to provide live entertainment at a facility that is not a licensed gaming establishment shall register with the Department of Taxation to collect the tax.

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6. *Q. Is live entertainment tax due in addition to applicable sales tax on merchandise, food and refreshments sold within a live entertainment event?*

A. Yes, when the 10% live entertainment tax rate is applicable to the gross receipts from sales of merchandise, food and refreshments this would be in addition to the applicable sales tax.

7. *Q. Are there any live entertainment events not subject to the tax?*

A. 1. Events where the proceeds from the admission charges (merchandise, food and refreshment sales if applicable) go entirely to a nonprofit organization that qualifies as a tax-exempt organization under 26 U.S.C. Section 501(c) or a nonprofit corporation organized under NRS Chapter 82 are exempt from the live entertainment tax.

2. If the proceeds from the admission charges are donated to a nonprofit organization by another person who is not a nonprofit organization those proceeds are also exempt from the live entertainment tax, even if the contract for that event allows a person other than the nonprofit organization to sell goods and services at that event.

3. Boxing contest or exhibitions which can be defined as "unarmed combat" pursuant to NRS 467.0107.

4. Merchandise sold outside a facility where live entertainment is provided, unless the purchase of such merchandise serves as an admission charge to the event.

5. Live entertainment provided at a trade show.

6. Live entertainment performed by strolling musicians whose only purpose is to move constantly through the audience.

7. Live entertainment provided in the **common** area of a shopping mall.

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11. **Beginning 7/1/07**, NASCAR race events in Nevada.

WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX (cont.)

12. Live entertainment in a restaurant which is incidental or ambient in nature as long as there is no charge to the patrons for the entertainment.

8. *Q. How is live entertainment defined?*

A. Live entertainment is defined by statute NRS 368A.090 as meaning any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing an activity to a patron or group of patrons who are physically present. **This has been elaborated upon in NAC 368A.100 (5.a) to be construed to include, without limitation, the following:**

- (1) Music or vocals provided by one or more professional or amateur musicians or vocalists;
- (2) Dancing performed by one or more professional or amateur dancers or performers;
- (3) Acting or drama provided by one or more professional or amateur actors or players;
- (4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;
- (5) Animal stunts or performances induced by one or more animal handlers or trainers;
- (6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes or sportsmen;
- (7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;
- (8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; and
- (9) A performance involving one or more of the activities described in this paragraph by a disc jockey who presents recorded music. For the purposes of this subsection, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.

The statutory definition of live entertainment has been elaborated upon in NAC 368A.100 (5.b) to exclude, without limitation, the following:

- (1) Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;
- (2) Occasional performances by employees whose primary job function is that of preparing or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;
- (3) Television, radio, closed circuit or Internet broadcasts of live entertainment;
- (4) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons; and
- (5) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research; and
- (6) An occasional activity, including, without limitation, dancing that does not constitute a performance, is not advertised as entertainment to the public, primarily serves as ambience and is conducted by an employee whose primary job is not that of an entertainer.

WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX (cont.)



WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX

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1. *Q. What are the live entertainment tax rates?*

- A. 1. A non-gaming facility where the seating capacity is at least 300 patrons, but less than 7,500 patrons, the tax rate is 10% on admission charges, merchandise, food and refreshments sold within the event. The 300 seat minimum does not apply in a licensed gaming establishment where the tax rate is 10% on all admission charges, merchandise, food and refreshments with seating capacity up to 7,499 patrons.
2. Non-gaming facilities and licensed gaming establishments where the maximum seating capacity is 7,500 or more patrons, the tax rate is 5% on admission charges only.

2. *Q. What is the registration fee for live entertainment tax?*

- A. There is no registration fee for this tax. A taxpayer who intends to provide live entertainment at a facility that is not a licensed gaming establishment shall register with the Department of Taxation to collect the tax.

3. *Q. What is the reporting frequency for live entertainment tax?*

- A. For those taxpayers registered with the Department of Taxation, the reporting frequency is monthly. The live entertainment tax returns should be filed on or before the last day of the month reporting amount of taxable receipts for the preceding month.

4. *Q. How is live entertainment tax calculated?*

- A. The tax is calculated on the gross receipts of admission charges only (seating capacity of 7,500 or more), or on the gross receipts of admission charges, merchandise, food and refreshments sales (seating capacity of more than 300 up to 7,499). If you are a licensed Gaming Establishment please refer to the Nevada Gaming Control Board website.

5. *Q. Is live entertainment tax due in addition to applicable sales tax on merchandise, food and refreshments sold within a live entertainment event?*

- A. Yes, when the 10% live entertainment tax rate is applicable to the gross receipts from sales of merchandise, food and refreshments this would be in addition to the applicable sales tax.

WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX (cont.)

6. *Q. How is "maximum seating capacity" determined?*

A. The "maximum seating capacity" is determined by: a) The maximum occupancy established for the facility by the State Fire Marshall, or by other local government agency; b) If the facility occupancy is not established, then by the maximum occupancy designated on any permits required for the event; or c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility will be used.

7. *Q. Are there any live entertainment events not subject to the tax?*

A. 1. Events where the proceeds from the admission charges (merchandise, food and refreshment sales if applicable) go entirely to a nonprofit organization are exempt from the live entertainment tax.

2. If the proceeds from the admission charges are donated to a nonprofit organization by another person who is not a nonprofit organization those proceeds are also exempt from the live entertainment tax, even if the contract for that event allows a person other than the nonprofit organization to sell goods and services at that event.

3. Boxing contest or exhibitions which can be defined as "unarmed combat" pursuant to NRS 467.0107.

8. *Q. How is live entertainment defined?*

A. Live entertainment is defined by statute NRS 368A.090 as meaning any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing an activity to a patron or group of patrons who are physically present. **This has been elaborated upon in NAC 368A.100 (5.a) to be construed to include, without limitation, the following:**

- (1) Music or vocals provided by one or more professional or amateur musicians or vocalists;
- (2) Dancing performed by one or more professional or amateur dancers or performers;
- (3) Acting or drama provided by one or more professional or amateur actors or players;
- (4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;
- (5) Animal stunts or performances induced by one or more animal handlers or trainers, except as otherwise provided in subparagraph (7) of paragraph (b);
- (6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes or sportsmen;
- (7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;
- (8) A show or production involving any combination of the activities described in subparagraphs (1) to (8), inclusive; and
- (9) A performance involving one or more of the activities described in this paragraph by a disc jockey who presents recorded music. For the purposes of this subsection, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.

WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX (cont.)

The statutory definition of live entertainment has been elaborated upon in NAC 368A.100 (5.b) to exclude, without limitation, the following:

- (1) Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;
- (2) Occasional performances by employees whose primary job function is that of preparing or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;
- (3) Performances by performers of any type if the performance occurs in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, as long as the performers stroll continuously throughout the facility;
- (4) Performances in areas other than in nightclubs, lounges, restaurants or showrooms, if the performances occur in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, which enhance the theme of the establishment or attract patrons to the areas of the performances, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables;
- (5) Television, radio, closed circuit or Internet broadcasts of live entertainment;
- (6) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons; and
- (7) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research.



WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX

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1. *Q. What are the live entertainment tax rates?*

The Live Entertainment Tax is two tiered with a 10% tax rate and a 5% tax rate based upon the "maximum occupancy" of the facility where live entertainment is taking place. The maximum occupancy threshold for the 10% tax rate was lowered by the 2005 Legislature.

(a) Effective 1/1/04 through 6/30/05, the 10% tax rate was applicable to admission charges, merchandise, food and refreshments sold at the event where the occupancy for patrons was at least 300 up to 7,499 at a non-gaming facility.

Effective 7/1/05, a non-gaming facility where the occupancy for patrons is at least **200** patrons up to 7,499 patrons, the tax rate is 10% on admission charges, merchandise, food and refreshments sold at the event.

(b) A non-gaming facilities and licensed gaming establishments where the occupancy for patrons is 7,500 or more patrons, the tax rate is 5% on admission charges only.

2. *Q. How is "maximum occupancy" determined?*

A. The "maximum occupancy" of the facility where the live entertainment is taking place is determined by using the following criteria in order of priority: a) The maximum occupancy established for the facility by the State Fire Marshall, or by other local government agency; b) If the facility occupancy is not established, then by the maximum occupancy designated on any permits required for the event; or c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility will be used.

3. *Q. What is the registration fee for live entertainment tax?*

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WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX (cont.)

4. *Q. What is the reporting frequency for live entertainment tax?*

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6. *Q. Is live entertainment tax due in addition to applicable sales tax on merchandise, food and refreshments sold within a live entertainment event?*

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7. *Q. Are there any live entertainment events **not** subject to the tax?*

A. 1. Events where the proceeds from the admission charges (merchandise, food and refreshment sales if applicable) go entirely to a nonprofit organization that qualifies as a tax-exempt organization under 26 U.S.C. Section 501(c) or a nonprofit corporation organized under NRS Chapter 82 are exempt from the live entertainment tax.

2. If the proceeds from the admission charges are donated to a nonprofit organization by another person who is not a nonprofit organization those proceeds are also exempt from the live entertainment tax, even if the contract for that event allows a person other than the nonprofit organization to sell goods and services at that event.

