



DATE: June 11, 2015
TO: NTA Members
FROM: Carole Vilardo, President

The following pages contain a section by section summary of SB 483 as signed by the Governor on June 10. As originally introduced SB 483 was the Governor's bill to primarily make the sunset taxes from prior sessions permanent, increase the cigarette tax, and eliminate the prepayment of the net proceeds of mineral tax. In a last minute move the bill, which was in first reprint, was further amended by the Assembly to incorporate the Governor's modified tax plan in the bill. By doing that SB 483 only had to go back to the Senate for a majority vote of concur not concur, not a 2/3s vote, although more than 2/3s of the Senate concurred in the amendment. The link to the bill is www.leg.state.nv.us/Session/78th2015/Bills/SB/SB483_EN.pdf.

FAST FACTS

The proposed amendment to SB 483 has three major tax components: (1) a tiered increase in the annual state business license fee; (2) the modified business tax; and (3) a percentage tax based on reported Nevada gross receipts.

First - State Business License

The current \$200 State annual business license fee is increased to \$500 for domestic and foreign corporations. While originally proposed at \$300 for all other businesses the amendment reduced that amount to \$200. For that reason, filings of the initial and annual lists with the Secretary of State's office are all increased by \$25.

The administration and collection of the fee remains with the office of the Secretary of State.

Second - The Modified Business Tax (MBT)

The MBT on financial institutions is continued at the 2 percent rate and the base of the tax is broadened to include mining entities at the 2 percent rate.

The health care deduction is continued.

The rate for the MBT general business is increased to 1.475 percent and the wage threshold for purposes of determining tax liability is reduced to the amount of quarterly wages paid over \$50,000. If you do not meet the \$50,000 threshold, you cannot carry-over any unused portion of the \$50,000.

Business receives a credit of 50 percent of the Commerce tax against the MBT.

The administration and collection of the tax remains with the Department of Taxation.

Third - The Commerce Tax

The amendment adds the "Commerce" tax as the third revenue component. It is a variation of what was found in SB 252, the Governor's original proposal.

There are 26 industry/business classifications and one catchall classification.

There is now one rate per classification instead of 67 rates for each classification.

Instead of being paid quarterly, the tax is now paid annually.

The first \$4 million is subtracted from Nevada gross revenue (originally \$3.5 million).

The administration and collection of the tax remains with the Department of Taxation.

Miscellaneous

The effective date of this bill is July 1, 2015 for most purposes.

The legislation was signed by Governor Sandoval on June 10, 2015

The legislation raises \$1.3 million in new revenue to fund the Governor's budget as it was passed.

**SECTION BY SECTION SUMMARY OF SB 483 AS SIGNED BY GOVERNOR SANDOVAL
PREPARED FOR NTA MEMBERS BY NTA STAFF
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SECTION NO.	SUMMARY/ COMMENTS
1	Adds a new chapter to title 32 - Taxation statutes
2	Identifies sections 2-13 as definitions
3	Defines “business” as any activity engaged in or caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, to any person or governmental entity.
4 <i>Amended</i>	<p>Defines a “business entity” to include corporations, partnerships, proprietorships, LLC’s, business trusts, professional associations, holding companies and any other person engaged in business.</p> <p style="text-align: center;"><i>Combined group was deleted from the definition and LLP’s included.</i></p> <p>Entities not included range from governmental entities; organizations that qualify as a nonprofit under IRS code 501 (c); a business organized under NRS chapter 82 or 84; a credit union organized under NRS 678; and various trusts to benefit a natural person or charity, REIT’s, and persons who own, maintain and manage intangible investments.</p>
5	“Commerce tax” is defined as the tax to be paid by this chapter.
<i>5.5 - Addition</i>	<i>Adds a definition of “Credit sales.”</i>
6	“Engaging in a business” is defined.
7	“A governmental entity” is defined.
8	Defines “gross revenue” as “. . . the total amount realized by a person from engaging in a business in this state, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income . . . ” Without limitation the term includes the fair market value of any property and services received and any debt transferred or forgiven as consideration. Additional examples of what are included and not included are identified.
<i>8.5 - Addition</i>	<i>Adds a definition of “Loan.”</i>
9	“Nevada gross revenue” means the gross revenue of a business entity from engaging in a business in this State adjusted pursuant to section 21 and derived from business and situated to this State pursuant to section 22.
10	“NAICS” - the North American Industrial Classification System of 2012, published by the Census Bureau.
<i>10.5 - Addition</i>	<i>“Pass-through entity” is defined.</i>
11	<p>“Pass-through revenue” - There are numerous references to the various types of pass-through revenue in this section that range from “Revenue received by a business required by law or fiduciary duty to be distributed to another person or governmental entity . . .” to “Revenue received by a business that is part of an affiliated group from another member of the affiliated group.”</p> <p style="text-align: center;"><i>Note: Taxes collected by a third party and remitted by the business to a taxing authority are included in the definition of pass-through revenue.</i></p> <p>“Affiliated group” is defined as “. . . a group of two or more business entities, each of which is controlled by one or more common owners or by one or more members of the group.”</p> <p>“Controlled by” is defined as “. . . direct or indirect ownership, control or possession of 50 percent or more of a business entity.”</p>
12	<p>“Taxable year” - is defined as the 12 month period beginning on July 1 and ending on June 30.</p> <p style="text-align: center;"><i>Note: When it comes time for an audit of a business, this will be a problem for most businesses that generally have a calendar year filing for federal tax purposes.</i></p>
13	“Wages” - The remuneration paid for personal services, including without limitation, commissions, and bonuses and remuneration payable in any medium other than cash.
14 <i>Amended</i>	<p>“Passive Entity” - identifies what a passive entity is and identifies any conditions or exclusions from various examples of passive entities provided.</p> <p style="text-align: center;"><i>Adds a provision to clarify that “Holding a seat on a board of directors does not by itself constitute the conduct of an active trade or business.”</i></p>

