**Amendment No. 219**

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| Assembly Amendment to Assembly Bill No. 236 | (BDR 32-1096) |
| **Proposed by:** Assembly Committee on Taxation | |
| **Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No | |

| ASSEMBLY ACTION | Initial and Date | SENATE ACTION | Initial and Date |
|---|---|---|---|
| Adopted ☐ Lost ☐ | _____ | Adopted ☐ Lost ☐ | _____ |
| Concurred In ☐ Not ☐ | _____ | Concurred In ☐ Not ☐ | _____ |
| Receded ☐ Not ☐ | _____ | Receded ☐ Not ☐ | _____ |

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

SJC/BJE Date: 4/15/2007

A.B. No. 236—Makes certain changes regarding the reporting, payment and collection of sales and use taxes. (BDR 32-1096)

ASSEMBLY BILL NO. 236–ASSEMBLYMEN MABEY, ALLEN, GANSERT, SETTELMEYER, COBB, BEERS, CARPENTER, CHRISTENSEN, GOEDHART, GOICOECHEA, GRADY, HARDY, MARVEL, STEWART AND WEBER

MARCH 1, 2007

JOINT SPONSORS: SENATORS WASHINGTON, HARDY, TOWNSEND, AMODEI, BEERS, CEGAVSKE, HECK, MCGINNESS, NOLAN, RAGGIO AND RHOADS

Referred to Committee on Taxation

SUMMARY—Makes certain changes regarding the reporting, payment and collection of sales and use taxes. (BDR 32-1096)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; allowing the Department of Taxation to refrain from taking any action to collect unpaid sales and use taxes due from a person if the cost of that action would exceed the total amount due; revising the provisions governing the reporting and payment period for those taxes and the maximum amount which may be required as security for the payment of those taxes; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the imposition and administration of sales and use taxes pursuant to the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 372 and 374 of NRS) **Section 1** of this bill authorizes the Department of Taxation to refrain from taking any action to collect any unpaid sales or use taxes due from a person if the cost of that action would exceed the total amount due, including any applicable interest and penalties.

Existing law provides for the filing of sales and use tax returns on a quarterly basis from taxpayers whose taxable sales do not exceed $10,000 per month. (NRS 372.380, 374.385) **Sections 2 and 4** of this bill allow such a taxpayer to file those returns on an annual basis if the taxpayer had no taxes due for the previous 3 calendar quarters or if the taxable sales did not exceed $1,500 for the previous 4 calendar quarters.

Existing law prescribes the maximum amount of security for the payment of sales and use taxes which the Department of Taxation may require from taxpayers who file tax returns for quarterly periods or for monthly periods. (NRS 372.510, 374.515) **Sections 3 and 5** of this bill prescribe a proportionate maximum amount of security which may be required from taxpayers who are allowed to file tax returns on an annual basis.

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

**Section 1.** Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. Except as otherwise provided in this section or directed by the Nevada Tax Commission and notwithstanding any other provision of law, the Department is not required to take any action for the collection of any unpaid sales or use taxes for which a person may be liable if the Department determines that the cost of taking that action would exceed the total accumulated amount of all the unpaid sales and use taxes, and any applicable interest and penalties, for which that person is liable.***

***2. The Nevada Tax Commission shall annually determine the average cost of collecting sales and use taxes in this State which must be used by the Department in making any determination pursuant to subsection 1.***

***3. This section does not:***

***(a) Affect the liability of any person for the payment of any taxes, interest or penalties; or***

***(b) Authorize the Department to refrain from taking any action for the collection of any unpaid sales or use taxes from a person when the Department determines that the cost of taking that action would be less than or equal to the total accumulated amount of all the unpaid sales and use taxes, and any applicable interest and penalties, for which that person is liable.***

**Sec. 2.** NRS 372.380 is hereby amended to read as follows:

372.380 1. Except as otherwise provided in ~~[subsection 2]~~ ***this section*** or required by the Department pursuant to NRS 360B.200, the reporting and payment period of ~~[a]~~ ***:***

***(a) A*** taxpayer whose taxable sales do not exceed $10,000 per month is a calendar quarter.

***(b) A taxpayer who files reports on a quarterly basis in accordance with paragraph (a) and:***

***(1) From whom no tax is due pursuant to this chapter for the immediately preceding three quarterly reporting periods; or***

***(2) Whose taxable sales do not exceed a total amount of $1,500 for the immediately preceding four quarterly reporting periods,***

***➥ is 12 calendar months, unless the taxable sales of the taxpayer exceed a total amount of $1,500 for such a 12-month reporting and payment period or $10,000 for a calendar month.***

2. The Department, if it deems this action necessary ~~[in order to insure]~~ ***to ensure*** payment to or facilitate the collection by the State of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser, as the case may be, or for other than monthly ***,*** ~~[or]~~ quarterly ***or annual*** periods.