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- (8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; and
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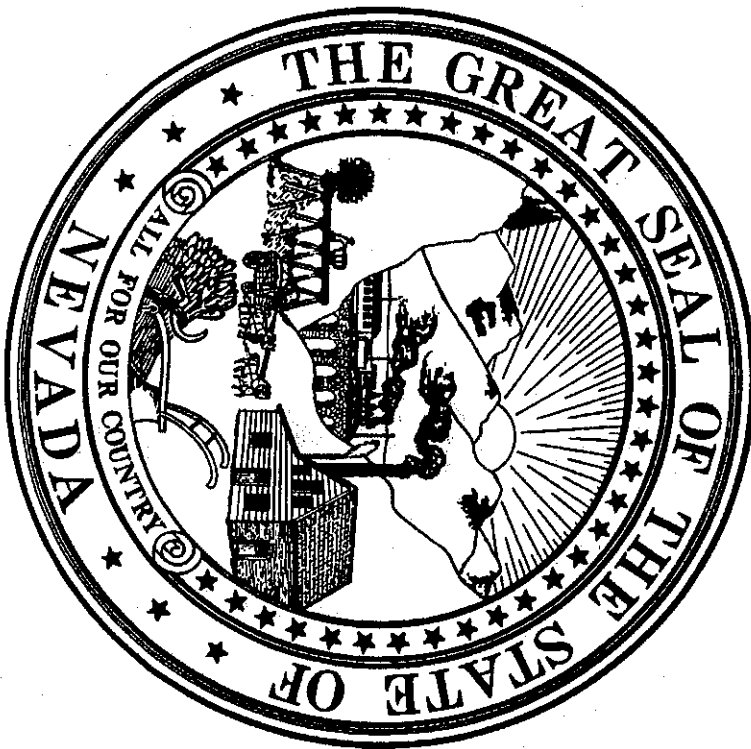
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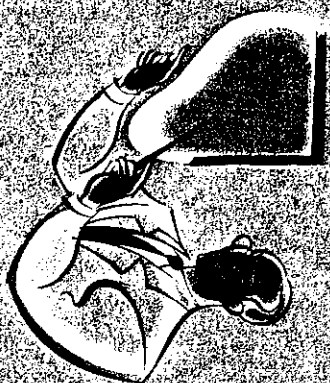
WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX (cont.)

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STATE OF NEVADA DEPARTMENT OF TAXATION



ASK THE ADVISORS BASIC TAX ACADEMY



To Learn About:

Taxes!

Business Registration Requirements

Streamlined Agreement

Payments & Filing Returns

Audit Process

General Questions and Clarifications

and.....



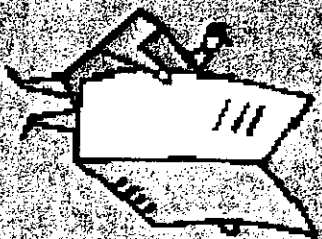
**New Electronic payment
requirements**



TAXPAYERS' BILL OF RIGHTS

A publication containing the Bill of
Rights for Taxpayers is provided:

- When you register with the
Department
- If the business is audited, or
- Upon request



NRS 360.291

SENZUS

NEVADA BUSINESS REGISTRATION

portant details are included in the instructions. Please type or print in black ink. Each agency may request additional information depending on your type of business. Completing this form does not relieve you of any statutory or regulatory requirements relating to your business.

<input type="checkbox"/> New <input type="checkbox"/> Change in Ownership/ <input type="checkbox"/> Business Entity <input type="checkbox"/> Total <input type="checkbox"/> S Corp <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Other		<input type="checkbox"/> Change in Location <input type="checkbox"/> Change in Name <input type="checkbox"/> Change in Corporate Officers <input type="checkbox"/> Change in Mailing Address <input type="checkbox"/> Other		<input type="checkbox"/> State Business License <input type="checkbox"/> Sales/Sales Tax Permit <input type="checkbox"/> Local Business License <input type="checkbox"/> Other	
If you have acquired a Nevada Business, changed Ownership/Business Entity, or have a new Federal Tax Number, Complete This Section: Date Acquired/Changed: _____ Acquired/Changed by: <input type="checkbox"/> Purchase <input type="checkbox"/> Lease <input type="checkbox"/> Other _____ Name(s) of Previous Owner(s) _____ Previous Owner(s) Business Name _____ Address (Street) _____ City _____ State _____ Zip Code +4 _____		Enter Your Previous Nevada Schedule Tax Permit Number, if applicable: _____ Enter Previous Owner(s) EEO Account Number: _____			
I CERTIFY THE INFORMATION PROVIDED IS TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. Signatures must be original and that of a responsible party. If a general partnership or joint venture, more than one signature is required. Legal Signatures include: sole proprietor-owner, corporate officer, and managing member.					
Signature Responsible Party/Original _____ Signature Responsible Party/Copy _____		Print Name And Title _____ Print Name And Title _____		Date _____ Date _____	

ORIGINAL SIGNATURES REQUIRED BY AGENCIES-KEEP COPY FOR YOUR RECORDS

REGISTRATION

S U P P L E M E N T A L

NEVADA DEPARTMENT OF TAXATION SUPPLEMENTAL INFORMATION

Please print clearly — use black or blue ink only.
Please mark applicable type(s) (see instructions).

☐ Sales/Use ☐ Consumers ☐ Certificate of ☐ Nevada Business ☐ Live Entertainment ☐ Modified Business Tax
Permit ☐ Certificate Authority License Tax

For Dept. Use Only
Permit/License No. _____
Dept. of Taxation Representative accepting application: _____

1. DBA (as indicated on Nevada Business Registration Form):	3. If corporation, STATE of incorporation or formation:
2. Business telephone number:	
FEES AND SECURITY DEPOSIT	
4. Estimated total monthly receipts:	5. Estimated total Nevada monthly TAXABLE receipts:
<input type="checkbox"/> I do not purchase tangible personal property for storage, use or other consumption in Nevada. <input type="checkbox"/> Corporation with no employees (other than resident agent in Nevada) Home-based businesses — indicate last year's NET INCOME or estimate the current year's NET INCOME if this a new business:	
6. Reporting cycle (check choice of reporting):	
7. Sales Tax Accounts with over \$10,000 a month in TAXABLE sales must report monthly:	
8. Sales/Use Tax	Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Annual <input type="checkbox"/>
Use Tax	
Live Entertainment Tax <input type="checkbox"/> Under 7,500 Seating <input type="checkbox"/> 7,500 or More Seating <input type="checkbox"/>	
Modified Business Tax <input type="checkbox"/> General Business <input type="checkbox"/> Financial Institution <input type="checkbox"/>	
Business Tax (for accounts prior to 10/01/03)	
Business License	<input type="checkbox"/>
9. Security (see instructions)	
<input type="checkbox"/> Cash <input type="checkbox"/> Surety # <input type="checkbox"/> CD # <input type="checkbox"/> 10. Total Nevada business locations:	
11. Sales Tax fees (see instructions):	12. Business License Fee (see instructions):
OTHER INFORMATION	
13. Name of spouse/relative:	Address of spouse/relative:
Name of other contact:	Address of other contact:
Accountant/bookkeeper:	Address of accountant/bookkeeper:
Name of bank/financial institution — location / account number:	Other employment (if applicable):
Business account:	Company name:
Personal account:	Company name:
FOR DEPARTMENT USE ONLY	
ST/UT No.:	BT/BL No.:
Combine Accts: <input type="checkbox"/> Yes <input type="checkbox"/> No	Previous Acct Cancelled: <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:	
<input type="checkbox"/> Cash <input type="checkbox"/> Check ABA #: Bank: Branch:	

I N F O R M A T I O N

BUSINESS LICENSE

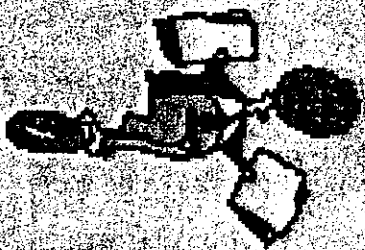
- The Nevada Business Registration form (NBR) and the Supplemental form are required to register your business in the State of Nevada and receive a State Business License
- The cost is \$100 per year. In addition a \$15.00 sales tax permit fee is required for each business location, this is a one time fee only
- If a business does not obtain a State Business License there is a \$100 penalty per year.



SALES TAX

Sales tax is due on the sale for retail of
Tangible Personal Property which may be:

- Seen
- Weighed
- Measured
- Felt
- Touched *or is*
- In any other manner perceptible to the senses.



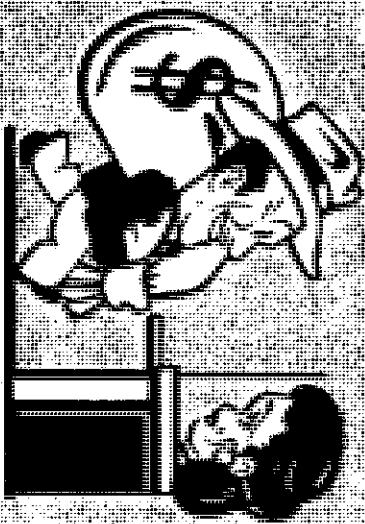
The sales of all tangible personal property is taxable unless specifically exempted by statute

NRS 360B.095

SALES TAX

- Along with the State Nevada Business License and the Sales tax Permit a retailer must also place with the Department a Security Deposit.
- The deposit is calculated based on the estimated average tax due

NRS 372.510



SALES TAX RETURN

- Reporting frequency is monthly. The tax is due and payable on or before the last day of the next month.
- If a business has sales of less than \$10,000 per month, then the filing frequency may be quarterly.
- An Allowance of 0.5% of the taxes collected is allowed for the cost of collecting the tax.
- From January 1, 2009 through June 30, 2009 the collection allowance will be changed to 0.25% of the taxes collected pursuant to Senate Bill 2

NRS 372.370

NRS 372.380

SALES TAX RETURN

NEVADA DEPARTMENT OF TAXATION

COMBINED SALES AND USE TAX RETURN

TID: _____
LOC: _____

For Department Use Only

are not a seller or no longer sell, please notify the Department of Taxation.

MAIL ORIGINAL TO:

STATE OF NEVADA - SALES/USE

For Month ending:

Due on or before:

PENALTY AND INTEREST WILL APPLY

business location has changed, or if you are out of business, notify a Nevada Department of Taxation District Office immediately.

