

SENATE BILL NO. 521—COMMITTEE ON TAXATION

MARCH 22, 1999

Referred to Committee on Taxation

SUMMARY—Revises provisions governing exemption of works of fine art from certain taxes.
(BDR 32-1661)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to taxation; revising the provisions governing the exemption of works of fine art from certain taxes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 361 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 and 3 of this act.
- 3 **Sec. 2. 1. *A taxpayer may collect an admission fee for the***
- 4 *exhibition of fine art otherwise exempt from taxation pursuant to NRS*
- 5 *361.068 if the taxpayer offers to residents of the State of Nevada a*
- 6 *discount of 50 percent from any admission fee charged to nonresidents.*
- 7 *The discounted admission fee for residents must be offered for a total of*
- 8 *at least 25 hours each week between 6 p.m. and 12 a.m. during the year*
- 9 *for which the exemption is claimed.*
- 10 **2. *If a taxpayer collects a fee for the exhibition of fine art otherwise***
- 11 *exempt from taxation pursuant to NRS 361.068, the tax otherwise*
- 12 *payable for a fiscal year for which the exemption is claimed becomes due*
- 13 *to the extent of the net revenue derived by the taxpayer for that fiscal*
- 14 *year.*
- 15 **3. *For the purposes of this section, “net revenue” means the amount***
- 16 *of the fees collected for exhibiting the fine art during that fiscal year less*
- 17 *the following paid or made during that fiscal year:*
- 18 **(a) *The direct costs of owning and exhibiting the fine art;***
- 19 **(b) *Contributions by the taxpayer to supervised programs for the arts***
- 20 *as provided in NRS 62.211 and charitable organizations;*

1 (c) *The cost of educational programs associated with the taxpayer's*
2 *public display of fine art, including the cost of meeting the requirements*
3 *of subparagraph (4) of paragraph (b) of subsection 5 of NRS 361.068;*
4 *and*

5 (d) *Taxes on personal property, other than taxes payable pursuant to*
6 *the provisions of this section, and sales and use taxes, with respect to*
7 *works of fine art.*

8 4. *A tax resulting from the operation of this section is due with the*
9 *tax otherwise due under the taxpayer's first statement filed pursuant to*
10 *NRS 361.265 after the 15th day of the fourth month after the end of the*
11 *fiscal year in which the net revenue was received or, if no such statement*
12 *is required to be filed, under a statement of the net revenue filed on or*
13 *before the last day of the fourth month after the end of that fiscal year.*

14 **Sec. 3.** *The exemption provided in paragraph (j) of subsection 1 of*
15 *NRS 361.068 applies to taxes on personal property otherwise due from*
16 *the owner of a work of fine art that is leased to a person who publicly*
17 *displays the work. The price or value to which that section refers is the*
18 *price or value of the work that is leased.*

19 **Sec. 4.** NRS 361.068 is hereby amended to read as follows:

20 361.068 1. The following personal property is exempt from taxation:

21 (a) Personal property held for sale by a merchant;

22 (b) Personal property held for sale by a manufacturer;

23 (c) Raw materials and components held by a manufacturer for
24 manufacture into products, and supplies to be consumed in the process of
25 manufacture;

26 (d) Tangible personal property purchased by a business which will be
27 consumed during the operation of the business;

28 (e) Livestock;

29 (f) Colonies of bees;

30 (g) Pipe and other agricultural equipment used to convey water for the
31 irrigation of legal crops;

32 (h) All boats;

33 (i) Slide-in campers and camper shells;

34 (j) ~~[Fine]~~ *Except as otherwise provided in section 2 of this act, fine* art
35 *for public display; and*

36 (k) Computers and related equipment donated for use in schools in this
37 state.

38 2. The Nevada tax commission may exempt from taxation that personal
39 property for which the annual taxes would be less than the cost of
40 collecting those taxes. If such an exemption is provided, the Nevada tax
41 commission shall annually determine the average cost of collecting
42 property taxes in this state which must be used in determining the

43 applicability of the exemption.

3. A person claiming the exemption provided for in paragraph (j) of subsection 1 shall, on or before June 15 for the next ensuing fiscal year, file with the county assessor an affidavit declaring that the fine art ~~is~~:

~~—(a) Was purchased in an arm's length transaction for \$25,000 or more, or has an appraised value of \$25,000 or more;~~

~~—(b) Will be on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of the year for which the exemption is claimed; and~~

~~—(c) Will be available for educational purposes.]~~ *will, during that ensuing fiscal year, meet all the criteria set forth in paragraph (b) of subsection 5.*

4. To qualify for the exemption provided in paragraph (k) of subsection 1, a taxpayer must donate the property through a foundation or organization, not for profit, that accepts such property for use in schools in this state. The foundation or organization shall issue a voucher identifying each item of property donated. To obtain the benefit of the exemption, the taxpayer must apply to the county assessor and tender the voucher. The county assessor shall compute the assessed value of the property for the year in which the donation was made using the original cost and the year of acquisition. The county assessor shall allow a credit of that amount against the personal property assessment for the year following the donation.

