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November 25, 2014

Don Turner, President  
Nevada Firearms Coalition  
5575 Simmons St. Suite 1-176  
North Las Vegas, NV 89031  
[don@nvfac.org](mailto:don@nvfac.org)

Re: Out-of-State Firearm Deliveries by Nevada Firearm Dealers

Dear Mr. Turner:

We received your correspondence regarding the April 2014 edition of the publication of the Nevada Tax Notes ("Tax Note"). You requested clarification of the article regarding firearms dealers and you have specific questions regarding the delivery of a firearm to a Nevada purchaser and the taxability of the background check fee.

First, you have asked why the Department considers the Nevada firearms dealer as the retailer when the Nevada firearm dealer receives a firearm from an out of state retailer not registered with the State, completes the registration paperwork, and delivers the firearm to a Nevada purchaser. Following on that, you question the basis for the Department's characterization of the transfer of the firearm from the Nevada firearms dealer to the consumer as a retail sale. Based on the requirements for the background check, the Department believes that the sale (transfer of title or possession) of the firearm cannot take place until the background check is completed and therefore the retail sale must take place in Nevada.

As such, a Nevada firearm dealer who receives the firearm from an out of state dealer and delivers the firearm to the purchaser (customer) along with completing the background check, and the federal paperwork, is presumed to be an agent or factor of the out of state dealer and must collect the Nevada sales tax from the purchaser and remit the sales tax to the State of Nevada.<sup>1</sup> An exemption to this requirement may apply if the out of state seller is making an occasional sale. See NRS 372.035 and NRS 372.320.

Second, you have asked why we have included the background check fee as part of the taxable measure. As you may know, a retailer is required to include the sales price as part of their gross receipts which includes in the measure of the sales tax, "any services that are a part of the sale".<sup>2</sup> The Department of Taxation considers the \$25.00 charge to be a fee for a service that is necessary to complete the sale of the firearm because the firearm cannot be sold without the background check.

<sup>1</sup> See NRS 360B.360, NRS 372.050 and NRS 372.055.

<sup>2</sup> See NRS 372.025

Don Turner  
November 25, 2014  
Page 2

Next, you asked about the reference to the Department of Justice in the Tax Note. As you noted there is no agency called Department of Justice in Nevada and that term was used in error. The Department has removed the erroneous Tax Note from the website and has replaced it with an amended version to correct that error. We appreciate you bringing it to our attention. Finally, the Tax Note was only meant to deal with the tax consequences of selling and purchasing a firearm in Nevada and any reference to license or other requirements not within the purview of the Department were not intended.

Based on inquiries we have received on this subject (including yours), we are asking our legal counsel to provide more input on these issues. We intend to present and ask approval of a Technical Bulletin that further explains and provides examples on this issue to the Nevada Tax Commission on January 26, 2015. I have asked staff to reach out to you and your members to try to obtain factual information so that we may provide a thorough analysis. In that regard either a staff member or our attorney may be contacting you for additional information. We will notify you a minimum of one week before the Tax Commission meeting with a copy of the draft Technical Bulletin. Finally, if it is determined by our counsel or the Tax Commission that your members have paid tax on any non-taxable transactions, we will process any refund requests from your members expeditiously.

Please know that we take your concerns seriously and are taking every effort to ensure the proper treatment on the taxation of the firearms your members sell.

Sincerely,



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Deonne E. Contine  
Executive Director  
Nevada Department of Taxation

cc: Paulina T. Oliver, Deputy Executive Director