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NOTICE OF INTENT TO ACT UPON A REGULATION

LCB File No. R092-17

Nevada Tax Commission

The Nevada Tax Commission will hold a Public Hearing at 10:00 a.m. on Tuesday, January 16, 2018 at the Nevada Legislative Building 401 S. Carson Street, Room 2134, Carson City, NV & Video Conferenced at Legislative Counsel Bureau Grant Sawyer State Office Building 555 E. Washington Ave., Room 4401, Las Vegas, NV. The purpose of the hearing is to receive comments from all interested parties regarding the adoption of proposed regulation, LCB File No. R092-17, that pertains to chapter 453A and 453D of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Need and purpose of the proposed regulations or amendments

The need and purpose of the proposed regulation is to establish procedures for the issuance, suspension or revocation of licenses issued by the Department of Taxation, provide operating requirements to licensed marijuana establishments, require monthly filing of returns and remittance to tax imposed on the sales of marijuana, require the maintenance of certain records, and provide for the inspection of such records relating to the regulation and taxation of marijuana pursuant to NRS 453D, and other related matters.

2. How to obtain the approved or revised text of regulations prepared by LCB

You may obtain a copy of the proposed regulation by writing to the Nevada Department of Taxation, 1550 College Parkway, Carson City, Nevada, 89706; or by calling their office at (775) 684-2030. The proposed regulation is also available for review and download on the Department of Taxation website: https://tax.nv.gov/uploadedFiles/taxnvgov/Content/FAQs/Revised-Proposed-Regulation-LCB-File-No-R_092-17.pdf or at the Nevada Legislature's Website: <https://www.leg.state.nv.us/Register/2017Register/R092-17RP1.pdf>

3. Methods used in determining the impact on a small business

The Department used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes. Initially the Department conducted its own analysis by considering the extent of the regulatory provisions contained in LCB File No. R092-17. The proposed regulation provides the structure to license businesses and provide the regulatory structure for the program to operate. This is a new program that the Department must implement. Every business that operates under this regulation can be deemed a small business. Thus, these provisions affect every business in the same manner and the impacts are not the result of being disadvantaged as a small business in a competitive context with large businesses and corporations.

The Department held workshops on Monday, July 24, 2017 through Thursday, July 27, 2017 where members of the public stated their concerns and submitted correspondence regarding the proposed regulation. The Department analyzed the written responses and oral feedback to determine the likely impact of the proposed regulation on small businesses. This analysis included categorizing responses to identify themes and the frequency with which impacts were named. The Department also looked at issues that were named with less frequency but could potentially have an impact.

The themes that were identified were requirements for labels and packaging, Department preapproval of logos, disposal of unusable marijuana, penalties, purchase limit of THC in concentrated cannabis, allowable advertising, distributor requirements, testing, and excise taxes on non-marijuana product. The Department revised the language of the proposed regulation to address these impacts and has determined that there will be no adverse impacts to small marijuana businesses after making these revisions.

4. Estimated economic effect of regulations on business and the public

a. Adverse and beneficial effects

The proposed regulation presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public.

The Department anticipates that those marijuana businesses that receive retail marijuana licenses will realize the beneficial economic effects of expanding from a medical- only market into a medical and adult-use market. The investments that businesses have made in establishing their medical marijuana businesses have often been extensive, and the adult-use program allows them to begin increasing their return on those investments.

b. Immediate and long-term effects

The proposed regulation presents no reasonably foreseeable or anticipated immediate or long-term effects to businesses or to the general public.

5. Cost for enforcement of the regulations

The proposed regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

6. Overlap or duplication of other state or local governmental agencies

The proposed regulation does not overlap or duplicate any regulation of other state or local governmental entities.

7. Regulation required by federal law

Not applicable

8. More stringent than federal regulations

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. New or increases in existing fees

Section 85 provides for the reimbursement of costs incurred by the Department to conduct a preliminary walk –through prior to an inspection; Section 91 provides for an application fee for an agent card; Section 92 provides for the reimbursement of all costs incurred by the Department to review or investigate a change in ownership; Section 102 allows a fee for the oversight of a marijuana establishment, Section 109 requires the marijuana establishment to pay a fee assessed by the independent contractor for using the seed-to-sale tracking system; Section 115 provides for reimbursement of all costs incurred by the State of locality for cleaning up, mitigating or remedying any environmental damage; Section 246 allows for the Department to collect a fee for costs of investigating a complaint. These fees are not additional fees but mirror the fees provided for in NRS 453A and NAC 453A to bring the adult-use marijuana program into conformity with the medical marijuana program.

Persons wishing to comment on the proposed action of the Nevada Tax Commission may appear at the above scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Tax Commission, 1550 E. College Parkway, Suite 115, Carson City, Nevada 89706. Written submissions must be received at least two weeks prior to the above scheduled public hearing.

A copy of this notice and the proposed regulation to be adopted and amended will be on file at the Nevada State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation to be adopted and amended will be available at the Department of Taxation, 1550 College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building L, Suite 235, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Suite 1300, Las Vegas, Nevada; Department of Taxation- 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada; and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of the proposed regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal.

Copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

Under NRS 233B.064(2), when adopting any regulation, the Agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporation, and its reason for overruling the consideration urged against its adoption.

Deonne E. Contine

Deonne Contine, Executive Director
December 15, 2017

Members of the public who are disabled and require accommodations or assistance at the meeting are requested to notify the Department of Taxation in writing or by calling 775-684-2030 no later than five working days prior to the meeting.

Notice has been posted at the following locations: The Department of Taxation - 1550 College Parkway, Carson City, Nevada. Notice was mailed to each County Public Library for posting.

Notice has been EMAILED/FAXED for posting at the following locations: Department of Taxation - 4600 Kietzke Lane, Building L, Suite 235, Reno, Nevada; Department of Taxation - 555 E. Washington Avenue, Grant Sawyer Office Building, Suite 1300, Las Vegas, Nevada; Department of Taxation - 2550 Paseo Verde Parkway, Suite 180, Henderson; The Legislative Building, Capitol Complex, Carson City, Nevada; and the Nevada State Library, 100 Stewart Street, Carson City, Nevada, Interested Parties Group & Mailing List maintained by the Department. Notice of this meeting was posted on the Internet through the Department of Taxation website at www.tax.nv.gov, on the Legislative website at www.leg.state.nv.us, and at the Nevada Public Notice Website <https://notice.nv.gov/>.