5. As used in this section:

(a) "Boat" includes any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) "Fine art for public display" means a work of art which:

(1) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(2) Was purchased in an arm's length transaction for \$25,000 or more, or has an appraised value of \$25,000 or more;

(3) Is on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of each year for which the exemption is claimed ~~is~~ *or, if the facility displaying the fine art disposes of it before the end of that year, during at least two-thirds of the full weeks during which the facility had possession of it, or if the gallery, museum or other building or area in which the fine art will be displayed will not be opened until after the beginning of the fiscal year for which the exemption is claimed, these display requirements must instead be met for the first full fiscal year after the date of opening, and the date of opening must not be later than 2 years after the purchase of the fine art being displayed;* and

(4) Is *on display in a facility that is* available for ~~educational~~
~~purposes.~~ *group tours by pupils or students for at least 5 hours on at*
least 20 days of each full year for which the exemption is claimed, during
which the facility in which it is displayed is open, by prior appointment
and at reasonable times, without charge.

(c) *“Personal property held for sale by a merchant” includes property*
that:

(1) Meets the requirements of subparagraphs (1) and (2) of
paragraph (b);

(2) Is made available for sale within 2 years after it is acquired; and

(3) Is made available for viewing by the public or prospective
purchasers, or both, within 2 years after it is acquired, whether or not a
fee is charged for viewing it and whether or not it is also used for
purposes other than viewing.

Sec. 5. NRS 361.068 is hereby amended to read as follows:

361.068 1. The following personal property is exempt from taxation:

(a) Personal property held for sale by a merchant;

(b) Personal property held for sale by a manufacturer;

(c) Raw materials and components held by a manufacturer for
manufacture into products, and supplies to be consumed in the process of
manufacture;

(d) Tangible personal property purchased by a business which will be
consumed during the operation of the business;

(e) Livestock;

(f) Colonies of bees;

(g) Pipe and other agricultural equipment used to convey water for the
irrigation of legal crops;

(h) All boats;

(i) Slide-in campers and camper shells; and

(j) ~~Fine~~ *Except as otherwise provided in section 2 of this act, fine* art
for public display.

2. The Nevada tax commission may exempt from taxation that personal
property for which the annual taxes would be less than the cost of
collecting those taxes. If such an exemption is provided, the Nevada tax
commission shall annually determine the average cost of collecting
property taxes in this state which must be used in determining the
applicability of the exemption.

3. A person claiming the exemption provided for in paragraph (j) of
subsection 1 shall, on or before June 15 for the next ensuing fiscal year, file
with the county assessor an affidavit declaring that the fine art ~~is~~:

~~—(a) Was purchased in an arm’s length transaction for \$25,000 or more,~~
~~or — has an appraised value of \$25,000 or more;~~

1 ~~—(b) Will be on public display in a public or private art gallery, museum~~
2 ~~or other building or area in this state for at least 20 hours per week during~~
3 ~~at least 35 weeks of the year for which the exemption is claimed; and~~

4 ~~—(c) Will be available for educational purposes.]~~ *will, during that*
5 *ensuing fiscal year, meet all the criteria set forth in paragraph (b) of*
6 *subsection 4.*

7 4. As used in this section:

8 (a) “Boat” includes any vessel or other watercraft, other than a seaplane,
9 used or capable of being used as a means of transportation on the water.

10 (b) “Fine art for public display” means a work of art which:

11 (1) Is an original painting in oil, mineral, water colors, vitreous
12 enamel, pastel or other medium, an original mosaic, drawing or sketch, an
13 original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a
14 similar material, an original work of mixed media or a lithograph;

15 (2) Was purchased in an arm’s length transaction for \$25,000 or
16 more, or has an appraised value of \$25,000 or more;

17 (3) Is on public display in a public or private art gallery, museum or
18 other building or area in this state for at least 20 hours per week during at
19 least 35 weeks of each year for which the exemption is claimed ~~and~~ *or, if the*
20 *facility displaying the fine art disposes of it before the end of that year,*
21 *during at least two-thirds of the full weeks during which the facility had*
22 *possession of it, or if the gallery, museum or other building or area in*
23 *which the fine art will be displayed will not be opened until after the*
24 *beginning of the fiscal year for which the exemption is claimed, these*
25 *display requirements must be met for the first full fiscal year after the*
26 *date of opening, and the date of opening must not be later than 2 years*
27 *after the purchase of the fine art being displayed; and*