A RETURN MUST BE FILED EVEN IF NO TAX LIABILITY EXISTS

SALES TAX

USE TAX

TAX CALCULATION FORMULA	COLUMN A	COLUMN B	COLUMN C	COLUMN D	COLUMN E	AMOUNT SUBJECT TO USE TAX	TAX RATE	CALCULATED TAX
1. CUMULATIVE								
2. CUMULATIVE								
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98. CUMULATIVE								
99. CUMULATIVE								
100. CUMULATIVE								

18. TOTAL CALCULATED SALES (14) AND USE (14) TAX
19. NET SALES TAX (LINE 18, LINE 19)

18a. SUM OF COLUMN E
19. \$REF1
20. \$REF1

18b. SUM OF COLUMN H
19. \$REF1
20. \$REF1

21. NET SALES AND USE TAX (LINE 18, LINE 19)

21. \$REF1

22. PENALTY (LINE 21 x 1%)

22. \$REF1

23. INTEREST (LINE 21 x 1% x 1/12 x 180 DAYS)

23. \$REF1

24. PLUS CREDITS ESTABLISHED BY THE DEPARTMENT

24. \$REF1

25. LESS CREDITS APPROVED BY THE DEPARTMENT

25. \$REF1

26. TOTAL AMOUNT DUE AND PAYABLE

26. \$REF1

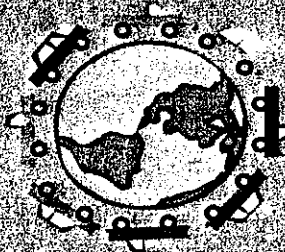
27. TOTAL AMOUNT REPAYED WITH RETURN

27. \$REF1

MAKE CHECKS PAYABLE TO:
NEVADA DEPARTMENT OF TAX

SALES TAX EXEMPTIONS

- Sales to or by Exempt agencies or Government entities
- Out-of-state sales
- Sales for resale
- Services not associated with a sale of tangible personal property
- Installation labor and Repair labor



RESALE CERTIFICATE

I hereby certify that I hold valid seller's permit number _____ issued pursuant to chapters 372, 374 and 377 of the Nevada Revised Statutes; that I am engaged in the business of selling _____; and that the tangible personal property described in the second paragraph of this certificate, which I purchase from _____, will be resold by me in the form of tangible personal property. I further certify that in the event any of the property is used for any purpose other than retention, demonstration or display while I am holding it for sale in the regular course of business, it is understood that I am required by chapters 372, 374 and 377 of the Nevada Revised Statutes to report it and pay the tax measured by the purchase price of the property.

Description of the property to be purchased:

Purchaser _____

Address _____

Signature of Authorized Purchaser _____

Dated _____

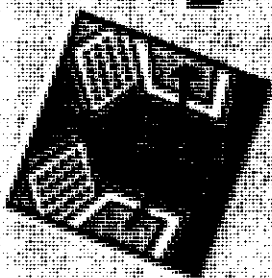
at _____

USE TAX

What is Use Tax?

Use Tax is a mirror of the sales tax, same rate.

The tax is meant to 'even the competitive advantage' that out of state vendors have when selling a product without tax. When a Nevada vendor must charge the tax. The tax is due on all tangible personal property brought into this state, for storage, use or other consumption in this state, and where Nevada tax has not been charged.



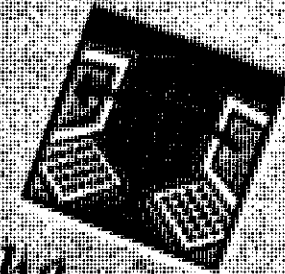
USE TAX

Who is required to be registered?

Any business who purchases tangible personal property without paying Nevada sales tax is required to be registered and report the use tax on the purchase.



Any individual who makes a large purchase without paying the tax should come in to the Department and pay the tax.

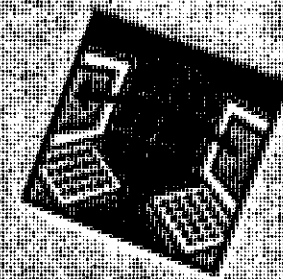


USE TAX

Any fees?



*Unlike sales tax, there are no permit fees for
consumers*



USE TAX

What's taxable?

- **Contractors pay use tax on the building materials they use.**
- **Internet/Catalog Sales**
- **Delivery Charges for deliveries into Nevada**

CONSUMER USE TAX RETURN

DV000165

NEVADA DEPARTMENT OF TAXATION
CONSUMER USE TAX RETURN

This return is for use by consumers of tangible personal property not sellers.
 If you are a seller, you must apply for a Sales Tax Permit.

MAIL ORIGINAL TO: STATE OF NEVADA - SALES TAX
 PO BOX 2069
 RENO, NV 89509

TID No. 002-TX- ☐

For Department Use Only

Return for Ending

Due on or before

Date paid

IF POSTMARKED AFTER DUE DATE, PENALTY AND INTEREST WILL APPLY

If the name or address as shown is incorrect, if the descriptive or business location has changed, or if you are out of business, notify the Nevada Department of Taxation, District Office immediately.

A RETURN MUST BE FILED EVEN IF NO TAX LIABILITY EXISTS

ENTER AMOUNTS IN COUNTRY OF USE	AMOUNT SUBJECT TO USE TAX	TAX RATE	CALCULATED TAX
TAX CALCULATION FORMULA	COLUMN A	x COLUMN B	= COLUMN C
01 CHURCHILL			
02 CLARK			
03 DOUGLAS			
04 ELKO			
05 ESQUERALDA			
06 EUREKA			
07 HUMBOLDT			
08 LARSEN			
09 LINCOLN			
10 LYON			
11 MINERAL			
12 Nye			
13 CARSON CITY			
14 PERSIMMONS			
15 STOREY			
16 WADSWORTH			
17 WHITE PINE			
TOTAL			

1. NUMBER CHECKS MUST BE RETURNED WITH THIS RETURN. NUMBER OF CHECKS MUST BE INDICATED IN THE SPACE PROVIDED AND RETURN MUST BE FILED WITHIN 30 DAYS OF THE DUE DATE.

2. RETURN MUST BE SIGNED

SIGNATURE OF TAXPAYER OR AUTHORIZED AGENT _____

TITLE _____

PRINT NAME AND ADDRESS _____

21. PLUS LIABILITIES ESTABLISHED BY THE DEPARTMENT

22. LESS CREDITS APPROVED BY THE DEPARTMENT

23. TOTAL AMOUNT DUE AND PAYABLE

24. TOTAL AMOUNT REFUNDABLE WITH RETURN

18.

19.

20.

21.

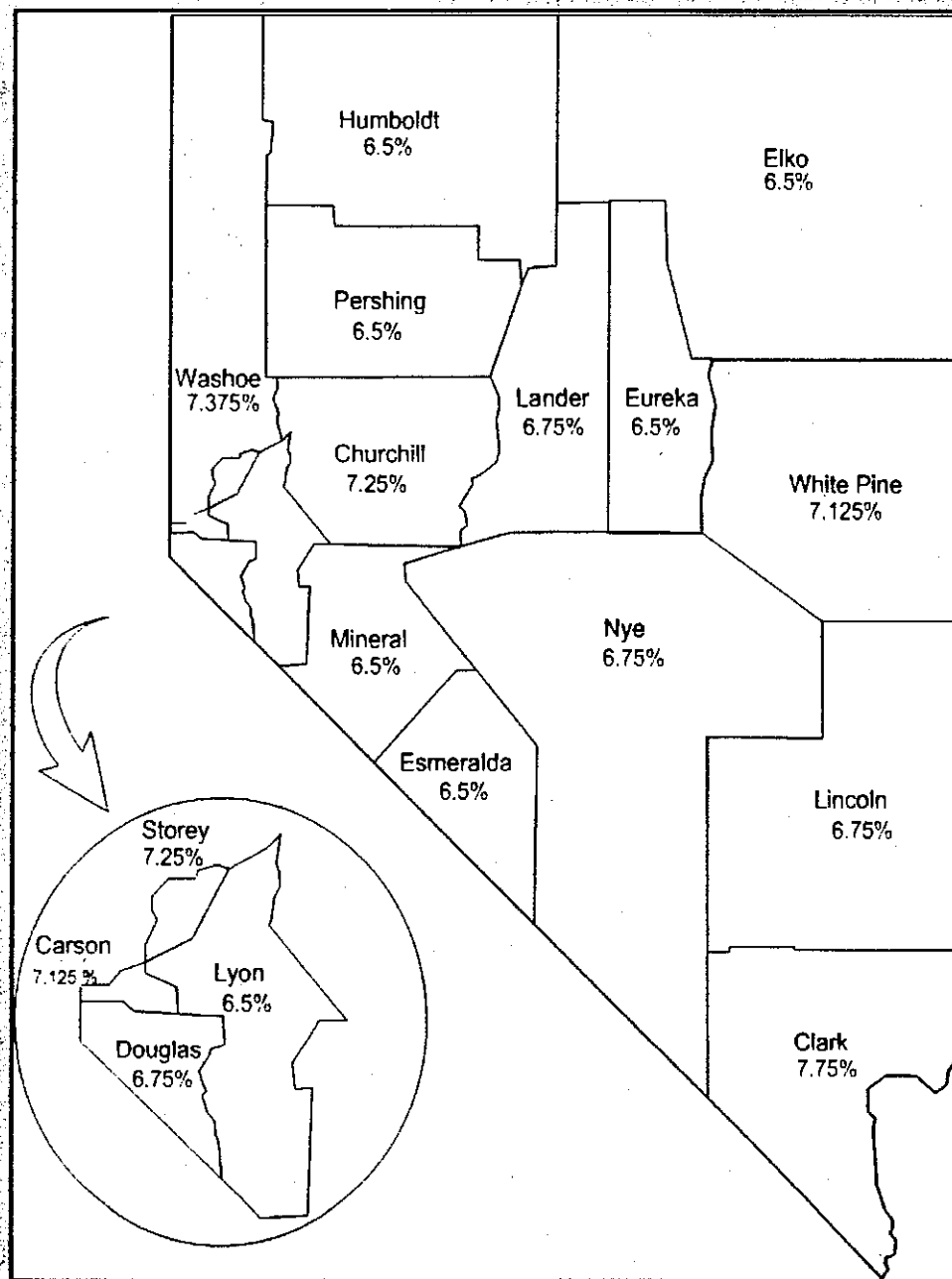
22.

