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Executive Director's Exemption and Refund Report

February 1999

Sales and Use Taxes

- 372.265 Constitutional and statutory exemptions**
Due to an Attorney General's opinion, this exemption now has a significant affect on Nevada. Property purchased in other states for use in Nevada, which has been legally taxed in the other state, is no longer subject to Nevada use tax. While no information or estimate is available, two areas of potential significant revenue loss are motor vehicles and construction components.
- 372.270 Proceeds of Mines.**
Based on March 1998 estimated figures: \$217.7 million.
- 372.275 Fuel used to propel motor vehicle.**
Estimate of annual revenue gain if the exemption did not exist is as follows. Diesel = \$22.3** million (255.2 million gallons); Gasoline = \$75.6** million (864.1 million gallons). Neither figure includes potential governmental exemptions. Diesel figure does not take into account for gallonage which may have been refunded for various reasons. Information is from actual gallonage consumed in FY 98 and is based on an average price of \$1.25 per gallon for both types of fuel.
- 372.280 Animals and plants intended for human consumption; feed; fertilizer.**
Based on 1995 information received from Nevada Agricultural Statistics Service, the estimate for this exemption is \$16.7 million.
- 372.283 Prosthetic devices, orthotic appliances and certain supports and casts; appliances and supplies relating to ostomy; products for hemodialysis; medicine.**
This estimate is for prosthetic devices, orthotic appliances, casts and supports only. It does not include ostomy, hemodialysis or medicines as no information is available for these products. Estimate of annual revenue gain if exemption did not exist is \$553,200*.
- 372.284 Food for human consumption.**
Based on a prior fiscal study completed by the Department, the revenue loss due to the exemption for food is approximately \$81.4* million annually.
- 372.285 Meals and food products sold to students or teachers by school, organization of students or parent- teacher association.**
Based on estimate for K-12 school districts: \$3.5* million. Figure does not include university or college information.
- 374.291 Works of fine art for public display.**
The result of this exemption is a reduction in tax collected (Local school support and City/County taxes). For various reasons, the actual amount cannot be determined at this time. Based on the first two years of the program, the initial annual loss will range from \$152,827 to \$7,192,651.

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- 372.287 **Textbooks sold within the University and Community College System of Nevada.**
While no current information is available, the fiscal note completed on this bill during the 1989 session indicated a tax loss of \$75-80,000 per year was anticipated. No update has been completed since the original fiscal note.
- 372.290 **Containers.**
No information is available.
- 372.295 **Gas, electricity and water.**
Based on information received from the PUC, based on calendar year 1997: \$109.9 million.
- 372.300 **Domestic fuels.**
Not including propane, \$41,224* estimated annually from firewood.
- 372.305 **Personal property used for performance of contract on public works executed before July 1, 1955, and**
- 372.310 **Personal property used for performance of written contract executed before March 29, 1955.**
Time frame for qualification for these two exemptions was over 40 years ago. No information is available.
- 372.315 **Newspapers.**
Based on study of Nevada published newspapers in February 1999: \$7.6 million.
- 372.316 **Manufactured homes and mobile homes.**
Based on the assumption that all reported sales of mobile home dealers are sales that qualify for exemption, if the exemption did not exist \$4.18** million in revenue would be gained annually.
- 374.322 **Aircraft, aircraft engines and component parts of aircraft.**
No information is available. Sellers of aircraft are permitted to sell tax exempt. However, the purchaser must pay the 2% portion. There are no records of who those purchasers are.
- 372.320 **Occasional sales. (property other than vehicles)**
Based on rough estimate of ¼ of 1 percent of all taxable sales, estimate is \$4 million.
- 374.040.2 **“Occasional sale” defined. (vehicles)**
Based on information provided by DMV reports to the Department, the general fund loss for FY 98 was \$5.35** million per year for the 2% portion that was not taxed.
- 372.325 **Sale to United States, state or political subdivision.**
Not including sales to the United States (constitutional issue), March 1999 estimate for state and local sales equals \$18.1* million.
- 372.326 **Personal property sold by or to nonprofit organization created for religious, charitable or educational purposes.**
This issue has vacillated until once again voted on (November 6, 1996) by the people of Nevada. Now, the exemption as interpreted since 1955 has been restored. The fiscal note developed at the time this bill was written indicated a potential tax loss of \$1.3 million. However, it is important to note the actual taxing of sales made by this group of organizations was for a short period of time.