**Sec. 3.** NRS 372.510 is hereby amended to read as follows:

372.510 1. The Department, whenever it deems it necessary to insure compliance with this chapter, may require any person subject to the chapter to place with it such security as the Department may determine. The Department shall fix the amount of the security which, except as ***otherwise*** provided in subsection 2, may not be greater than twice the estimated average tax due quarterly of persons filing returns for quarterly periods ***,*** ~~[or]~~ three times the estimated average tax due monthly of persons filing returns for monthly periods ~~[,]~~ ***or four times the***

***estimated average tax due annually of persons filing returns for annual periods,*** determined in such ***a*** manner as the Department deems proper.

2. In the case of persons who are habitually delinquent in their obligations under this chapter, the amount of the security may not be greater than three times the average actual tax due quarterly of persons filing returns for quarterly periods ***,*** ~~[or]~~ five times the average actual tax due monthly of persons filing returns for monthly periods ~~[.]~~ ***or seven times the average actual tax due annually of persons filing returns for annual periods.***

3. The limitations provided in this section apply regardless of the type of security placed with the Department.

4. The amount of the security may be increased or decreased by the Department subject to the limitations provided in this section.

5. The Department may sell the security at public auction if it becomes necessary to recover any tax or any amount required to be collected, ***or*** interest or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail ***.*** ~~[; if]~~ ***If the notice is served*** by mail, service must be made in the manner prescribed for service of a notice of a deficiency determination and must be addressed to the person at his address as it appears in the records of the Department. Security in the form of a bearer bond issued by the United States or the State of Nevada which has a prevailing market price may be sold by the Department at a private sale at a price not lower than the prevailing market price.

6. Upon any sale any surplus above the amounts due must be returned to the person who placed the security.

**Sec. 4.** NRS 374.385 is hereby amended to read as follows:

374.385 1. Except as otherwise provided in ~~[subsection 2]~~ ***this section*** or required by the Department pursuant to NRS 360B.200, the reporting and payment period of ~~[a]~~ ***:***

***(a) A*** taxpayer whose taxable sales do not exceed $10,000 per month is a calendar quarter.

***(b) A taxpayer who files reports on a quarterly basis in accordance with paragraph (a) and:***

***(1) From whom no tax is due pursuant to this chapter for the immediately preceding three quarterly reporting periods; or***

***(2) Whose taxable sales do not exceed a total amount of $1,500 for the immediately preceding four quarterly reporting periods,***

***➥ is 12 calendar months, unless the taxable sales of the taxpayer exceed a total amount of $1,500 for such a 12-month reporting and payment period or $10,000 for a calendar month.***

2. The Department, if it deems this action necessary ~~[in order to insure]~~ ***to ensure*** payment to or facilitate the collection by the county of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser as the case may be, or for other than monthly ***,*** ~~[or]~~ quarterly ***or annual*** periods.

**Sec. 5.** NRS 374.515 is hereby amended to read as follows:

374.515 1. The Department, whenever it deems it necessary to insure compliance with this chapter, may require any person subject to the chapter to place with it such security as the Department may determine. The ***Department shall fix the*** amount of the security ~~[must be fixed by the Department but,]~~ ***which,*** except as ***otherwise*** provided in subsection 2, may not be greater than twice the estimated average tax due quarterly of persons filing returns for quarterly periods ***,*** ~~[or]~~ three times the estimated average tax due monthly of persons filing returns for monthly periods ~~[,]~~ ***or four times the estimated average tax due annually of persons filing***

***returns for annual periods,*** determined in such ***a*** manner as the Department deems proper.

2. In case of persons habitually delinquent in their obligations under this chapter, the amount of the security ~~[must]~~ ***may*** not be greater than three times the average actual tax due quarterly of persons filing returns for quarterly periods ***,*** ~~[or]~~ five times the average actual tax due monthly of persons filing returns for monthly periods ~~[.]~~ ***or seven times the average actual tax due annually of persons filing returns for annual periods.***

3. The limitations provided in this section apply regardless of the type of security placed with the Department.

4. The amount of the security may be increased or decreased by the Department subject to the limitations in this section.

5. The Department may sell the security at public auction if it becomes necessary to recover any tax or any amount required to be collected, ***or*** interest or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail ***.*** ~~[; if]~~ ***If the notice is served*** by mail, service must be made in the manner prescribed for service of a notice of a deficiency determination and must be addressed to the person at his address as it appears in the records of the Department. Security in the form of a bearer bond issued by the United States or the State of Nevada which has a prevailing market price may be sold by the Department at a private sale at a price not lower than the prevailing market price.

6. Upon any sale any surplus above the amounts due must be returned to the person who placed the security.

**Sec. 6.** This act becomes effective on July 1, 2007.