23.

24.

MAKE CHECKS PAYABLE TO:
 NEVADA DEPARTMENT OF TAXATION

Consumer Use Tax Return
 Form 100-2
 Revised 10-20-88

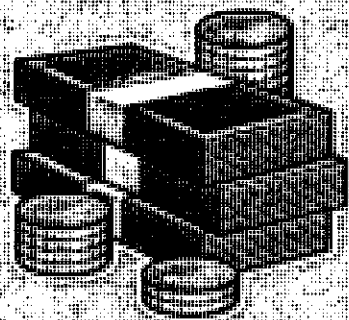


Nevada's Sales & Use Tax rates vary by county. Taxes are applied in the county the transaction takes place, or the county the delivery is made.

Nevada's Largest Cities

Las Vegas * Clark Co. * 7.75%
 Henderson * Clark Co. * 7.75%
 Reno * Washoe Co. * 7.375%
 Laughlin * Clark Co. * 7.75%
 Stateline (Tahoe) * Douglas Co. * 6.75%
 Carson City * Carson Co. * 7.125%

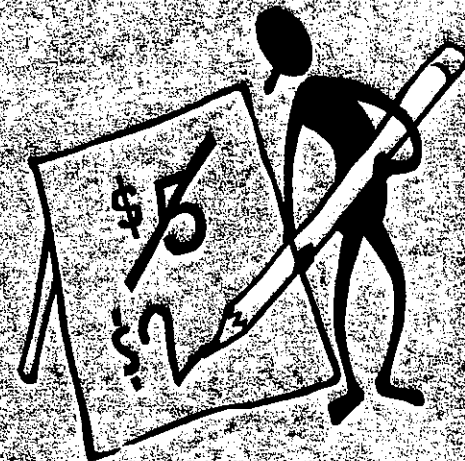
Tax Issues



SALES TAX

What's taxable?

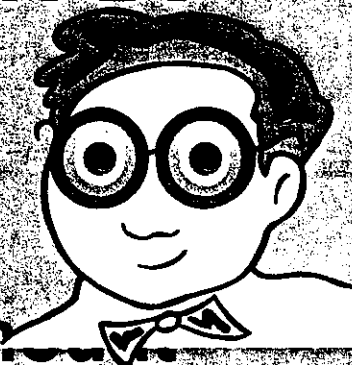
- **Gross Receipts**
- **Delivery Charges**
- **Not Discounts**
- **Tax inclusive**
- **Services associated with a sale**



Absorption of Tax

- Taxpayers CANNOT advertise they will pay the sales tax (NRS 372.115)
- Taxpayers CAN state that “sales tax is included....” (NAC 372.760 (5))
- If there is no such statement on the invoice or a sign that states that sales tax is included, then the sale is subject to taxation on the entire amount or portion that is separated out relating to tangible personal property (NAC 372.760(5))

ADJUSTING SALES TAX



- Sales tax included in the price of the sale – Report the gross sales amount less the amount allocated to tax.
- Paying another state's tax legitimately: when that state tax rate is lower than Nevada's; the difference in the tax rate is due to Nevada. Report an amount to equal the difference in tax.

USE TAX

Computer Software

Taxable (NAC 372.880):

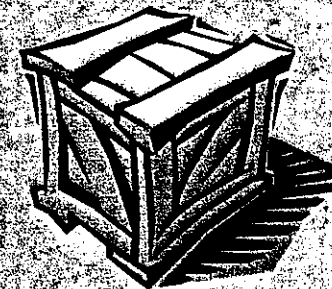
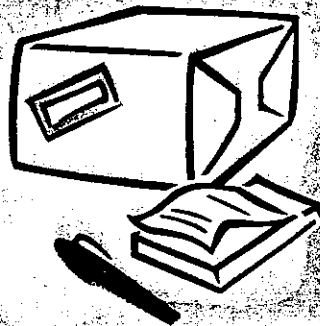
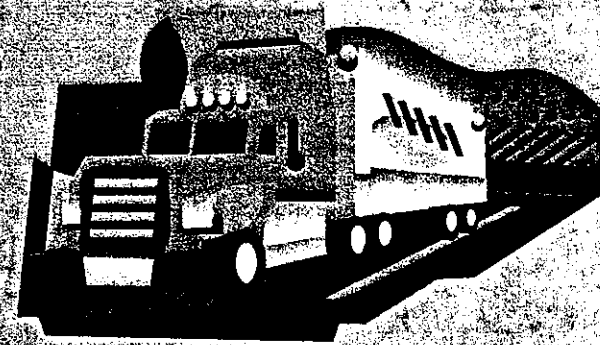
- Standard prewritten program (NRS 360B.470)
- Licensing fees for Standard Prewritten programs

Not Taxable:

- Custom Software (NAC 372.875)
- Delivered electronically (NRS 360B.420)
- Modifications (NAC 372.885)

FREIGHT, TRANSPORTATION OR DELIVERY CHARGES

- Most charges for freight, transportation or delivery included in the sale of tangible personal property is subject to sales and use tax



Streamlined Tax

Freight charges have been modified as follows:

- Tax is due at rate of the location where the shipment **LANDED!**
(it no longer matters where title passed) (NRS 360B.360)
- **Pass-through freight** (UPS, post office, etc) which is not subject to any transportation by seller or additional handling, crating or packing by seller
- **not taxable!** - (NRS 360B.425)
- **Allocation of freight charges:** If a shipment of tangible personal property includes both taxable and exempt property, you may allocate a portion of the delivery charges to the exempt property, thus making that portion of the freight not taxable! (NRS 360B.255)

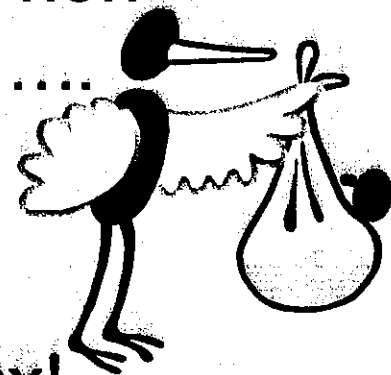
Streamlined Tax

- **Streamlined Tax is an effort to have similar tax laws throughout the country.**
- **Nevada was officially accepted as a full member on 4/1/2008. NRS 360B was added by the 2005 legislative process for this purpose.**
- **Some existing statutes under Chapter 372 of the NRS will be affected, with changes deemed to be retroactive to 2005.**

Streamlined Tax

- Bundled Transactions

- A retail sale of two or more products in which only some of the products are normally taxable, distinct and identifiable from each other BUT sold together for a single non-itemized/non-negotiable price, then.....
- It's considered BUNDLED and....



the entire bundle is subject to sales tax!

Streamlined Tax

- Bundled Transactions

- Primary reason for transaction is a sale of a service, then.....
- the transaction is NOT considered bundled AND.....

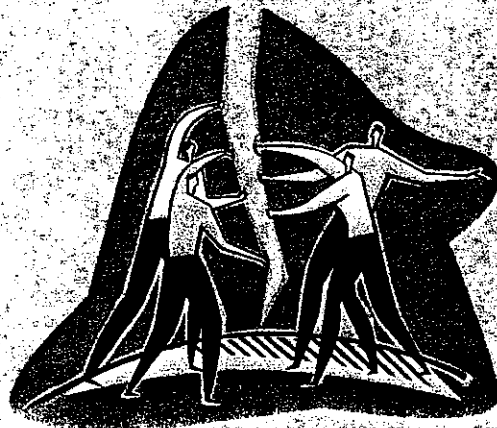


Use tax is due on the cost of the tangible personal property using the cost of the item to the retailer as the use taxable measure.



LIVE ENTERTAINMENT TAX

(non-gaming)



LIVE ENTERTAINMENT TAX

(Non-Gaming)

This is a Two-Tiered Tax Rate due monthly.

No registration fee required.

10% tax rate applicable-Seating Capacity (200-7499) (NRS 368A.200(a))

- On admission and cover charges, food, refreshments and merchandise sales. This is in addition to applicable sales tax on food, refreshments and merchandise sold.**

5% tax rate applicable-Seating Capacity (7500 and over)(NRS 368A.200(b))

- On admission and cover charges only for Live Entertainment taking place at a facility with maximum seating capacity of 7,500 or more.**

No tax-non-gaming facilities with a seating capacity of less than 200

NRS 368A

LIVE ENTERTAINMENT TAX

(Non-Gaming)









Live entertainment includes the following activities provided by professional or amateur persons:

- ✧ Live music or vocals
- ✧ Dancing by performers
- ✧ Acting/drama
- ✧ Acrobatics/stunts
- ✧ Animal Stunts
- ✧ Athletic or sporting contests*
- ✧ Comedy or magic shows
- ✧ Any or all of the above

NRS 368A.090(2)(a)

LIVE ENTERTAINMENT TAX (Non-Gaming)

Live entertainment does NOT include the following activities

-  Boxing contest/exhibition governed by the **Nevada Athletic Commission** (NRS 467)
-  Provided by or for entities formed under IRS 501(c)
-  Entertainment prohibited to be taxed under other laws
-  Entertainment provided at trade shows
-  Food/product demonstrations or craft show
-  NASCAR racing events (**as of 7/1/07**)
-  Baseball event at a stadium in this state (**as of 7/1/07**)
-  Live entertainment in outdoor area with no admission

NRS 368A.200(5)

MODIFIED BUSINESS TAX

MODIFIED BUSINESS TAX

Who is required to be registered?