- 372.327 **Loan or donation to United States, state, political subdivision or religious or eleemosynary organization.**
No information is available, however it is felt this would be minimal.
- 372.330 **Sale to common carrier.**
No information is available, however it is felt this would be minimal.
- 372.335 **Property shipped outside state pursuant to sales contract; delivery by vendor.**
To lose this exemption would put Nevada at a competitive disadvantage with virtually all other states, as most all states have this exemption. However, information received from the Attorney General's office indicates this would be a constitutional matter. The revenue loss for this exemption is estimated to be \$91.3* million.
- 374.287.1.d **Any ophthalmic or ocular devices or appliance prescribed by a physician or optometrist.**
Annual loss due to this exemption is approximately \$2.18* million.
- 374.030.3.e.1 & .2 **Trade-in value of used vehicle or farm equipment.**
Annual loss due to this exemption for vehicles is approximately \$14.55* million. While no information available for farm equipment, it is believed to be minimal.
- 372.340 **Personal property sold to or used by contractor who is a constituent part of governmental, religious or charitable entity.**
No information is available, however it is felt this also would be minimal.
- 374.357 **Abatement for eligible machinery or equipment used by certain businesses.**
Sales tax abated for FY 98 \$1,512,779.72

CONCLUSION

BASED ON THIS STUDY, THE TOTAL CURRENT DOLLAR AMOUNT OF SALES AND USE TAX EXEMPTION CONSERVATIVELY WOULD BE \$677,995,029. (678 M)

* Revenue loss based on prior study or fiscal note, using Economic Forum growth figures for current calculation.

** Revenue loss based on actual Department reports, other agency filings with this Department, or from information obtained from other agencies.

Business Tax

- 364A.151 **Exclusion of hours from calculation for employment of pupil as part of program that provides work-study.**
No information available.
- 364A.1525 **Requirements to qualify as organization created for religious, charitable or educational purposes.**
No information available.
- 364A.160 **Exemption for natural person with no employees during calendar year.**
No information available.

- 364A.170 Exemption for proposed business; eligibility for exemption; repayment of amount of exemption for failure to comply; adoption of regulations.
Business tax abated for FY98 \$59,625.
- 364A.175 Exemption for activities conducted pursuant to certain contracts executed before July 1, 1991.
No information available.

Excise Tax

Note: All excise tax statutes contain provisions for refund of previously collected taxes, or restrictions on the Department of Taxation collecting taxes under certain conditions. These refund and restriction provisions are listed with each excise tax.

Insurance Premium Tax:

Exemptions:

- 679A.160 Application of code to particular types of insurers. Unless otherwise provided, no provision of this code applies to:
- Fraternal benefit societies, as identified in chapter 695A of NRS, except as stated in chapter 695A of NRS.
 - Hospital, medical or dental service corporations, as identified in chapter 695B of NRS, except as stated in chapter 695B of NRS.
 - Motor clubs, as identified in chapter 696A of NRS, except as stated in chapter 696A of NRS.
 - Bail bondsmen, as identified in chapter 697 of NRS, except as stated in NRS 680B.025 to 680B.039, inclusive, and chapter 697 of NRS.
 - Risk retention groups, as identified in chapter 695E of NRS, except as stated in chapter 695E of NRS.
 - Health and welfare plans arising out of collective bargaining under chapter 288 of NRS, except that the commissioner may review the plan to ensure that the benefits are reasonable in relation to the premiums and that the fund is financially sound.
- No information is available.