Section by Section Summary of SB 483 as Signed by Governor Sandoval

Prepared for NTA Members by NTA Staff

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SECTION NO.	SUMMARY/ COMMENTS
15	Miscellaneous
15	In determining the NAICS code to be used by the business the business shall use that code “. . . in which the highest percentage of Nevada gross revenue is generated.”
16 -19	Department of Taxation Administrative Responsibilities
16	To administer and enforce this chapter, adopt regulations, and deposit all fees, interest and penalties for credit to the State General Fund.
17	Record keeping requirements by a business as established by the Department.
18	Provides for the Department to verify through the books and records kept by the business. Also allows the Department to cover any travel expenses for examining books and records kept out-of-state.
19	Requires the Executive Director of the Department to keep any confidential information obtained confidential.
20-23	Calculation of Revenue
20	<p>Provides that for the “privilege” of doing business in Nevada a commerce tax is imposed on each entity whose Nevada gross revenue exceeds \$ 3.5 4 million as determined in sections 23-49. Requires the tax to be paid on or before 45 days of the end of the taxable year. Requires the business to designate a business category in the initial filing and does not allow a change in designation unless the business applies to the department of taxation and receives approval. Allows the department, upon written request and for good cause to extend the payment 30 days. No penalty or late charge will be imposed for the extension, but interest will be charged at the rate of 0.75 percent per month after the payment is due.</p> <p><i>Amended</i> <i>Increases the exclusion of gross revenue to \$4 million from \$3.5 million.</i></p>
21	<p>This is a very extensive section that includes, but is not limited to the following amounts to be subtracted from the Nevada gross revenue of the business: any gross revenue which is forbidden to be taxed pursuant to the U.S. Constitution or Nevada Constitution; revenue of the business from interest upon any bonds or securities of the Federal Government or State of Nevada or local jurisdiction; any gross revenue used to determine the amount of the gross gaming fee (NRS 463.370); the amount of gross revenue used to determine the net proceeds of mineral tax (NRS 362.100-240); a revenue of direct premiums written and all other considerations for insurance used to determine the insurance premium tax (NRS 680B); the amount of revenue from the sale of the liquor the liquor excise tax (NRS 369.330); the amount of wages, payroll taxes, employee benefits and workers’ compensation as payments to an employee leasing company and any pass through revenue. Also, subtracted are various payments to health care providers, including, but not limited to Medicaid, Medicare, CHIP, professional services in relation to workers compensation claims, any uncompensated care by a health care provider. Additional revenue reductions are also identified ranging from receipts from a hedging transaction to bad debts expensed for the purpose of federal taxation.</p> <p><i>Amended</i> <i>Deletes the language that would have allowed the deduction of revenue from the sale of liquor to allow only the deduction of the liquor excise tax.</i></p>
22	<p>Establishes the rules for gross revenue to be situated to this State. The following are considered situated to Nevada: real property located in this state, the gross rents and royalties and gross receipts from the sale of real property; tangible personal property located or used in Nevada; gross rents and royalties and gross receipts from the sale if the property is delivered or shipped to a buyer in Nevada, regardless of the F.O.B. or other condition of sale; gross receipts for the sale of transportation services if both origin and destination points of the transportation are located in Nevada; gross revenue from services not otherwise described if the gross receipts are from business conducted in this state; and gross revenue not otherwise described, if the gross revenue is from business done in the State.</p> <p>The department may authorize a business entity to use an alternative method of situsing gross revenue to this State if the provisions of this section do not fairly represent the extent of business conducted in this State.</p>