Any business who is required to pay a contribution
pursuant to NRS 612.535

except.....

Indian Tribe

Nonprofit organization under 26 U.S.C. 501(c)

Political subdivision

NRS 363A.030

NRS 363B.030

MODIFIED BUSINESS TAX

What to report?

- ❖ *Wages taken from Employment Security Department (ESD) form NUCS 4072, line 3*

NRS 363A.130

NRS 363B.110

What to deduct?

- ❖ *Deductions for employer-paid health insurance allowed*

NRS 363A.135

NRS 363B.115

MODIFIED BUSINESS TAX

Employer-paid insurance deduction includes:

1. ***Self-insured employer: all amounts paid for claims, premiums, stop-loss, if the program is a qualified employee welfare benefit plan***
2. ***Premiums for a policy of health insurance for employees***
3. ***Payments to a Taft-Hartley trust***

NRS 363A.135

NRS 363B.115

MODIFIED BUSINESS TAX

Employer-paid insurance deduction DOES NOT include:

1. *Amounts paid by the employee*
2. *Workmen's compensation insurance*
3. *Life insurance*
4. *Disability*

NRS 363A.135

NRS 363B.115

MODIFIED BUSINESS TAX

Categories and Rates

General..... 0.63%

NRS 363B.110

Financial..... 2.000%

NRS 363A.050 and

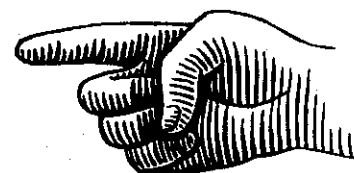
NRS 363A.130

MODIFIED BUSINESS TAX



Title

NEVADA DEPARTMENT OF TAXATION																														
MODIFIED BUSINESS TAX RETURN GENERAL BUSINESS																														
Mail Original To: NEVADA DEPARTMENT OF TAXATION PO BOX 52674 PHOENIX, AZ 85072-2674																														
<p>1. TOTAL GROSS WAGES (INCLUDING TIPS) PAID THIS QUARTER (Same amount as on Line 3 of ESD Form NUCS 4072)</p> <p>2. ENTER DEDUCTION FOR PAID HEALTH INSURANCE/HEALTH BENEFITS PLAN</p> <p>3. Line 1 minus Line 2</p> <p>4. Offset Carried Forward from Previous Quarter</p> <p>5. Line 3 minus Line 4</p> <p>6. TAXABLE WAGES (If line 5 is greater than zero enter amount here. If less than zero enter on Line 15)</p> <p>7. CALCULATED TAX (0.63% or 0.0063 x Line 6)</p> <p>8. CREDITS (Overpayments as determined by the Department)</p> <p>9. NET TAX DUE (Line 7 minus Line 8)</p> <p>10. PENALTY (LINE 9 x 0%)</p> <p>11. INTEREST (LINE 9 x 1% x 0 MONTHS PAST DUE)</p> <p>12. PREVIOUS DEBITS (Outstanding liabilities)</p> <p>13. TOTAL AMOUNT DUE (Line 9 + Line 10 + Line 11 + Line 12)</p> <p>14. AMOUNT PAID</p> <p>15. CARRY FORWARD (If Line 5 is less than zero (0) enter amt. here. This Offset will be carried forward for the next quarter)</p>		<p>TID No-020-TX- </p> <p><small>FOR DEPARTMENT USE ONLY</small></p> <p>Ending Choose Date </p> <p>Due on or before </p> <p>Date paid </p> <p>IF POSTMARKED AFTER DUE DATE, PENALTY AND INTEREST WILL APPLY If the address as shown is incorrect, please make any corrections before mailing the return. Use the space on the left for these corrections.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr><td>4.</td><td></td></tr> <tr><td>5.</td><td></td></tr> <tr><td>6.</td><td></td></tr> <tr><td>7.</td><td></td></tr> <tr><td>8.</td><td></td></tr> <tr><td>9.</td><td></td></tr> <tr><td>10.</td><td></td></tr> <tr><td>11.</td><td></td></tr> <tr><td>12.</td><td></td></tr> <tr><td>13.</td><td></td></tr> <tr><td>14.</td><td></td></tr> </table>	1.		2.		3.		4.		5.		6.		7.		8.		9.		10.		11.		12.		13.		14.	
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<p>MAKE CHECK PAYABLE TO NEVADA DEPT OF TAXATION - A RETURN MUST BE FILED EVEN IF NO TAX LIABILITY EXISTS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Signature</td> <td style="width: 33%;">Phone Number</td> <td style="width: 33%;">Date</td> </tr> <tr> <td style="height: 20px;"></td> <td></td> <td></td> </tr> <tr> <td>Title</td> <td colspan="2">FIRM or BUSINESS Named Above</td> </tr> <tr> <td style="height: 20px;"></td> <td colspan="2"></td> </tr> </table> <p style="font-size: small; margin-top: 5px;">I hereby certify that this return, including any accompanying schedules and attachments, was prepared by me and to the best of my knowledge and belief is a true, correct and complete statement. THIS RETURN MUST BE SIGNED</p>			Signature	Phone Number	Date				Title	FIRM or BUSINESS Named Above																				
Signature	Phone Number	Date																												
Title	FIRM or BUSINESS Named Above																													
TID-0001 MODIFIED BUSINESS TAX RETURN-GENERAL Revised 12/87/88																														



Rate

Appellants' Appendix

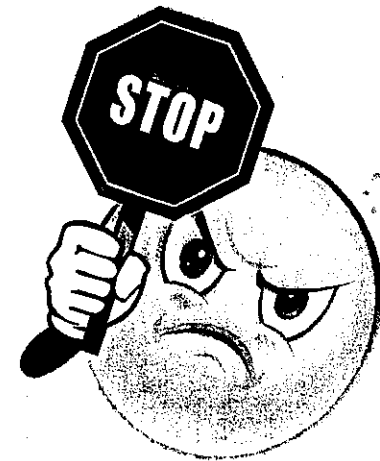
Page 1988

SUPP.ROA01849

MODIFIED BUSINESS TAX

COMMON ERRORS

- ▶ **Wages not same as reported to Employment Security Department**
- ▶ **Forgot to take health insurance deduction**
- ▶ **Took health care deduction for insurance not authorized by NRS 363A or NRS 363B**
- ▶ **Took health care deduction for portion of premium that the employee paid.**



CANCELING YOUR ACCOUNT

- **Closing your account:**

If you close or sell your business, you must contact the Department. You can cancel your account by contacting us by phone, written correspondence or visiting us at one of our 5 district offices. However you choose to contact us, certain information will be required in order to expedite the canceling of your account and refund any security deposit or credits to which you may be entitled.



Electronic Filing Requirements

- Effective July 1, 2008.....
All payments of money for taxes, interest, penalties or other obligations in the aggregate amount to \$10,000 or more **MUST** be made by electronic transfer....*

For more information and to register and pay your taxes, go to:

<http://www.nevadatax.nv.gov/web>

**SB 517, 2007 Legislative Session*

DEPARTMENT OF TAXATION

Contact Information

Our offices are open Monday-Friday
8:00 AM – 5:00 PM



Southern Nevada:

(702) 486-2300

Grant Sawyer Office Building

555 E. Washington Avenue

Suite 1300

Las Vegas, NV 89101

OR

2550 Paseo Verde Parkway

Suite 180

Henderson, NV 89074

Carson City:

775-684-2000

1550 College Parkway

Suite 115

Carson City, NV 89706-7937

Reno:

775-688-1295

4600 Kietzke Lane

Building L, Suite 235

Reno, NV 89502

Elko:

775-753-1115

MORE QUESTIONS?

- **Contact your Revenue Officer:**

702-486-2300 (Southern Nevada)

775-684-2000 (Carson City)

775-688-1295 (Reno)

775-753-1115 (Elko)



- **Department of Taxation website:**

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

- Taxpayer "What You Need to Know" questions and answers
- Nevada Tax Notes
- Copies of blank returns

Written Response

Most tax issues can be addressed by the Department of Taxation. Please be advised that any responses to inquiries made to the Department are only binding if put in writing, such as Nevada Revised Statutes, Administrative Code, Nevada Tax Notes, or in written correspondence.



EXHIBIT R

EXHIBIT R

[REDACTED] DISTRICT

Cathy:

[REDACTED] and I have consulted on this question and we agree on the following Gentlemen's Clubs in our District.

[REDACTED] Originally (before LET) [REDACTED]. Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED]. No reasonable room to expand.

[REDACTED] Originally (before LET) [REDACTED]. Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED]. No reasonable room to expand.

[REDACTED]

[REDACTED] DISTRICT

We only have two "Gentlemen's Clubs". They are [REDACTED] and [REDACTED]

[REDACTED] is on the exempt list, and I have verified that their seating capacity is well below the 300.

[REDACTED] opened after we put the LET database together. It has [REDACTED]. I did a field visit when they first opened as they had indicated they were going to add dancers later. They do have more than [REDACTED] seating capacity, but the owner told me that he was [REDACTED]. The seating capacity of that area would be about 60. I will do a field visit after they open this afternoon to verify that they are using that area for the dancers.