28 (4) Is *on display in a facility that is* available for ~~educational~~
29 ~~purposes.]~~ *group tours by pupils or students for at least 5 hours on at*
30 *least 20 days of each full year for which the exemption is claimed, during*
31 *which the facility in which it is displayed is open, by prior appointment*
32 *and at reasonable times, without charge.*

33 (c) “Personal property held for sale by a merchant” includes property
34 that:

35 (1) *Meets the requirements of subparagraphs (1) and (2) of*
36 *paragraph (b);*

37 (2) *Is made available for sale within 2 years after it is acquired; and*

38 (3) *Is made available for viewing by the public or prospective*
39 *purchasers, or both, within 2 years after it is acquired, whether or not a*
40 *fee is charged for viewing it and whether or not it is also used for*
41 *purposes other than viewing.*

1 **Sec. 6.** Chapter 374 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 **1. A taxpayer may collect an admission fee for the exhibition of fine**
4 **art otherwise exempt from taxation on its sale, storage, use or other**
5 **consumption pursuant to NRS 374.291 if the taxpayer offers to residents**
6 **of the State of Nevada a discount of 50 percent from any admission fee**
7 **charged to nonresidents. The discounted admission fee for residents must**
8 **be offered for a total of at least 25 hours each week between 6 p.m. and**
9 **12 a.m. during the first full calendar year after the purchase of the fine**
10 **art.**

11 **2. If a taxpayer collects a fee for the exhibition of fine art otherwise**
12 **exempt from taxation on its sale, storage, use or other consumption**
13 **pursuant to NRS 374.291 and the fee is collected during the first full**
14 **calendar year after the purchase of the fine art, the tax otherwise payable**
15 **during the year in which it was purchased or upon the sale or use of the**
16 **fine art becomes due to the extent of the net revenue derived by the**
17 **taxpayer for that first full calendar year.**

18 **3. Any tax due pursuant to this section must be paid with the first**
19 **sales and use tax return otherwise required to be filed by the taxpayer**
20 **following the 15th day of the fourth month after the end of the first full**
21 **calendar year following the purchase of the fine art or, if no sales and**
22 **use tax return is otherwise required to be filed by the taxpayer, with a**
23 **sales and use tax return filed specifically for this purpose on or before**
24 **the last day of the fourth month after the end of the first full calendar**
25 **year following the purchase of the fine art.**

26 **4. For the purposes of this section, "net revenue" means the amount**
27 **of the fees collected for exhibiting the fine art during the calendar year**
28 **less the following paid or made during the calendar year:**

29 **(a) The direct costs of owning and exhibiting the fine art;**

30 **(b) Contributions by the taxpayer to supervised programs for the arts**
31 **as provided in NRS 62.211 and charitable organizations;**

32 **(c) The cost of educational programs associated with the taxpayer's**
33 **public display of fine art, including the cost of meeting the requirements**
34 **of paragraph (d) of subsection 3 of NRS 374.291; and**

35 **(d) Taxes on personal property and sales and use taxes, other than**
36 **taxes payable pursuant to the provisions of this section, with respect to**
37 **works of fine art.**

38 **Sec. 7.** NRS 374.055 is hereby amended to read as follows:

39 374.055 1. "Retail sale" or "sale at retail" means a sale for any
40 purpose other than resale in the regular course of business of tangible
41 personal property. **The terms do not include a sale of property that:**

1 *(a) Meets the requirements of paragraphs (a) and (b) of subsection 3*
2 *of NRS 374.291;*

3 *(b) Is made available for sale within 2 years after it is acquired; and*

4 *(c) Is made available for viewing by the public or prospective*
5 *purchasers, or both, within 2 years after it is acquired, whether or not a*
6 *fee is charged for viewing it and whether or not it is also used for*
7 *purposes other than viewing.*

8 2. The delivery in a county of tangible personal property by an owner
9 or former owner thereof or by a factor, or agent of such owner, former
10 owner or factor, if the delivery is to a consumer or person for redelivery to
11 a consumer, pursuant to a retail sale made by a retailer not engaged in
12 business in the county, is a retail sale in the county by the person making
13 the delivery. He shall include the retail selling price of the property in his
14 gross receipts.

15 **Sec. 8.** (Deleted by amendment.)