- Adjustments* 680B120 Refund of overpayments.
FY 98 \$214,468.37

- 680B.050 Credit if home office or regional home office is in Nevada in an amount equal to 50% of the aggregate amount of tax and the full amount of ad valorem taxes paid by the insurer, however, the total credit shall not reduce the amount of tax payable to less than 20% of the tax otherwise payable by the insurer.
FY 98 \$6,758,830.14

686C.280 Life/Health Guaranty Association offset is issued to each insurer paying an assessment under this chapter in the form of a certificate of contribution. The insurer may offset an amount equal to 20% of the amount certified against its liability for 5 years.

FY 98 \$3,249,179.99

687A.060 Property/Casualty Guaranty Association credit is issued to each insurer paying an assessment under this chapter in regards to insolvent insurance companies. The insurer may apply this credit in an amount equal to 20% of the assessment against its liability for 5 years.

FY 98 \$1,850,397.18

Tire Tax:

Exemptions:

No Exemptions

Cigarettes Tax:

Exemptions:

370.070 The provisions of NRS 370.001 to 370.430, inclusive, do not apply to common carriers while engaged in interstate commerce which sell or furnish cigarettes on their trains, buses or airplanes.

No information available.

370.290 Exemption for cigarettes exported from state; notice to department of taxation and state of destination; penalty.

No information available.

Refunds:

370.280 Tax refunds.

1. Upon proof satisfactory to the department, refunds shall be allowed for the face value of the cigarette revenue stamp tax paid, less any discount previously allowed, upon cigarettes that are sold to:

(a) The United States Government for Army, Air Force, Navy or Marine Corps purposes and are shipped to a point within this state to a place which has been lawfully ceded to the United States Government for Army, Air Force, Navy or Marine Corps purposes;

(b) Veterans' hospitals for distribution or sale to disabled service or ex-servicemen interned therein, but not to civilians or civilian employees;

(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the cigarette tax imposed under this chapter; or

(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the cigarette tax imposed under this chapter.

2. Upon proof satisfactory to the department, refunds shall be allowed to cigarette dealers, or to manufacturers or their representatives, for the face value of the cigarette revenue stamp tax paid, less any discount previously allowed upon cigarettes destroyed because the cigarettes had become stale. Applications for refunds shall be submitted in an amount of not less than \$15 and shall be accompanied by an affidavit of the applicant setting forth:

(a) The number of packages of cigarettes destroyed for which refund is claimed;

(b) The date or dates on which the cigarettes were destroyed and the place where destroyed;

- (c) That the cigarettes were actually destroyed because they had become stale;
- (d) By whom the cigarettes were destroyed; and
- (e) Other information which the department may require.

3. Upon proof satisfactory to the department, refunds may be allowed to licensed wholesale cigarette dealers for the face value of the cigarette metered machine stamp tax paid, less any discount previously allowed upon:

- (a) The balance of unused stamps on the descending register of a cigarette meter machine destroyed by fire, if the cigarette meter counting positions can be determined by the manufacturer of the meter stamping machine;
- (b) Cigarettes which were stamped on their carton covers because of stamping machine failure to open the carton and stamp the cigarette packs; or
- (c) Cigarettes which were not stamped but were registered on the machine as being stamped because of failure of the meter counters.

4. Any refund shall be paid as other claims against the state are paid.

Military Sales cannot be compiled.
 Tribal Refunds for FY 98 \$4,226.80
 Other Refunds for FY 98 \$449,163.89

Restrictions:

370.515 **Restriction on collection by department of tax for products sold on Indian reservation or colony.**
 Tribal Sales approximated \$13,445,250 in FY 1998.