[REDACTED] Revenue Officer III
Nevada Department of Taxation
Compliance Division

[REDACTED] DISTRICT [REDACTED]
LAS VEGAS GENTLEMEN'S CLUBS

LET #	BUSINESS NAME	EXEMPT			SUBJECT TO LET >300- 7499
		GAMING	N/A	<300	
1	[REDACTED]				
2	[REDACTED]				
3	[REDACTED]				
4	[REDACTED]				
5	[REDACTED]				
6	[REDACTED]				
7	[REDACTED]				
8	[REDACTED]				
9	[REDACTED]				
10	[REDACTED]				
11	[REDACTED]				
12	[REDACTED]				
13	[REDACTED]				
14	[REDACTED]				
15	[REDACTED]				
16	[REDACTED]				
17	[REDACTED]				
18	[REDACTED]				
19	[REDACTED]				
20	[REDACTED]				
21	[REDACTED]				
22	[REDACTED]				
23	[REDACTED]				
24	[REDACTED]				
25	[REDACTED]				
26	[REDACTED]				
27	[REDACTED]				
28	[REDACTED]				
29	[REDACTED]				
30	[REDACTED]				
31	[REDACTED]				
		2	4	16	9

Total Referred to Gaming	2
Total N/A	4
Total <300	16
Total >300 (In Compliance)	9
	<u>31</u>

EXHIBIT S

EXHIBIT S

MEMORANDUM

Date: November 9, 2004
To: Chuck Chinnock
From: Cathy Chambers
CC: Dino Di Cianno
Subject: Live Entertainment Tax information for LCB on Gentleman's Clubs

The total number of Gentleman's Clubs statewide is approximately 33. There are 4 in the Reno District all with seating capacity of less than 300; 2 in the Elko District both of which are currently below 300 seating capacity; Las Vegas District has the majority with 27 clubs operating. Of the 27 clubs, 2 have been referred to Gaming Control Board for LET registration, 16 have seating capacity of less than 300, and 9 with seating capacity of 300 to 7,499. Carson district does not have any of these specific types of clubs, only brothels with capacity for less than 300 patrons. See attached worksheet for reporting information.

[REDACTED] DISTRICT

Cathy:

[REDACTED] have consulted on this question and we agree on the following Gentlemen's Clubs in our District.

[REDACTED] Originally (before LET) [REDACTED] Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED] No reasonable room to expand.

[REDACTED] Originally (before LET) [REDACTED] Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED] No reasonable room to expand.

[REDACTED] DISTRICT

We only have two "Gentlemen's Clubs". They [REDACTED] and [REDACTED]

[REDACTED], is on the exempt list, and I have verified that their seating capacity is [REDACTED]

[REDACTED] opened after we put the LET database together. It has [REDACTED]. I did a field visit when they first opened as they had indicated [REDACTED]. They do have more [REDACTED] but the owner told me that he was [REDACTED]. The seating capacity of that area would be about 60. I will do a field visit after they open this afternoon to verify that they are using that area for the dancers.

[REDACTED] Revenue Officer III
Nevada Department of Taxation
Compliance Division

**DISTRICT-
GENTLEMEN'S CLUBS**

LET #	BUSINESS NAME	EXEMPT			SUBJECT TO LET >300- 7499	NOTE
		GAMING	N/A	<300		
1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
7	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
8	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
11	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
14	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
15	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
16	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
17	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
18	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
19	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
20	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
21	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
24	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
25	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
26	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
27	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
28	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
29	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
30	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
31	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
		2	4	16	9	
Total Referred to Gaming		2				
Total N/A		4				
Total <300		16				
Total >300 (In Compliance)		9				
		31				

Live Entertainment Tax Reported to Date - Gentleman's Clubs
 10% LET tax rate on Admission Charges, Food, Drinks and Merchandise Sales

Reporting
 Period

Jan-04

Feb-04

Mar-04

Apr-04

May-04

Jun-04

Jul-04

Aug-04

Sep-04

Oct-04

Nov-04

Dec-04

Tax						\$			
Totals	\$485,477.41	\$846,234.11	\$704,605.79	\$599,270.02	\$944,627.61	122,950.46	\$16,535.38	\$47	

note:

EXHIBIT T

EXHIBIT T



KENNY C. GUINN
Governor

BARBARA SMITH CAMPBELL
Chair, Nevada Tax Commission

CHARLES E. CHINNOCK
Executive Director

DEPARTMENT OF TAXATION

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

1550 E. College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020
In State Toll Free (800) 992-0900

LAS VEGAS OFFICE
Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
Las Vegas, Nevada, 89101
Phone: (702) 486-2300 Fax: (702) 488-2373

RENO OFFICE
4600 Kietzke Lane
Building L, Suite 235
Reno, Nevada 89502
Phone: (775) 688-1296
Fax: (775) 688-1303

HENDERSON OFFICE
2550 Paseo Verde Parkway Suite 180
Henderson, Nevada 89074
Phone: (702) 488-2300
Fax: (702) 488-3377

MEMORANDUM

Date: May 21, 2004
To: Chuck Chinnock, Executive Director
From: Cathy Chambers, Tax Division Manager – Reno
CC: Dino Di Cianno, Deputy Executive Director - Compliance
Tom Summers, Deputy Executive Director – Administrative Services
Subject: Live Entertainment Tax Follow up for LCB Request

Information requested by LCB pertaining to Live Entertainment Tax will be addressed as listed in their memo:

1. Which businesses were notified of their potential liability of this tax.

Each district office reviewed the geographic areas or sub-districts for potential taxpayers, and prepared mailing lists for Live Entertainment Tax. The original Live Entertainment Tax database was formulated from these mailing lists.

Those potential taxpayers identified who were already registered with the Department of Taxation for other tax types were mailed a registration questionnaire (update request) for Live Entertainment Tax encoded with their existing account number to their address of record on December 10, 2003 including a return envelope to the Carson office.

We also identified potential Live Entertainment Taxpayers who were not already registered with the Department. An information sheet describing the Live Entertainment Tax and their potential liability for this tax was mailed on December 10, 2003. Included with this notification were a Nevada Business Registration (NBR) Form and a Supplemental Department of Taxation registration form and return envelope to the Carson office.

Finally, we identified Non-profit owner/operators of facilities in which Live Entertainment Events took place. We mailed an information sheet describing the Live Entertainment Tax and the potential liability for any persons who would be renting their facility to promote such an event, asking for their assistance in getting the word out on the Live Entertainment Tax effective January 1, 2004. We included a sample packet of the NBR etc. for them to copy and hand out to potential taxpayers.

All mailing included a Taxpayer Information handout which includes frequently asked questions and answers regarding Live Entertainment Tax, this is also posted on the Department's website.

2. Which Businesses responded with payments:

The following businesses responded with payment for the 5% LET (7,500 seats or more):
January 2004

[REDACTED]

February 2004

[REDACTED]

March 2004

[REDACTED]

The following businesses responded with payment for the 10% LET (300 to 7,499 seats):

January 2004

[REDACTED]

February 2004

[REDACTED]

March 2004

[REDACTED]

[REDACTED]

3. Which businesses responded advising either they were not liable due to:

- a. Being non-profit. Of the 366 original potential licensees contacted, 137 responded as being non-profit organizations and not subject to the Live Entertainment Tax.
- b. Seating Capacity Below 300. Of the 366 original potential licensees contacted, 106 responded that the LET was not applicable to their business because the maximum seating capacity was below 300.
- c. A change in seating capacity since the inception of the tax (July 2003). At this time, the Department is aware of [REDACTED] who had their maximum seating capacity re-evaluated to [REDACTED] patrons by the [REDACTED] Department after the inception of the tax. This club uses only part of a larger building [REDACTED] that was originally issued a maximum occupancy permit [REDACTED] building. See reports from individual districts explaining the process of changing maximum occupancy of a facility.
- d. Discontinuation of Live Entertainment. At this time, the Department is aware of [REDACTED] [REDACTED] has live entertainment in the form of [REDACTED] but does not charge a cover or admission charge and requires no minimum drink purchase to enter the facility.
- e. Potential licensees contacted by the Department that were found to be licensed gaming establishments reporting LET to Gaming Control Board. Of the original 366 original potential licensees, 37 have been cancelled with the Department because they belong to GCB.

4. Timing of events; review of when events are offered during the year; i.e., timing of special events such as NASCAR, concerts, etc., that would have an impact on the payment of LET. See attached calendar of events.

E-mail attachments include northern and southern Nevada summary lists for LET as [REDACTED] and a calendar of events for the large facilities statewide.

Requirements for changing maximum occupancy of a facility:

[REDACTED] checked with the area city/county building inspectors, they all use the Uniform Building Code specifications to determine the maximum seating/load capacity. They all use editions from various years but the seating capacity is determined completely by the square feet. For instance, the 1997 UBC uses 7 square feet per person for seating, but if they were calculating a casino for example, they would use 11 square feet. They said that casinos are calculated differently because it would not be assumed that they would be putting seats in the casino. The only way that a business or facility could get their capacity changed would be to move or build a wall which would change the square footage of the area.

Pe [REDACTED], she received the following information:

██████████ She provided the following information. The fire department works with the building department in assessing the safe seating capacity allowances for facilities ██████████ for the purposes of holding activities. But the building department actually makes the final decision and issues the "maximum seating capacity" signs that are posted on these premises. They use a formula based on square footage and the type of activity multiplied by a preset number of people for a safe such as dancing versus a sit-down concert for the purpose of keeping a safe environment.

The promoter actually regulates the number of people walking through the door. But they are not bound by this seating capacity license for each activity. Neither the building department nor the fire department has any way to consistently regulate if the number of people at these events are exceeding the allowable limit for the facility. If the promoter/owner of the facility chooses to, for instance, remove stationary seats to reduce the number of occupants in the area, they are allowed to do so. ██████████ cited an example at the ██████████ in which they reduced a meeting area from 300 to 150 for insurance purposes. When the building department inspects these facilities, they base their findings on the type of activity on a case by case basis. If the facility promoter permanently alters the physical space, such as adding a room, they would be re-evaluated by the building and fire departments for maximum seating capacity. The city business licensing authority explained that they requires s layout sketch when the live entertainment involves blocking off city streets and thoroughfares.

██████████ found the following information from the local authorities in ██████████ areas:

██████████ requests re-inspection by writing letter. Inspection is done within one week. New permit is issued (usually) within one month. No annual re-inspection. Any re-inspection is done as a response to a complaint or after an incident.