SECTION NO.	SUMMARY/ COMMENTS
24-49	Commerce Tax Rates by Category
23 <i>Amended</i>	Provides for the calculation of the rate for a business entity. The amount of commerce tax due is equal to the amount obtained after subtracting \$3.5 \$4 million from the Nevada gross revenue of the business entity for the taxable year and multiplying that amount by the rate shown in the industry classification. <i>Increases the exclusion of gross revenue to \$4 million from \$3.5 million.</i>
24	Agricultural, Forestry, Fishing and Hunting - NAICS 11. Includes businesses primarily engaged in agricultural production or support. Rate: 0.063 percent.
25	Mining, Quarrying and Oil and Gas Extraction - NAICS 21. Includes businesses primarily engaged in mining operations and support activities, including without limitation, extracting. Rate: 0.051 percent.
26	Utilities & Telecommunications - NAICS 22 & 517. Includes businesses primarily engaged in providing utility services, including without limitation, electric power, natural gas, steam supply, water supply and sewage removal, and telecommunications, including telephone, cable, satellites, etc. Does not include waste management services. Rate: 0.136 percent.
27	Construction - NAICS 23. Includes all businesses primarily engaged in the construction of buildings or engineering projects such as highways utilities systems, the preparation of sites for new construction and subdividing land for sale as building sites. Rate: 0.083 percent.
28	Manufacturing - NAICS 31, 32 and 33. Includes all businesses primarily engaged in mechanical, physical or chemical transformation of materials, substances or components into new products. Rate: 0.091 percent.
29	Wholesale Trade - NAICS 42. Includes all businesses primarily engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. Rate: 0.101 percent.
30	Retail Trade - NAICS 44 & 45. Includes all businesses primarily engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. Rate: 0.111 percent.
31	Air Transportation - NAICS 481. Includes all businesses primarily engaged in providing air transportation of passengers and/or cargo using aircraft such as an airplane and helicopter. Rate: 0.058 percent.
32	Truck Transportation - NAICS 484. Includes all businesses primarily engaged in providing over-the-road transportation of cargo using motor vehicles, such as truck and trailer. Rate: 0.202 percent.
33	Rail Transportation - NAICS 482. Includes all businesses primarily engaged in providing rail transportation of passengers and/or cargo, using railroad rolling stock. Rate: 0.331 percent.
34	Other Transportation - NAICS 483,485,486,487,488,491 & 492. Includes all businesses primarily engaged in providing: Water transportation; transit and ground passenger transportation; Pipeline transportation; Scenic and sightseeing transportation; Support activities for transportation including activities of the United States Postal Service and its subcontractors; and Couriers and messengers. Rate: 0.129 percent.
35	Warehousing and Storage - NAICS 493. Includes all businesses primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods and other warehouse products. Rate: 0.128 percent.
36	Publishing, Software and Data Processing - NAICS 511, 512, 515 and 518. Includes all businesses primarily engaged in: Publishing, except on the Internet; Motion Picture and Sound Recording, Broadcasting, except on the Internet; Data Processing. Rate: 0.253 percent.
37	Finance and Insurance - NAICS 52. Includes all businesses primarily engaged in financial transactions or facilitating financial transactions. Rate: 0.111 percent.
38	Real Estate and Rental and Leasing - NAICS 53. Includes all businesses primarily engaged in renting, leasing, or otherwise allowing the use of tangible or intangible assets, businesses providing related services, managing real estate for others, selling, renting or buying real estate for others and appraising real estate. Rate: 0.25 percent.

