

Amendment No. 293

Assembly Amendment to Assembly Bill No. 281 (BDR 32-922)

Proposed by: Assembly Committee on Taxation

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

CBC/BJF



Date: 4/18/2017

A.B. No. 281—Revises provisions governing the filing of a commerce tax return.
(BDR 32-922)



ASSEMBLY BILL NO. 281—ASSEMBLYMEN KRAMER,
TITUS; ELLISON AND MARCHANT

MARCH 13, 2017

JOINT SPONSORS: SENATORS GUSTAVSON, ROBERSON AND HARRIS

Referred to Committee on Taxation

SUMMARY—Revises provisions governing the filing of a commerce tax return.
(BDR 32-922)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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; removing the requirement for certain business entities to file a commerce tax return with the Department of Taxation; ~~requiring a person to include with an application for the renewal of a state business registration certain information concerning the applicability of~~ **authorizing the Department to require a business entity to file a declaration under penalty of perjury that the commerce tax ~~imposed on the Nevada gross revenue of certain~~ does not apply to the business ~~entities;~~ entity;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an annual commerce tax on each business entity engaged in business in this State whose Nevada gross revenue in a fiscal year exceeds \$4,000,000 at a rate that is based on the industry in which the business entity is primarily engaged. (NRS 363C.200) Under existing law and regulations, a business entity whose Nevada gross revenue for a fiscal year is \$4,000,000 or less must file an informational return with the Department of Taxation that includes an identification of the industry in which the business entity is primarily engaged and an affirmation under penalty of perjury that the Nevada gross revenue of the business entity for the fiscal year was less than \$4,000,000. (NRS 363C.200; section 17 of Adopted Reg. of Nevada Tax Comm'n, LCB File. No. R123-15) ~~Section 1 of this~~ **This** bill provides that a business entity whose Nevada gross revenue for a fiscal year is \$4,000,000 or less is not required to file a commerce tax return with the Department. Instead of filing such a return, ~~section 2 of~~ this bill ~~requires~~ **authorizes the Department to require such a business entity to ~~include with the application for the renewal of its state business registration filed with the Secretary of State a declaration under penalty of perjury as to whether the applicant was exempt from the tax for the preceding taxable year and, if the applicant is not exempt,~~ file a declaration under penalty of perjury ~~as to whether~~ that the Nevada gross revenue of the ~~applicant~~ business entity for the preceding taxable year ~~exceeded~~ did not exceed \$4,000,000. Under this bill, such a declaration must be filed:**

(1) at the time that the business entity renews its state business license; or (2) on or before the 45th day immediately following the end of the taxable year.

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

Section 1. NRS 363C.200 is hereby amended to read as follows:

363C.200 1. For the privilege of engaging in a business in this State, a commerce tax is hereby imposed upon each business entity whose Nevada gross revenue in a taxable year exceeds \$4,000,000 in an amount determined pursuant to NRS 363C.300 to 363C.560, inclusive. The commerce tax is due and payable as provided in this section.

2. Each business entity ~~engaging in a business in this State during~~ *whose Nevada gross revenue in a taxable year exceeds \$4,000,000* shall, on or before the 45th day immediately following the end of that taxable year, file with the Department a ~~report~~ *return* on a form prescribed by the Department. *The Department shall not require a business entity whose Nevada gross revenue for a taxable year is \$4,000,000 or less to file a return for that taxable year.* The ~~report~~ *return* required by this subsection must include such information as is required by the Department.

3. *The Department may require a business entity whose Nevada gross revenue for a taxable year is \$4,000,000 or less to file a declaration under penalty of perjury by the natural person signing the declaration that the Nevada gross revenue of the business entity for the taxable year did not exceed \$4,000,000. If the Department requires the filing of such a declaration, the business entity must file the declaration either:*

(a) At the time that the business entity renews its state business license pursuant to NRS 76.130; or

(b) On or before the 45th day immediately following the end of the taxable year for which the declaration is made.