██████████ Taxpayer requests re-inspection by writing letter. Inspection is done within one week. New permit is issued (usually) within one month. There IS an annual re-inspection for nightclubs, cabarets, mens' clubs, etc. in ██████████

██████████ Now consolidated with ██████████ Above ██████████ rules apply.

In all jurisdictions there is absolutely NO difficulty for a business to reduce the occupancy permit. A business owner merely requests the occupancy number (ie: from 450 currently permitted to, say 295, a convenient target number) and it will be granted upon inspection. In the words of the ██████████ Fire Marshal, a lower number is better for us (Fire Dept.) for obvious safety reasons.

██████████ already E-mailed to you requirements for ██████████ and ██████████

EXHIBIT U

EXHIBIT U

Live Entertainment Tax Seating Capacity of 300 to 7400					
Period	# of LET Accounts	Total Admission Charges	Total Food Drink & Merchandise	Total Taxable Amount	Total Tax Reported 10% rate
Jan-04	199	1,155,844.82	3,456,675.41	4,612,520.23	461,252.02
Feb-04	151	1,408,008.33	4,348,609.16	5,756,617.49	575,661.75
Mar-04	128	1,814,059.06	4,212,743.85	6,026,802.91	602,680.29
Apr-04	118	1,133,609.11	4,253,568.28	5,387,177.39	538,717.74
May-04	120	1,656,832.83	4,395,134.50	6,051,967.33	605,196.73
Jun-04	117	1,064,727.42	3,453,988.41	4,518,715.83	451,871.58
Jul-04	107	2,323,980.96	3,800,347.87	6,124,328.83	612,432.88
Aug-04	119	2,102,785.04	3,151,998.10	5,254,783.14	525,478.31
Sep-04	114	717,959.38	649,553.74	1,367,513.12	136,751.31
Oct-04					
Nov-04					
Dec-04					
Totals		13,377,806.95	31,722,619.32	45,100,426.27	4,510,042.63
				45,100,426.27	4,510,042.63

EXHIBIT V

EXHIBIT V

LIVE ENTERTAINMENT TAX

Title of the Tax:	Live Entertainment Tax
Statutory Authority:	New Chapter
Basis of the Tax:	Live entertainment venues held outside a licensed gaming establishment
Procedure:	Transaction tax is added to the retail price of the admission charges and any food, drink or merchandise sold within the event.
Rate:	10% of admission charge if seating capacity is less than 7,500; 5% of admission charge if seating capacity is at least 7,500.
Distribution:	State General Fund
Exemptions:	Live entertainment not subject to this tax is any that the state is prohibited from taxing under the U. S. Constitution or Nevada State Constitution; any that is provided for the benefit of a non-profit religious, charitable, fraternal or other organization qualifying as tax-exempt pursuant to 26 U.S.C. 501 (c); any boxing contest or exhibition governed by provisions of NRS 467; any that is not provided at a licensed gaming establishment with seating capacity of less than 300, any provided at a licensed gaming establishment licensed for less than 51 slots and less than 6 games as defined above with a seating capacity of less than 300; any live entertainment provided at a trade show; music performed by a musician moving throughout the audience if no other form of live entertainment is provided; and entertainment that is provided in a common area such as a shopping mall.
Yield:	
Department Requirements	
Existing Workload	None.
Impact – New Workload	Not determined at this time. Requires adding tax type to existing ACES accounts and registering new accounts. This will generate filing, processing, and collecting of separate monthly tax returns.
Regulations	New Chapter.
Resources – Costs, Equipment, Manpower, Space	Staff - 11 personnel FY 2004 & 2005 Total Department Cost - \$ 1,139,839
Lead Time	One quarter to implement. Report month ending January 31, 2004.
Information	Program ACES – treat as a monthly tax type. Existing ACES system to be replaced with a

Technology	Unified Tax System. See Department IT Options.
Statute Changes	New Chapter.

EXHIBIT W

EXHIBIT W

8/25/2003

NEVADA DEPARTMENT OF TAXATION
DRAFT REGULATIONS FOR DISCUSSION ON
AUGUST 27TH

LIVE ENTERTAINMENT TAX

(To create Department of Taxation regulations for live entertainment tax provisions of Senate Bill 8, adopted during the 20th special session of the Nevada Legislature and signed into law on July 22, 2003, effective January 1, 2004)

GENERAL PROVISIONS

Definitions. As used in this chapter, unless the context otherwise requires;

"Admission charge" means the total amount expressed in terms of money, of consideration paid for the right or privilege to have access to a facility where live entertainment is provided. This term includes, but is not limited to, any amount identified as an admission price, an entertainment fee, a cover charge or a required minimum purchase of food, refreshments or merchandise.

"Board" means the State Gaming Control Board.

"Boxing" has the meaning ascribed to "unarmed combat" pursuant to NRS 467.0107.

"Business" means any activity engaged in by a business entity for gain, benefit or advantage, direct or indirect, to any person or government entity.

"Business entity" includes:

1. A corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other type of entity that engages in business.
2. A natural person engaging in a business entity that is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, or a Schedule E (Form 1040), Supplemental Income and Loss Form or its equivalent or successor form, for the business.

"Commission" means the Nevada tax commission.

"Department" means the department of taxation.

"Facility" means any area or premises where live entertainment is provided and for which consideration is collected for the right or privilege of entering that area or premises if the live entertainment is provided at an establishment that is not a licensed gaming establishment.

"Live entertainment" means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons physically present when providing that activity to a patron or group of patrons who are physically present. The term does not include:

1. Educational, inspirational, motivational, political or informative presentations, speeches or seminars;

2. Recorded music if dancing is prohibited, there is no disc jockey, and there is no other form of entertainment offered;
3. Entertainment offered in or near the areas designed to provide ambience or to attract people to the areas, if:
 - (a). Such entertainment does not take place inside a bar, lounge or restaurant and is not intended for the benefit of patrons who are seated therein; and
 - (b) If the entertainment consists of live music, neither a dance floor nor seating is provided in the immediate vicinity of the area in which the live music is performed.
4. Brief songs sung by service personnel in restaurants or other facilities in honor of a special occasion being celebrated by patrons (e.g., birthday);
5. Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.
6. Motion pictures;
7. Museum exhibits;
8. Animal exhibits;
9. Motion simulator rides if actors are not also involved, roller coasters or similar attractions;
10. Entertainment provided solely by mechanical, robotic or electronic devices; or
11. Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

"Live entertainment status" is that condition which renders the selling of food, refreshments, or merchandise subject to the tax.

"Maximum seating capacity" means, in the following order of priority:

1. The maximum occupancy of the facility where the live entertainment is provided, as determined by the State Fire Marshal or local government agency that has the authority to make that determination.
 2. If such a maximum occupancy has not been determined, the maximum occupancy designated in any permit required to be obtained in order to provide the live entertainment; or
 3. If such permit does not designate the maximum occupancy, the actual seating capacity of the facility in which the live entertainment is provided.
- For purpose of this regulation, if live entertainment is offered in an outdoor location and none of the criteria of subsections 1 through 3 can be satisfied, the maximum seating capacity of the facility shall be rebuttably presumed to be at least 300 and less than 7,500.

"Package" is an aggregation of rights to rooms, food, refreshments, merchandise, entertainment, services or other items advertised to the public as a single unit and sold for a single price.

"Recorded music" includes, but is not limited to, music cassette tapes, compact discs, phonograph albums, music video, and music on live television.

"Taxpayer" means:

1. The person licensed to conduct gaming providing taxable live entertainment at a licensed gaming establishment.
2. except as otherwise provided in subsection (3), the owner or operator of the facility where taxable live entertainment is provided that is not a licensed gaming establishment.
3. The person who collects the taxable receipts if the taxable live entertainment is provided at a publicly owned facility or on public land.

“Trade show” means an event of limited duration, not open to members of the general public, during which the merchandise and services of a particular trade or industry are exhibited and matters of interest to members of the trade or industry are discussed. For purposes of this regulation, a trade show may include educational and motivational presentations that occur during the event.

APPLICATION OF THE TAX

Imposition and rates of live entertainment tax. A live entertainment excise tax is imposed on the admission to any non-gaming facility in this state where live entertainment is provided. If the live entertainment is provided at a non-gaming facility with a maximum seating capacity of:

1. At least 300 but less than 7,500, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments, and merchandise purchased at the facility. The tax is applicable even though the charge made for food, refreshments and merchandise is not increased by reason of the live entertainment.
2. At least 7,500, the rate of the tax is 5 percent of the admission charge to the facility only; not including any amount paid for food, refreshments, and merchandise purchased at the facility.
3. The tax will be applied to 100 percent of the taxable sale only, without regard to other taxes, either federal, state, or local, imposed upon said sale.
4. The tax shall be paid on all cash and credit card sales of food, refreshments and merchandise while the facility is in live entertainment status.

Business entity or person liable for live entertainment tax. A business entity or person that collects any amount that is taxable pursuant to this regulation is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

1. The tax imposed shall be paid by the owner or operator of the facility even if some other entity or person is affording entertainment subject to the tax on the premises of the facility, and it shall be the responsibility of the owner or operator of the facility to collect the tax from the entity or person affording the entertainment, and to remit the tax based upon the records of such operator.

2. In the event the taxpayer does not operate the establishment where live entertainment is provided in connection with the selling of food, refreshments, or merchandise that are subject to the tax, but such facilities are operated in the establishment by some other entity or person, the taxpayer shall either obtain and keep the records required by "records" section herein or shall require the person or entity that does operate the facilities to keep such records.
3. If an entity or person offers live entertainment in a publicly owned facility or on public land, that entity or person shall be responsible for payment of the tax and shall include these sales in the report to the Department.
4. If two or more entities or persons offer live entertainment in a facility that they do not own or operate, a determination as to the entity or person responsible for payment of the tax shall be made and reported to the Department for its approval. The entity or person approved to be the taxpayer shall include the taxable sales in the report to the Department.