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SECTION NO.	SUMMARY/ COMMENTS
24-49	Commerce Tax Rates by Category continued
39	Professional, Scientific and Technical Services - NAICS 54. Includes all businesses primarily engaged in performing professional scientific and technical activities for others. Rate: 0.181 percent.
40	Management of Companies and Enterprises - NAICS 55. Includes all businesses primarily engaged in: Holding of securities of or other equity interests in, companies and enterprises for the purpose of owning a controlling interest or influencing management decisions; or Administering, overseeing and managing establishments of the company or enterprise. Rate: 0.137 percent.
41	Administrative and Support Services - NAICS 561. Includes all businesses primarily engaged in activities that support the day-to-day operations of other organizations. Rate: 0.154 percent.
42	Waste Management and Remediation Services - NAICS 562. Includes all businesses primarily engaged in the collection, treatment and disposal of waste materials. Rate: 0.261 percent.
43	Educational Services - NAICS 61. Includes all businesses primarily engaged in providing instruction and training in a wide variety of subjects. Rate: 0.281 percent.
44	Health Care and Social Assistance - NAICS 62. Includes all businesses primarily engaged in providing health care assistance and social assistance for natural persons. Rate: 0.190 percent.
45	Arts, Entertainment and Recreation - NAICS 71. Includes all businesses primarily engaged in operating facilities or providing services to meet varied cultural, entertainment and recreational interests of their patrons. Rate: 0.24 percent.
46	Accommodations - NAICS 721. Includes all businesses primarily engaged in providing lodging or short-term accommodations for travelers, vacationers and others. Rate: 0.2 percent.
47	Food Services and Drinking Places - NAICS 722. Includes all businesses primarily engaged in preparing meals snacks and beverages to customer order for immediate on and off premises consumption. Rate: 0.194 percent.
48	Other Services - NAICS 81. Includes all businesses primarily engaged in providing services not included in any of the business categories described in the prior sections. Businesses in this category are primarily engaged in activities such as repairing equipment and machinery, promoting or administering religious activities, grant making, advocacy, and providing dry cleaning and laundry services, personal care, pet care, photofinishing, temporary parking services and dating services. Rate: 0.142 percent.
49	Unclassified Businesses. Includes any business that paid wages during the quarter and is not included in any of the prior business categories covered by sections 24 to 48. Rate: 0.128 percent.
50 - 61	Administration, Compliance, Enforcement
50	Businesses may use either cash or accrual method of accounting, and may not change the method of accounting for 3 years. <i>Amended</i> <i>Now allows a business to use the same method of accounting that the entity uses for federal income tax purposes. And allows a business to change its accounting method if the method is changed for reporting federal income tax.</i>
51	Provides that any amount of overpayment will be reported to State Board of Examiners and the overpayment returned after any amount applied to taxes owing.
52	Provides that a claim for overpayment must be made within three years of the month following the calendar quarter the overpayment was made. Claims must be made in writing, and failure to file a claim in a timely manner constitutes a waiver against recovering the overpayment.
53	Any overpayment of the Commerce tax will receive interest pursuant to NRS 360.2937 unless the overpayment has been made intentionally or through carelessness.
54	No writ, suit or other legal action may be filed unless a claim for credit or refund has been filed.
55-58	Specifies the time frames and procedures and time to file a claim seeking recovery of an overpayment of the Commerce tax.