Tobacco Products Other Than Cigarettes:

Exemptions:

No Exemptions

Refunds:

370.503 Allowance of refund for certain taxes paid.

1. Upon proof satisfactory to the department, a refund must be allowed for the taxes paid pursuant to NRS 370.450, upon products made from tobacco other than cigarettes, that are sold to:

- (a) The United States Government for the purposes of the Army, Air Force, Navy or Marine Corps and are shipped to a point within this state to a place which has been lawfully ceded to the United States Government for the purposes of the Army, Air Force, Navy or Marine Corps;
- (b) Veterans' hospitals for distribution or sale to disabled servicemen or ex-servicemen interned therein, but not to civilians or civilian employees;
- (c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the tax imposed pursuant to NRS 370.501; or
- (d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the tax imposed pursuant to NRS 370.501.

2. Any refund must be paid as other claims against the state are paid.

Military Sales cannot be compiled.
 Tribal Refunds for FY 98 \$863.18
 Other Refunds for FY 98 \$0.00

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Restrictions:

370.515 **Restriction on collection by department of tax for products sold on Indian reservation or colony.**
Tribal Sales approximated \$1,429,687.46 in FY 1998.

Controlled Substance:

Exemptions:

No Exemptions

Estate Tax:

Exemptions:

No Exemptions

Refunds:

375A.220 **Refund of overpayment.**

1. Whenever the department determines that an overpayment of the tax due under NRS 375A.100 has been made, the person making payment is entitled to a refund of the amount erroneously paid on presentation of proof satisfactory to the department that he is entitled to a refund.
2. An application for the refund must be made to the department within 1 year after the date the federal estate tax has been finally determined.
3. On proof satisfactory to the department that the applicant is entitled to a refund, the department shall refund that amount plus interest as provided by NRS 375A.225.
4. The amount of the refund must be paid from the estate tax account in the state general fund.

Total Refunds for FY 1998 = \$1,260,592.34

Liquor Tax:

Exemptions:

369.175 **Common carriers engaged in interstate commerce. (Trains, buses or airplanes)**

369.335 **Sales to certain instrumentalities of Armed Forces.**

369.370(2) **Exports**

369.370(4) **Shipments lost, stolen or damaged in transit, or damaged or spoiled on the premises.**
Total losses, exports, military and airlines exemptions for FY 1998 = \$188,760.62

Refunds:

Same statutes as above
Total Refunds in FY 1998 = \$22,875.

Motor Vehicle Fuel Excise Tax:

Exemptions:

365.220

Exempt transactions and sales

1. Motor vehicle fuel so long as it remains in interstate or foreign commerce.
2. Motor vehicle fuel or fuel for jet or turbine-powered aircraft exported from this state by a dealer.
3. Motor vehicle fuel or fuel for jet or turbine-powered aircraft sold to the United States Government for official use of the United States Armed Forces.
4. Motor vehicle fuel or fuel for jet or turbine-powered aircraft distributed, or delivered on the order of the owner, to a dealer.
5. Leaded racing fuel.

Total exempt for FY98 - unavailable

365.230

Exempt sales by dealer in individual quantities of 500 gallons or less for export.

Total exempt for FY98 - unavailable

Refunds:

365.370

Any person who exports any motor vehicle or fuel for jet or turbine-powered aircraft from this state, or who sells any such fuel to the United State Government for official use of the United States Armed Forces, or who buys and uses any such fuel for purposes other than for the propulsion of motor vehicles or jet or turbine-powered aircraft, and who has paid any tax on such fuel levied or directed to be paid as provided by this chapter, either directly by the collection of the tax by the vendor from the customer or indirectly by the addition of the amount of the tax to the price of the fuel, must be reimbursed and repaid the amount of the tax so paid by him except as follows:

1. Refund claims must be paid by prescribed classes in accordance with the department's regulations.
2. The minimum claim for refund must be based on at least 200 gallons purchased and used in a 6-month period.
3. No refund of motor vehicle fuel taxes may be made for off-highway use of motor vehicle fuel consumed in watercraft in this state for recreational purposes.
4. A person who exports, sells, buys or uses aviation fuel for any purpose is not entitled to reimbursement of any tax paid by him on such fuel.

Total refunded for FY98 - \$959,482.06