Live entertainment tax included in the price of a ticket. Any ticket for admission to a facility subject to the live entertainment tax must state whether the live entertainment tax is included in the price of the ticket in substantially this form: "Includes Entertainment Tax," "Inc. Ent. Tax," "Includes Live Ent. Tax," or "LET included." If the ticket does not include such a statement, the taxpayer shall pay the live entertainment tax on the face amount of the ticket.

Ticket for admission to a facility, or redeemable for food or refreshments subject to live entertainment tax sold as a component of a package, shall be taxed as follows:

- (a) The average retail value of the ticket will be prorated against the average retail value of all components of the package, and the resulting prorated fraction will then be multiplied times the actual price paid for the package, with the live entertainment tax being paid on the product thereof;
- (b) Any value advertised to the public as being the retail value of a package component shall be presumed to be the retail value of that component, unless proven otherwise;
- (c) If no average retail value can be established for a component of a package, its cost to the taxpayer will be used for the purpose of determining prorated values; and
- (d) Notwithstanding any other provision of this subsection, no live entertainment tax will be payable on and no package value shall be assigned to any ticket redeemable for food or refreshments if the average retail value of the food or refreshments is less than \$5.00.
- (e) Nothing in this subsection precludes a taxpayer from paying live entertainment tax on the full retail value of the taxable package components, at the taxpayer's option.

Price of food, refreshments, and merchandise sold during live entertainment also subject to sales tax. The total selling price of any food, refreshments, and merchandise sold during live entertainment are subject to applicable sales tax as imposed by NRS 372

and 374. The sales tax may be included in the sales price of the food, refreshments, and merchandise if the patrons are publicly notified by posting a visible sign stating that the sales tax is included in the selling price, or by inclusion of such statement on the ticket. If no signage is posted or no statement is included on the ticket, the taxpayer shall pay the sales tax based on the total amount charged for food, refreshments and merchandise.

Mandatory gratuity charges added to selling price of food or refreshments during live entertainment subject to sales tax. Mandatory charges made by taxpayers to their patrons for service of food or refreshments sold during live entertainment are considered part of the selling price of the food and refreshments and are subject to sales tax if the gratuity charges are not distributed to the servers in the exact amount charged. If distributed in the exact amount charged, the gratuity is exempt from the sales tax as a voluntary return for services rendered.

Time when live entertainment tax shall be collected. Live entertainment tax shall be collected at the time an admission charge is paid or at the time an advanced ticket is sold. (eff. 01-01-04 for Department).

Live entertainment status commences. Live entertainment status commences at the earlier of:

1. The time taxable entertainment starts; or
2. The time when any admission charge is paid or due.

Live entertainment status ceases. Live entertainment status ceases at the later of:

1. The conclusion of the last performance; or
2. The time when a facility that was restricted by admission is vacated by admitted patrons, or is opened to the general public.

Charges collected prior to commencement of live entertainment. Charges for food or refreshments, other than minimum required purchases collected prior to commencement of live entertainment are not taxable for that performance. However, admission charges paid for the right or privilege to have access to a facility where live entertainment is provided are subject to the tax whether the customer remains or not.

All admission charges are taxable unless proven to be for sales of other than live entertainment. All sales made to patrons in a facility subject to the live entertainment tax during the intervals between performances shall be subject to the tax unless the facility can account for the volume of sales to persons who entered during an interval between performances and left before the commencement of the next performance. Sales made after the conclusion of the last performance are not subject to the tax.

No distinction made in a restaurant between dining period and entertainment period in dinner show. There shall be no distinction made in a restaurant to a "dining period" and "entertainment period" when such restaurant is advertised as an operation of a "dinner show" and is not open on a continual time schedule.

Charges are taxable unless fully refunded to patrons. All admission charges or ticket sales which afford a patron the right to be present during live entertainment shall be subject to the tax, unless the taxpayer can establish that a full refund has been made to the patron.

Live entertainment tax applicable to sales of food or refreshments made from a place adjacent to a live entertainment facility. The live entertainment tax shall also apply to food or refreshments sold from a place located adjacent to a live entertainment facility if its primary purpose is to provide food or refreshments to patrons viewing entertainment in that facility.

Merchandise sales. The live entertainment tax does not apply to merchandise sold outside the facility in which live entertainment is presented, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment. For the purpose of this section, merchandise shall be deemed to be sold inside the facility if the payment of an admission charge is required for a patron to gain access to the merchandise being sold inside the facility subject to the live entertainment tax.

EXEMPTIONS

Live entertainment tax does not apply to the following:

1. Live entertainment that this state is prohibited from taxing under the Constitution, laws or treaties of the United States or its unincorporated or incorporated instrumentalities, or the Nevada Constitution pursuant to **NRS 372.265, NRS 374.270 and NRS 372.325, NRS 374.330.**
2. Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal organization or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501 (c) **and NRS 372.326, 374.3305.**
3. Any "boxing" contest or exhibition governed by the provisions of chapter 467 of NRS.
4. Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum seating capacity of less than 300.
5. Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.
6. Live entertainment that is provided at a trade show.
7. Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded the patrons.
8. Live entertainment that is provided at a facility at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

9. Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.
10. Fees paid by patrons to actively participate in sporting events.
11. Amounts paid for services.

Charitable or nonprofit benefits. For purposes of this regulation, admission charges or sales of food, refreshments or merchandise will be considered to be entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization if the entire proceeds of such sales become the property of an organization that has a valid ruling or letter of determination from the Internal Revenue Service indicating that it meets the requirements of a section of 26 USC 501(c). **NRS 372.265, NRS 374.270 and NRS 372.325, NRS 374.330 and NRS 372.326, 374.3305.**

Amounts paid for gratuities. Amounts paid for gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer are not subject to the live entertainment tax. Only actual, and not estimated, credit and debit card fees may be excluded.

ADMINISTRATION OF THE TAX

Application for live entertainment tax permit: Every business entity or person that is not a licensed gaming establishment who is liable for the live entertainment tax must file with the Department an application, as prescribed by the Department, for a permit for each facility location.

Payment, collection, administration and enforcement of the tax. Payment, collection, administration and enforcement of the live entertainment tax from non-gaming taxpayers, including any penalties and interest, shall fall under the jurisdiction of the Department; and any payment, collection, administration and enforcement of the live entertainment tax pursuant to NRS 360.

Board and Department jointly, coordinate and administration of the tax. To ensure fair and equitable administration and collection of the tax, and regulation of taxpayers who are liable for the payment of the tax, each agency will assist the other.

Date on which the live entertainment tax is due. Except as otherwise provided in this section, all taxpayers shall file with the Department, on or before the 30th day of each month, a report showing the amount of all live entertainment taxable receipts for the preceding month. The report must be on a form prescribed by the Department and be accompanied by the tax that is due for the period covered by the report. **(SB8 sec. 81 subsection 2 allows for quarterly filing no later than 10 days after the end of each calendar quarter if so deemed by the Department).**

Records.

1. Accurate and detailed records of sales subject to the live entertainment tax shall be kept and maintained for a period of at least 4 years if the taxpayer is not a licensed gaming establishment, or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer.
2. All sales subject to the tax must be recorded in a manner that accurately reflects the amount of taxable sales, unless the taxpayer provides adequate alternative accounting procedures approved by the commission.
3. The records shall be kept and made available for audit or inspection by the commission pursuant to times set forth in NRS 360.355.

Penalty. Any taxpayer who fails to report, pay or truthfully account for the tax shall be liable for penalty in the amount of the tax due, which will be assessed and collected in the same manner as other taxes, interest and penalties under NRS 360.

Claims for refund. Except as otherwise provided in NRS 360.235 and 360.395 a claim for refund must be filed with the Department within 3 years after the last day of the month following the reporting period for which the overpayment was made. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.

EXHIBIT X

EXHIBIT X

LIVE ENTERTAINMENT TAX 2005 LEGISLATIVE CHANGES

Senate Bill 3 and Assembly Bill 554 of the 2005 Legislative Session provided changes to NRS 368A Tax on Live Entertainment **effective July 1, 2005**. The major changes are listed below.

1. The 10% tax rate is applicable to admission charges, merchandise, food and refreshments sold at live entertainment facilities where the occupancy is at least **200 (changed from 300 patrons)**. The 5% tax rate on admission charges only remains the same for facilities with occupancy of 7,500 or more.
2. The term "seating capacity" has been changed to **"maximum occupancy"** which is defined as the maximum occupancy of the facility determined by the State Fire Marshall or other local governmental agency. If the maximum occupancy has not been pre-determined for the facility, the maximum occupancy will be designated at the time occupancy permits for the facility are obtained. If maximum occupancy cannot be determined by these methods, the higher tax rate of 10% applies, unless it can be proven otherwise by the taxpayer.
3. Exemptions from live entertainment tax have been expanded to include the following:
 - **Live entertainment provided by or entirely for the benefit of a nonprofit corporation organized under NRS Chapter 82**
 - **Live entertainment that is incidental to an amusement ride, motion simulator etc.**
 - **Live entertainment provided to the public at an outdoor area free of admission charges and other purchase requirements.**
 - **Outdoor concerts held at non-gaming facilities**
 - **Beginning July 1, 2007 all NASCAR events**
 - **Free live entertainment provided in a restaurant that is incidental and provides only ambience to the patrons.**

Taxpayer should review Nevada Revised Statutes Chapter 368A and corresponding Nevada Administrative Code Chapter 368A for complete information on Live Entertainment Tax. All live entertainment taking place outside a licensed gaming establishment is administered and collected by the Department of Taxation, if you are a licensed gaming establishment please refer to the Nevada Gaming Control Board website at <http://gaming.nv.gov>.