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December 22, 2003

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**TO: ALL NONRESTRICTED LICENSEES, RESTRICTED LICENSEES
AND INTERESTED PERSONS**

**SUBJECT: SENATE BILL 8 – ADOPTION OF LIVE ENTERTAINMENT TAX
REGULATIONS**

On August 7, 2003 I released a letter to the industry announcing the amendment of the Casino Entertainment Tax and the creation of a Live Entertainment Tax (LET). In that letter, I provided an overview of the impact of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature on the taxation of entertainment events. The letter indicated that the final definition of the term "live entertainment," the authority for which rested with the Department of Taxation, might have an effect on the guidance contained in that letter and the attachments thereto.

On November 25, 2003, the Nevada Tax Commission adopted its regulations governing the live entertainment tax for non-gaming taxpayers. On December 18, the State Gaming Control Board (Board) adopted a similar regulation for gaming establishments pursuant to the Nevada Administrative Code (NAC). Although the Board's version of this regulation differs in some respects, the definition of live entertainment is substantially identical. The Board's version contains additional guidance with regard to accounting-related issues and other matters that are not applicable to non-gaming businesses. The Nevada Gaming Commission (Commission) adopted amendments to Regulation 13 at its December 18 meeting. These amendments delete all of the language contained in the current gaming regulation and incorporate language that is identical to that found in the NAC regulation adopted by the Board.

Based upon the final definition of live entertainment, some of the preliminary guidance provided in the August 7, 2003 letter is no longer correct. Most notably, dancing by patrons to recorded music was determined not to be live entertainment in the final adopted regulation. There are some instances where the manner of presentation of recorded music by a disc jockey may constitute a performance that is considered live entertainment. Further guidance on this subject can be found in the regulation. In the Board's regulation, this

As corrected 1/2/04

guidance can be found in ~~Section 1(8)(h)~~. **the note following Section 27 [see 4(a)(9)].**

Furthermore, Karaoke may or may not be subject to the tax. The same guidance that applies to the presentation of recorded music also applies to Karaoke. Additionally, if contestants are awarded prizes for singing, the performances may be considered to consist of "...music or vocals provided by one or more ...amateur ...vocalists..." (rather than uncompensated "patrons" who are entertaining patrons) and therefore be considered live entertainment. ~~pursuant to Section 1(8)(a)~~. **Refer to the note following Section 27 [4(a)(1) and 4(b)(6)] and Section 9 of the regulation.**

Although the regulations adopted by the Tax Commission, the Gaming Control Board and the Nevada Gaming Commission will all be effective on January 1, 2004, the definition of "live entertainment" is effective as of September 1, 2003. Therefore, the live entertainment definition as found in the Board's regulation adopted on December 18 should be used in determining whether an event occurring between September 1 and December 31, 2003 is subject to the tax.

The regulations are detailed, yet they do not purport to address every possible circumstance. Therefore, the Board and the Department of Taxation (Department) have established procedures whereby taxpayers may seek written advisory rulings. Gaming licensees should direct their requests for advisory rulings to my attention. Through consultation and coordination with the Department, we will ensure that consistent advice is given so that similarly situated gaming and non-gaming taxpayers are taxed consistently, except where Senate Bill 8 provided for differing taxation. Requests for advisory rulings should include a complete description of the nature of the entertainment offered, a description of the facility in which it is offered, and any other information that is relevant to a determination of taxability. Advisory rulings will only apply to the specific circumstances for which they are requested. Licensees will be contacted if further information is required before a determination can be made.

In an effort to provide clarification on an on-going basis, the Board will include on its website (www.gaming.state.nv.us), a "Frequently Asked Questions" page for live entertainment. Several items will be addressed initially, and we intend to post additional FAQs to address new issues as they arise.

To obtain a copy of the regulation amendments, please call the Executive Secretary's office at (775) 684-7750, or submit a written request addressed to the Executive Secretary, PO Box 8003, Carson City, Nevada 89702-8003. The above regulations are also available on the website at www.gaming.state.nv.us.

Questions about the LET may also be directed to Chief Deputy Auditor Lynda Hartzell via email at lhartzell@gcb.state.nv.us or at (702) 486-2060. Group II and restricted licensees may direct questions to Tax and License Division Chief Steve Hixon shixon@gcb.state.nv.us or at (775) 684-7770.

Sincerely,

Dennis Neilander
Chairman

DKN/LLH

cc: Bobby L. Siller, Member
Scott Scherer, Member
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