

LCB File No. R049-01

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

(This proposed regulation was previously adopted as LCB File No. T021-01)

Explanation: Additions are in *italics*, deletions are within brackets ~~{}.~~

Amending 372.330 to read as follows:

372.330

1. As used in this section, the term "photographer" means a person who is primarily engaged in the creation of visual images, *which are formed by means of the chemical action of light or other radiation on sensitive film*, for which he receives consideration.

2. The services performed by a photographer in the creation of ~~of [an]~~ *a visual* image represent the rendering of professional services ~~[and, as a result, the photographer is the consumer of tangible personal property which is used incidentally in rendering the service and must pay the sales tax on the property at the time of — purchase. As an example of the application of this subsection, the purchase by a photographer of such material as photographic equipment and accessories, film, chemicals, and all other tangible personal property which is not transferred to a client in the normal course of business is subject to the sales tax.]~~ *are not subject to taxation. Such professional services include but are not limited to: consultation, visualization, set-up, exposure and processing.*

a. The first rendering of a visual and the proofs which are furnished by a photographer to a customer are considered professional services rendered by a photographer and are not a sale of tangible personal property, thus they are not subject to taxation.

b. Visual images created by combining two or more existing photographs or visual images are considered professional services rendered by a photographer and not subject to taxation.

3. ~~[If, in addition to rendering a service, the]~~ A photographer *who [regularly]* sells tangible personal property to a ~~[client]~~ *customer* such as ~~[proofs,]~~ *duplicates*, ~~[duplications]~~ *duplicates*, or enlargements, ~~[the photographer will be]~~ *is* considered a retailer with respect to such sales and the gross receipts from those sales are subject to the sales tax. ~~[, except that, any charges for the property that are attributable to services and are stated separately on the invoice are not subject to the sales tax. For the purposes of taxation, the first rendering will be regarded as the material from which reproductions may be made such as negatives. As an example of the application of this subsection, if a client commissions a photograph for use in a newspaper advertisement, the cost for the consultation, visualization, set-up, exposure, and processing necessary for the first rendering is not subject to the sales tax but the charge for any reproductions sold in addition to the first rendering is subject to the sales tax as well as any tangible personal property sold with the reproduction such as mats and frames.]~~

4. A photographer is the consumer of the tangible personal property, which is used in rendering his professional services, such property includes but is not limited to: photographic equipment and accessories, film, and chemicals. The photographer is required to pay sales/use tax on the tangible personal property at the time of purchase.

~~[4. The sales tax does not apply to the services necessary for a first rendering made by combining two or more existing photographs or visual images (photomontage). The sales tax does apply to any reproductions made from the first rendering of the montage.]~~

~~[5. The sales tax does not apply to any charges for supervision, consultation, research, postage, express, telephone and telegraph messages, transportation and travel expenses, or talent fees, if the charge is stated separately on the invoice or is part of a charge for other services.]~~