16 **Sec. 9.** NRS 374.085 is hereby amended to read as follows:

17 374.085 “Storage ~~”and “use” do~~, *use or other consumption” does*
18 not include ~~the~~ :

19 1. *The* keeping, retaining or exercising any right or power over
20 tangible personal property for the purpose of subsequently transporting it
21 outside the state for use thereafter solely outside the state, or for the
22 purpose of being processed, fabricated or manufactured into, attached to, or
23 incorporated into, other tangible personal property to be transported outside
24 the state and thereafter used solely outside the state ~~”~~; *or*

25 2. *The keeping, retaining or exercising any right or power over*
26 *tangible property that:*

27 *(a) Meets the requirements of paragraphs (a) and (b) of subsection 3*
28 *of NRS 374.291;*

29 *(b) Is made available for sale within 2 years after it is acquired; and*

30 *(c) Is made available for viewing by the public or prospective*
31 *purchasers, or both, within 2 years after it is acquired, whether or not a*
32 *fee is charged for viewing it and whether or not it is also used for*
33 *purposes other than viewing.*

34 **Sec. 10.** NRS 374.291 is hereby amended to read as follows:

35 374.291 1. ~~There~~ *Except as otherwise provided in section 6 of this*
36 *act, there* are exempted from the taxes imposed by this chapter the gross
37 receipts from the sales of, and the storage, use or other consumption in a
38 county of, works of fine art for public display.

39 2. *In determining whether a payment made pursuant to a lease of a*
40 *work of fine art is exempt under subsection 1, the value for the purpose*

1 *of paragraph (b) of subsection 3 is the value of the work and not the*
2 *value of possession for the term of the lease, and the year described in*
3 *paragraph (c) of subsection 3 is the first full calendar year after the*
4 *payment is made.*

5 3. As used in this section, “fine art for public display” means a work of
6 art which:

7 (a) Is an original painting in oil, mineral, water colors, vitreous enamel,
8 pastel or other medium, an original mosaic, drawing or sketch, an original
9 sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar
10 material, an original work of mixed media or a lithograph;

11 (b) Is purchased in an arm’s length transaction for \$25,000 or more, or
12 has an appraised value of \$25,000 or more;

13 (c) Will be on public display in a public or private art gallery, museum
14 or other building or area in this state for at least 20 hours per week during
15 at least 35 weeks of the first full calendar year after the date on which it is
16 purchased ~~it~~, *or if the facility displaying the fine art disposes of it before*
17 *the end of that year, during at least two-thirds of the full weeks during*
18 *which the facility had possession of it, or if the gallery, museum, or other*
19 *building or area in which the fine art will be displayed will not be opened*
20 *until after the beginning of the first full calendar year after the date on*
21 *which the fine art is purchased, these display requirements must instead*
22 *be met for the first full calendar year after the date of opening, and the*
23 *date of opening must not be later than 2 years after the purchase of the*
24 *fine art being displayed; and*

25 (d) Will be *on display in a facility that is* available for ~~educational~~
26 ~~purposes.~~ *group tours by pupils or students for at least 5 hours on at*
27 *least 20 days of the first full calendar year after the purchase of the fine*
28 *art, during which the facility in which it is displayed is open, by prior*
29 *appointment and at reasonable times, without charge.*

30 **Sec. 11.** If a facility containing a public or private art gallery, museum
31 or other building or area for exhibition was under development or
32 construction on July 1, 1997, sections 1 and 2 of chapter 592, Statutes of
33 Nevada 1997, at pages 2979 and 2980, apply to works of art purchased
34 before that date and displayed in the gallery, museum or other building or
35 area within 2 years after their purchase. In that case, the required period of
36 display is the later of the year for which the exemption is claimed or the
37 first full year after the gallery, museum or other area or building is first
38 opened for exhibition, and the affidavit required by section 1 of chapter
39 592, Statutes of Nevada 1997, at page 2979, must be filed on or before
40 June 15 preceding the applicable year. As used in this section, “year”
41 means fiscal year for purposes of section 1 of chapter 592, Statutes of
42 Nevada 1997, and calendar year for purposes of section 2 of chapter 592,
43 Statutes of Nevada 1997.

- 1 **Sec. 12.** 1. This section and sections 1 to 4, inclusive, and 6 to 11,
2 inclusive, of this act become effective on July 1, 1999, and apply to sales,
3 leases, dispositions, keeping and retention of property, and to property
4 held, before, on or after that date except that the provisions of subsection 1
5 of sections 2 and 6 of this act do not apply to require the taxpayer to have
6 offered discounted admission fees for residents before July 1, 1999.
- 7 2. Section 4 of this act expires by limitation on June 30, 2003.
- 8 3. Section 5 of this act becomes effective on July 1, 2003.

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