



WHAT YOU NEED TO KNOW ABOUT NEVADA'S LIVE ENTERTAINMENT TAX

Effective 1/1/04, A live entertainment tax has been approved by the 20th Special Session of the Nevada Legislature. This tax is being administered by two state agencies, the Gaming Control Board for live entertainment events taking place within licensed gaming establishments; and the Department of Taxation for live entertainment events taking place outside of licensed gaming establishments. The live entertainment tax rate is two tiered. The questions and answers have been updated to include changes to Live Entertainment Tax approved by the 2005 Session of the Nevada Legislature effective as of July 1, 2005. (Nevada Revised Statute Chapter 368A-Tax on Live Entertainment; Nevada Administrative Code Chapter 368A-Tax on Live Entertainment). This information pertains to the Live Entertainment Tax administered by the Department of Taxation that takes place outside a licensed gaming establishment. **If you are a licensed gaming establishment please refer to the Nevada Gaming Control Board website at <http://gaming.nv.gov>.**

1. *Q. What are the live entertainment tax rates?*

The Live Entertainment Tax is two tiered with a 10% tax rate and a 5% tax rate based upon the “maximum occupancy” of the facility where live entertainment is taking place. The maximum occupancy threshold for the 10% tax rate was lowered by the 2005 Legislature.

(a) Effective 1/1/04 through 6/30/05, the 10% tax rate was applicable to admission charges, merchandise, food and refreshments sold at the event where the occupancy for patrons was at least 300 up to 7,499 at a non-gaming facility.

Effective 7/1/05, a non-gaming facility where the occupancy for patrons is at least **200** patrons up to 7,499 patrons, the tax rate is 10% on admission charges, merchandise, food and refreshments sold at the event.

(b) A non-gaming facilities and licensed gaming establishments where the occupancy for patrons is 7,500 or more patrons, the tax rate is 5% on admission charges only.

2. *Q. How is “maximum occupancy” determined?*

A. The “maximum occupancy” of the facility where the live entertainment is taking place is determined by using the following criteria in order of priority: a) The maximum occupancy established for the facility by the State Fire Marshall, or by other local government agency; b) If the facility occupancy is not established, then by the maximum occupancy designated on any permits required for the event; or c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility will be used.

3. *Q. What is the registration fee for live entertainment tax?*

A. There is no registration fee for this tax. A taxpayer who intends to provide live entertainment at a facility that is not a licensed gaming establishment shall register with the Department of Taxation to collect the tax.

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4. *Q. What is the reporting frequency for live entertainment tax?*

A. For those taxpayers registered with the Department of Taxation, the reporting frequency is monthly. The live entertainment tax returns should be filed on or before the last day of the month reporting the amount of taxable receipts for the preceding month.

5. *Q. How is live entertainment tax calculated?*

A. The tax is calculated on the gross receipts of admission charges only (seating capacity of 7,500 or more), or on the gross receipts of admission charges, merchandise, food and refreshments sales (Effective 1/1/04 through 6/30/05 seating capacity of 300 up to 7,499. **Effective 7/1/05**, seating capacity of **200** up to 7,499).

6. *Q. Is live entertainment tax due in addition to applicable sales tax on merchandise, food and refreshments sold within a live entertainment event?*

A. Yes, when the 10% live entertainment tax rate is applicable to the gross receipts from sales of merchandise, food and refreshments this would be in addition to the applicable sales tax.

7. *Q. Are there any live entertainment events **not** subject to the tax?*

A. 1. Events where the proceeds from the admission charges (merchandise, food and refreshment sales if applicable) go entirely to a nonprofit organization that qualifies as a tax-exempt organization under 26 U.S.C. Section 501(c) or a nonprofit corporation organized under NRS Chapter 82 are exempt from the live entertainment tax.

2. If the proceeds from the admission charges are donated to a nonprofit organization by another person who is not a nonprofit organization those proceeds are also exempt from the live entertainment tax, even if the contract for that event allows a person other than the nonprofit organization to sell goods and services at that event.

3. Boxing contest or exhibitions which can be defined as "unarmed combat" pursuant to NRS 467.0107.

4. Merchandise sold outside a facility where live entertainment is provided, unless the purchase of such merchandise serves as an admission charge to the event.

5. Live entertainment provided at a trade show.

6. Live entertainment performed by strolling musicians whose only purpose is to move constantly through the audience.

7. Live entertainment provided in the **common** area of a shopping mall.

8. Live entertainment that is **incidental** (not the predominant element or reason the public rides or participates in the electromechanical attraction) to an amusement ride, a motion simulator or electromechanical attraction.

9. Live entertainment that is provided to the public in an outdoor area that is free of admission charges or other purchase requirements.

10. **Effective 7/1/05**, an outdoor concert at a non-gaming establishment.

11. **Beginning 7/1/07**, NASCAR race events in Nevada.

12. Live entertainment in a restaurant which is incidental or ambient in nature as long as there is no charge to the patrons for the entertainment.

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8. *Q. How is live entertainment defined?*

A. Live entertainment is defined by statute NRS 368A.090 as meaning any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing an activity to a patron or group of patrons who are physically present. **This has been elaborated upon in NAC 368A.100 (5.a) to be construed to include, without limitation, the following:**

- (1) Music or vocals provided by one or more professional or amateur musicians or vocalists;
- (2) Dancing performed by one or more professional or amateur dancers or performers;
- (3) Acting or drama provided by one or more professional or amateur actors or players;
- (4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;
- (5) Animal stunts or performances induced by one or more animal handlers or trainers;
- (6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes or sportsmen;
- (7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;
- (8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; and
- (9) A performance involving one or more of the activities described in this paragraph by a disc jockey who presents recorded music. For the purposes of this subsection, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.

The statutory definition of live entertainment has been elaborated upon in NAC 368A.100 (5.b) to exclude, without limitation, the following:

- (1) Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;
- (2) Occasional performances by employees whose primary job function is that of preparing or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;
- (3) Television, radio, closed circuit or Internet broadcasts of live entertainment;
- (4) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons; and
- (5) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research; and
- (6) An occasional activity, including, without limitation, dancing that does not constitute a performance, is not advertised as entertainment to the public, primarily serves as ambience and is conducted by an employee whose primary job is not that of an entertainer.