

**Nevada Department of Taxation
Small Business Impact Questionnaire
(Response Requested by 11/15/13)**

LCB File No. R073-13

LCB File No. R073-13 contains regulation to implement the provisions related to the excise tax contained in Senate Bill 374 (2013). The purpose of the regulation is to provide some guidance to a taxpayer in calculating, filing and paying its medical marijuana excise tax. A copy of the draft regulation is attached hereto.

Secs. 1-6 are administrative and definition provisions.

Sec. 7 Provides an interpretation of “sales price” for the excise tax which essentially mirrors that provision as it relates to sales tax and provides that the legal incident of the tax falls on the seller regardless of whether the seller passes the cost onto the purchaser.

Sec. 8 provides that returns must be submitted monthly on a form provided by the Department and must be accompanied by payment.

Sec. 9 provides that the taxpayer shall keep records to determine amount of liability for 4 years and make such documents available to the Department.

Sec. 10 provides for overpayment refund and adopts the provision in NRS 363B for overpayment refund claims.

Sec. 11 provides that NAC 372A.090 does not apply to the excise tax imposed by SB 374.

The following questions pertain to how these changes in the Nevada Administrative Code (NAC) presented in LCB File No. R073-13 will affect your business. (The proposed language that is struck-out is being eliminated, and the language in italicized is being added.) If it is determined that the proposed regulation is likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business; then the agency will take any or all of the following actions:

1. Insofar as practicable, consult with owners and officers of affected small businesses,
2. Consider methods to reduce the impact of the proposed regulation, and
3. Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted and the public hearing held pursuant to Nevada Revised Statutes (NRS) 233B.061.

Please answer each of the questions that apply and add any qualifying remarks that may help us to understand your position. Mail, scan and email or FAX your completed form **by November 15, 2013** to:

Erin Fierro, Executive Assistant
Nevada Department of Taxation
Carson City, Nevada 89706
efierro@tax.state.nv.us
FAX#: 775-684-2020

Completed Small Business Impact Questionnaire

LCB File No. R073-13

Your Name: _____

Your Organization: _____

Date: _____

NRS 233B.0382 "Small Business defined." "Small business" means a business conducted for profit, which employs fewer than 150 full-time or part-time employees.

1. How many employees are currently employed by your business? _____

If more than 150, you will not need to answer the rest of the questions. Please FAX this questionnaire to the above address. If your business has less than 150, please continue with the remaining questions.

2. Will a specific proposed regulatory provision have an adverse economic effect upon your business?

Yes: _____ No: _____

Explain: Please list each regulation provision and explain the impact

3. Will the regulation(s) have any beneficial effect upon your business?

Yes: _____ No: _____

Explain:

4. Do you anticipate any indirect adverse effects upon your business?

Yes: _____ No: _____

Explain:

5. Do you anticipate any indirect beneficial effects upon your business?

Yes: _____ No: _____

Explain:

**REVISED PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R073-13

November 5, 2013

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

AUTHORITY: §§1-12, 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.

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. 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.

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.