

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB FILE NO. R041-24I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 03/04/2024**

## **Informational Report – Executive Order 2023-003**

### **Section 1 - Comprehensive Review of Regulations**

#### CHAPTER 368A - TAX ON LIVE ENTERTAINMENT

#### ADMINISTRATION OF TAX BY DEPARTMENT OF TAXATION

### **1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

**NAC 368A.110 Taxpayers: General requirements; specification of provisions applicable to licensed gaming establishments, escorts and escort services. (NRS 360.090, 368A.140)**

1. Except as otherwise provided in subsection 3, if a taxpayer intends to provide live entertainment at a facility that is not a licensed gaming establishment, the taxpayer shall register with the Department to collect the tax. The taxpayer shall thereafter collect and remit the tax to the Department in accordance with the provisions of [chapter 368A](#) of NRS and [NAC 368A.010](#) to [368A.170](#), inclusive, and sections 2 and 3 of this regulation.

2. Except as otherwise provided in subsection 3, if a taxpayer intends to provide live entertainment at a facility that is a licensed gaming establishment, the taxpayer shall act in accordance with [NAC 368A.300](#) to [368A.540](#), inclusive.

3. If a taxpayer is an escort or escort service, the taxpayer must:

(a) Register with the Department to collect the tax on live entertainment. The taxpayer shall thereafter collect and remit the tax to the Department in accordance with the provisions [chapter 368A](#) of NRS and [NAC 368A.010](#) to [368A.170](#), inclusive.

(b) Maintain the following records for a period of at least 4 years after the date on which the record is created:

(1) The date on which the service of escorting a person or persons at one or more locations in this State is provided; and

(2) The full amount charged for that service ~~+~~, *without deduction for any service cost, interest, losses, tips or gratuities or any other expense.*

(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.

(Added to NAC by Tax Comm'n by R212-03, eff. 12-4-2003; A by R196-05, 2-23-2006; R062-15, 11-2-2016)

### **2. A clear and concise explanation on why such change should occur.**

Amend subsection 3(b)(2) to clarify that taxpayers subject to live entertainment tax for escort or escort services must maintain records which include the full amount charged for that service in addition to any service cost, interest, losses, tips or gratuities or any other expense.

**Exhibit 368A.1-A**

**3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:**

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

**4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**

- a. The adverse and beneficial effects;**  
**b. The positive or negative economic impact; and**  
**c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

## **Informational Report – Executive Order 2023-003**

### **Section 1 - Comprehensive Review of Regulations**

#### CHAPTER 368A - TAX ON LIVE ENTERTAINMENT

#### ADMINISTRATION OF TAX BY DEPARTMENT OF TAXATION

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

**NAC 368A.130 Determination of maximum occupancy by Department; presumption when maximum occupancy not designated on permit; rebuttal of presumption by taxpayer. (*NRS 360.090, 368A.140*)**

1. For the purposes of subsection 4 of *NRS 368A.020*, the Department shall determine the maximum occupancy of a facility where live entertainment is provided in accordance with the provisions of paragraph (b) of subsection 5 of *NRS 368A.200*.

2. ***Except as otherwise provided in NAC 368A.150***, for the purposes of subsection 1 and paragraph (b) of subsection 5 of *NRS 368A.200*, if there is no governmental permit designating the maximum occupancy of a facility where live entertainment is provided, the Department must presume that the actual seating capacity of the facility is at least 200 persons ~~[and less than 7,500 persons]~~. To rebut this presumption, the taxpayer must establish, to the reasonable satisfaction of the Department, that the actual seating capacity of the facility is less than 200 persons ~~[or at least 7,500 persons]~~. In determining whether the taxpayer has successfully rebutted the presumption, the Department shall consider all evidence provided by the taxpayer, including, without limitation, evidence of actual attendance, the number of admissions sold or offered for sale, the square footage of the facility, the physical needs or requirements of the patrons in relation to the nature of the live entertainment provided and any other evidence tending to establish the actual seating capacity of the facility.

(Added to NAC by Tax Comm'n by R212-03, eff. 12-4-2003; A by R196-05, 2-23-2006; R062-15, 11-2-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend to remove maximum occupancy of 7,500 in this section. Statute reads 200 or more, except for Non-Profit which is based on ticket sales, not occupancy.

- 3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:**

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

## Exhibit 368A.2-A

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

- 4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**
  - a. The adverse and beneficial effects;**
  - b. The positive or negative economic impact; and**
  - c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.