4. For the purposes of determining the amount of the commerce tax due pursuant to this chapter, the initial ~~report~~ *return* filed by a business entity with the Department pursuant to subsection 2 must designate the business category in which the business entity is primarily engaged. A business entity may not change the business category designated for that business entity unless the person applies to the Department to change such designation and the Department determines that the business is no longer primarily engaged in the designated business category.

~~44~~ 5. A business entity shall remit with the return the amount of commerce tax due pursuant to subsection 1. Upon written application made before the date on which payment of the commerce tax due pursuant to this chapter must be made, the Department may for good cause extend by not more than 30 days the time within which a business entity is required to pay the commerce tax. If the commerce tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay the commerce tax at the time required, but the business entity shall pay interest at the rate of 0.75 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.

Sec. 2. ~~NRS 76.130 is hereby amended to read as follows:~~

~~76.130 1. Except as otherwise provided in subsection 2, a person who applies for renewal of a state business registration shall submit a fee in the amount of \$200 to the Secretary of State.~~

~~(a) If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or~~

~~(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the state business registration occurs in each year, unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting a business in this State after that date.~~

~~2. If the person applying for the renewal of a state business registration pursuant to subsection 1 is a corporation organized pursuant to chapter 78, 78A or 78D of NRS, or a foreign corporation required to file an initial or annual list with the Secretary of State pursuant to chapter 80 of NRS, the fee for the renewal of a state business registration is \$500.~~

~~3. A person applying for the renewal of a state business registration shall include on the application for the renewal of the state business registration a declaration under penalty of perjury by the natural person signing the application as to:~~

~~(a) Whether the applicant was exempt from the commerce tax for the taxable year immediately preceding the taxable year in which the application is filed; and~~

~~(b) If the applicant was not exempt from the commerce tax, whether the Nevada gross revenue of the applicant for the taxable year immediately preceding the taxable year in which the application is filed exceeded \$4,000,000.~~

~~Nothing in this subsection limits or otherwise affects any requirement imposed pursuant to NRS 363C.200.~~

~~4. The Secretary of State shall, 90 days before the last day for filing an application for renewal of the state business registration of a person who holds a state business registration, provide to the person a notice of the state business registration fee due pursuant to this section and a reminder to file the application for renewal required pursuant to this section. Failure of any person to receive a notice does not excuse the person from the penalty imposed by law.~~

~~[4.] 5. If a person fails to submit the annual state business registration fee required pursuant to this section in a timely manner and the person is:~~

~~(a) An entity required to file an annual list with the Secretary of State pursuant to this title, the person:~~

~~(1) Shall pay a penalty of \$100 in addition to the annual state business registration fee;~~

~~(2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and~~

~~(3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in subparagraph (1).~~

~~(b) Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of \$100 in addition to the annual state business registration fee. The Secretary of State shall provide to the person a written notice that:~~

~~(1) Must include a statement indicating the amount of the fees and penalties required pursuant to this section and the costs remaining unpaid.~~

~~(2) May be provided electronically, if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.~~

~~[5.] 6. A person who continues to do business in this State without renewing the person's state business registration before its renewal date is subject to the fees and penalties provided for in this section unless the person files a certificate of cancellation of the person's state business registration with the Secretary of State.~~

~~[6.] 7. The Secretary of State shall waive the annual state business registration fee and any related penalty imposed on a natural person or partnership if the natural person or partnership provides evidence satisfactory to the Secretary of State that the natural person or partnership conducted no business in this State during the period for which the fees and penalties would be waived.~~

~~8. As used in this section:~~

~~(a) "Commerce tax" means the commerce tax imposed pursuant to chapter 363C of NRS.~~

~~(b) "Nevada gross revenue" has the meaning ascribed to it in NRS 363C.055.~~

~~(c) "Taxable year" has the meaning ascribed to it in NRS 363C.080.~~
(Deleted by amendment.)

Sec. 3. This act becomes effective on July 1, 2017.