

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R073-13

Effective June 23, 2014

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

AUTHORITY: §§1-11, NRS 360.090, 372A.050 and 372A.075.

A REGULATION relating to taxation; requiring the monthly filing of a return and remittance of the excise taxes imposed on certain sales of marijuana, edible marijuana products and marijuana-infused products; requiring the maintenance of certain records and providing for the inspection of such records; establishing the procedure for the submission of a claim for a refund or credit for any overpayment of such a tax; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Senate Bill No. 374 of the 77th Session of the Nevada Legislature provides for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible marijuana products or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana. (Chapter 547, Statutes of Nevada 2013, p. 3695) Section 24.4 of Senate Bill No. 374 (NRS 372A.075) imposes an excise tax of 2 percent of the sales price on each sale of: (1) marijuana by a cultivation facility to another medical marijuana establishment; (2) edible marijuana products or marijuana-infused products by a facility for the production of such products to another medical marijuana establishment; and (3) marijuana, edible marijuana products or marijuana-infused products by a medical marijuana dispensary. (Chapter 547, Statutes of Nevada 2013, p. 3726) **Section 7** of this regulation sets forth the Nevada Tax Commission's interpretation of the term "sales price" for the purposes of the foregoing provisions. **Section 8** of this regulation requires each such medical marijuana establishment to file a monthly return with the Department of Taxation and remit to the Department any excise tax due. **Section 9** of this regulation requires each such medical marijuana establishment to keep and maintain records relating to its liability for the tax, and to make such records available for inspection by the Department. With respect to any establishment that believes it has overpaid the tax, **section 10** of this regulation provides for the filing of a claim with the Department for a refund or credit, in the manner currently provided by law for such claims in connection with the modified business tax. (NRS 363B.150) Existing regulations require the use of revenue stamps by a dealer in controlled substances. (NAC 372A.020) **Section 11** of this regulation amends that section to provide that it has no application to a sale that is subject to the excise tax imposed by section 24.4 of Senate Bill No. 374 (NRS 372A.075).

Section 1. Chapter 372A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 10, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Excise tax on medical marijuana” means any of the excise taxes imposed by section 24.4 of Senate Bill No. 374, chapter 547, Statutes of Nevada 2013, at page 3726 (NRS 372A.075).*

Sec. 4. *“Medical marijuana” means marijuana, edible marijuana products and marijuana-infused products sold for a medical use as authorized by chapter 453A of NRS.*

Sec. 5. *“Seller” means a taxpayer who makes any sale of medical marijuana.*

Sec. 6. *“Taxpayer” means a:*

- 1. Cultivation facility;*
- 2. Facility for the production of edible marijuana products or marijuana-infused products; or*
- 3. Medical marijuana dispensary.*

Sec. 7. 1. *For the purposes of section 24.4 of Senate Bill No. 374, chapter 547, Statutes of Nevada 2013, at page 3726 (NRS 372A.075), the Nevada Tax Commission will interpret the term “sales price” to mean the total amount for which medical marijuana is sold, valued in money, whether received in money or otherwise, without any deduction for:*

- (a) The cost to the seller for the medical marijuana sold;*
- (b) The cost of materials used, the cost of labor or services, interest, losses, costs of transportation to the seller or any other expenses of the seller;*

(c) Any amount for which credit is given to the purchaser by the seller;

(d) Any charges by the seller for any services necessary to complete the sale; or

(e) Except as otherwise provided in this subsection, any tax imposed upon the seller or the seller's predecessors in the supply chain.

↪ The term does not include the amount of the seller's obligation for the excise tax on medical marijuana.

2. For the purposes of this section, the legal incidence of the excise tax on medical marijuana is deemed to be on the seller regardless of whether the seller passes the cost of the tax on to the purchaser.

Sec. 8. *Each taxpayer shall, on or before the last day of the month immediately following each month for which the taxpayer is subject to the imposition of the excise tax on medical marijuana, file with the Department a return on a form prescribed by the Department and remit to the Department any tax due for the month covered by the return. Each taxpayer shall file a return even if the taxpayer has no liability for the tax.*

Sec. 9. *Each taxpayer shall:*

1. Keep such records as are necessary to determine the amount of the liability of the taxpayer for the excise tax on medical marijuana;

2. Preserve those records for not less than 4 years or until any proceedings pursuant to NRS 360.300 to 360.400, inclusive, are finally determined, whichever is longer; and

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

Sec. 10. *A taxpayer who believes that it has made an overpayment of the excise tax on medical marijuana may file with the Department a claim for a refund or credit of the amount*

of the alleged overpayment. The claim must be filed as prescribed by NRS 363B.150 for claims filed pursuant to chapter 363B of NRS. The Department shall process and administer the claim as prescribed by NRS 363B.140 to 363B.230, inclusive, for claims filed pursuant to chapter 363B of NRS.

Sec. 11. NAC 372A.020 is hereby amended to read as follows:

372A.020 ***1.*** Each dealer in controlled substances who purchases revenue stamps from the Department pursuant to NRS 372A.090 shall affix the stamps to each package, packet or container of a controlled substance he or she sells.

2. *This section does not apply to any sale that is subject to an excise tax imposed by section 24.4 of Senate Bill No. 374, chapter 547, Statutes of Nevada 2013, at page 3726 (NRS 372A.075).*