

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R073-13

October 7, 2013

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 periodic 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.

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. *1. Except as otherwise provided in subsection 2, each taxpayer shall, on or before the last day of the month immediately following each calendar quarter 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 that calendar quarter. Each taxpayer shall file a return even if the taxpayer has no liability for the tax. A separate return must be filed for each cultivation facility, facility for the production of edible marijuana products or marijuana-infused products and medical marijuana dispensary operated by the taxpayer.*

2. Each taxpayer whose taxable sales at a medical marijuana establishment exceed \$10,000 in any month shall, on or before the last day of the next ensuing month, file a return as described in subsection 1 and remit to the Department any tax due for the month covered by the return.

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).*

Sec. 12. This regulation becomes effective on April 1, 2014, or upon filing with the Secretary of State, whichever is later.