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SECTION NO.	SUMMARY/ COMMENTS
50 - 61	Administration, Compliance, Enforcement continued
59 & 60	Specifies the procedure for the Department of Taxation to recover a refund.
61	Provides that the remedies of the State provided for in this chapter are commutative.
62	NOTE: This was the start of conforming language in the summary of AB 464 as proposed to be amended on May 20. <i>Provides that on or before September 30 in each even-numbered year the department of taxation shall determine if the combined revenue from the MBT (general business and financial institutions and mining) and the commerce tax exceeds by more than 4 percent the amount projected to be collected by the Economic Forum. If the amount is determined to be above 4 percent, the Department of Taxation shall reduce the rates of the MBT in the proportion that the actual amount collected from each tax for the preceding fiscal year bears to the total amount collected. If the rate reductions reach 1.17 percent, no further reductions are required.</i>
<i>New provision</i>	
63 - 65 66	Clarifying and Conforming Language As appropriate adds references to NRS 363A and sections 2-61 of this act.
66 67- 70	Modified Business Tax (MBT)
66 67	Amends NRS363A to add Mining to the MBT: Financial Institutions.
67 68	Provides that an employer may receive a 50 percent credit against the commerce tax for the MBT tax paid, provided the credit does not exceed the tax due. An unused credit may not be carried forward to the next fiscal year and may not be refunded.
68 69	Clarifies the term employer in NRS 363 B - MBT: General Business that financial institutions and mining are not included.
70	Provides that the MBT rate for general business is 1.475% on the sum of all wages, which exceed \$50,000 per quarter, and provides for the 50 percent credit against the commerce tax.
	<i>NOTE: From the following section forward the sections of the bill change to incorporate the original language of SB 483, which was the extension of the sunsets. Other provisions regarding the State business license and the sunset provisions have been incorporated from section 71 on.</i>
71- 73	Cigarette Tax Increase
71-73	Deletes the 10 percent increase in the registration fee which was originally added in 2009 and was to eventually be remitted to the highway trust fund. And reduces the minimum amount of the Governmental services to \$6.00 from \$16.00. Note: See section 102.
<i>Amended</i>	<i>The above provision was deleted. This section now imposes an increase in the cigarette tax of \$1.00 per package of 20 cigarettes for a total tax of \$1.80 per pack. Note: As originally proposed in this bill (SB 483) the increase was 40 cents per pack.</i>
74 & 75	State Business License The annual State Business License Fee is increased to \$500 for all businesses organized pursuant to NRS78, 78A, 78B, and 80. For all other businesses the fee is increased decreased to \$300 200.
<i>Amended</i>	<i>The fee for all other businesses is reduced to \$200.</i>
75.5 - 76.8	Secretary of State Filing Fees
<i>New</i>	<i>The initial and annual filing fees for all business entities filed under Title 7 of NRS are increased by \$25. This increase is to offset the reduction in revenue due to the Business License Fee for all other business entities being reduced from \$300. to \$200.</i>

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SECTION NO.	SUMMARY/ COMMENTS
77 - 78.9	<p>Governmental Services Tax Distribution</p> <p>These sections were originally part of this bill and subsequently amended as follows. The 10 percent increase in revenue from the Governmental Services Tax (increased in 2009) will continue to be deposited to the State General fund for this fiscal year, then be split 50-50 between the State General Fund and State Highway Trust Fund in the following fiscal year, until fiscal year 2017 when 100 percent of the revenue from the 10 percent increase is to be deposited to the State Highway Trust Fund.</p>
79 - 102	<p>Conforming Language</p> <p>Add references to sections 2-62 of this act to various statutes as appropriate.</p>
103 - 109	<p>Sunsets Made Permanent</p> <p>Makes the \$200 State Business License Fee permanent. The .35 percent increase in the Local School Support Portion of the sales and use tax is made permanent. Delays the expiration of the advance payment of the net proceeds of minerals tax to June 2016, and the speciality court fee to June 30, 2017.</p>
110	<p>Grace Period</p> <p>No penalties or interest will be imposed for failure to comply with this Act before February 15, 2017 if the failure to file occurred despite the exercise of ordinary care and was not due to intentional or willful neglect.</p>
111-113	<p>Application of Tax Rates</p>
111 - 112	The amendatory provisions increasing the rate of the MBT do not apply to any taxes due for any period ending on or before June 30, 2015.
113	The increase in the cigarette tax applies on or after July 1, 2015 regardless of the date the cigarette stamps were purchased.
114	<p>Effective Dates:</p> <p style="padding-left: 40px;">Sections 103-112: Upon passage and approval.</p> <p style="padding-left: 40px;">Sections 1-78 and 109-102: Upon passage and approval for administrative tasks and July 1, 2015 for all other purposes.</p> <p style="padding-left: 40px;">Sections 78.1 & 78.7: Effective July 1, 2015</p> <p style="padding-left: 40px;">Sections 78.3 & 78.8: Effective July 1, 2016</p> <p style="padding-left: 40px;">Sections 78.5 & 78.9: Effective July 1, 2017</p>

This Section by Section Summary of SB 483 as Enrolled has been prepared for members of the Nevada Taxpayers Association to provide general information about the new and increased business taxes during the 2015 legislative session. It may not be disseminated in any format without the express written permission of NTA. All Rights Reserved.

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