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**SB 509 – Proposed Amendment**  
Nevada Association of REALTORS  
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**Rationale for amendment:**

Real estate agents must, by law, work through a broker (NRS 645.030 *et seq*). Agents are not allowed to receive their compensation from anyone other than the broker with whom they are associated (NRS 645.280). Nevertheless, real estate agents are considered “independent contractors”.

Under the proposed taxing scheme, a broker would be taxed on the commission received in a real estate transaction and when the broker pays that commission to the agent, the agent would then be taxed again on the same commission.

The bill currently recognizes a similar dilemma with developers and provides a deduction for them (section 22(12)).

NVAR herein proposes several possible solutions to resolve this oversight.

- Sec. 22. In calculating the tax liability of a business entity
- 9-34 pursuant to this chapter, the business entity is entitled to deduct
  - 9-35 from its total revenue:
  - 9-36 1. Any revenue which this state is prohibited from taxing
  - 9-37 pursuant to the Constitution or laws of the United States or the
  - 9-38 Nevada Constitution.
  - 9-39 2. The amount of any federal, state or local governmental
  - 9-40 fuel taxes collected by the business entity.
  - 9-41 3. Any revenue of the business entity attributable to interest
  - 9-42 upon any bonds or securities of the Federal Government, the State
  - 9-43 of Nevada or a political subdivision of this state.
  - 9-44 4. Any pass-through revenue of the business entity.
  - 10-1 5. Any revenue received as dividends or distributions by a
  - 10-2 parent organization from the capital account of a subsidiary entity
  - 10-3 of the parent organization.
  - 10-4 6. Any revenue received by a hospital or provider of health
  - 10-5 care from a governmental entity.
  - 10-6 7. Any cash discounts the business entity allows a purchaser
  - 10-7 of property, rights or services.
  - 10-8 8. Any indebtedness to the business entity which is impossible

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SUBMITTED BY: Melody Luetkehans

10-9 or impracticable to collect and which is written off by the business  
10-10 entity as a bad debt for purposes of federal taxation.

10-11 9. Any counterfeit currency received by the business entity for  
10-12 which the business entity is not reimbursed.

10-13 10. The amount of any payments received by the business  
10-14 entity upon claims for health, casualty or life insurance.

10-15 11. Any revenue received by the business entity from any sale  
10-16 of food for human consumption which is exempt from taxation  
10-17 under the Sales and Use Tax Act.

10-18 12. The cost of all payments made to contractors and  
10-19 subcontractors by a business entity that is in the business of  
10-20 developing improved real property and who sells that improved  
10-21 real property to a person who is not in the business of developing  
10-22 real property. The amount of the deduction must not exceed the  
10-23 gross receipts for the transaction.

10-24 13. Any promotional allowances by the business entity.

10-25 14. The gross revenue attributable to damaged or returned  
10-26 merchandise.

*15. The cost of all payments made to independent contractors by a business entity under written contract when the independent contractor may only receive compensation from that business entity as required by statute.*

**Alternatively**

**Sec. 7. 1. "Gross profit" means:**

2-29 (a) Except as otherwise provided in paragraph (b), the total  
2-30 revenue of a business entity in this state minus the cost of the  
2-31 goods sold by the business entity, the proceeds of which are  
2-32 included in the total revenue of the business entity in this state; or

2-33 (b) If a business consists of the production of tangible personal  
2-34 property, the value of the products of the business entity, as  
2-35 determined pursuant to section 18 of this act, minus the cost of  
2-36 any goods produced by the business entity, the value of which are  
2-37 included in that determination.

2-38 2. For the purposes of this section, the cost of the goods:

2-39 (a) Includes:

2-40 (1) The cost of materials used in the production of goods by  
2-41 the business entity; and

2-42 (2) The cost of goods purchased for resale; and

2-43 (b) Excludes, without limitation, the cost of direct labor,  
2-44 indirect labor, overhead expenses, rent, utilities, supplies,

3-1 maintenance, repairs, shipping, storage, benefits paid, financing  
3-2 and interest.

3. ***“Gross receipts” does not include any revenue collected for another under an independent contractor relationship where the independent contractor may not engage in their profession or occupation without the oversight and regulation of the business entity licensed by the state of Nevada under NRS Title 54.***

Or,

3-3 Sec. 8. 1. ***“Pass-through revenue” means revenue received***  
3-4 ***by a business entity solely on behalf of another in a disclosed***  
3-5 ***agency capacity, including revenue received as a broker, bailee,***  
3-6 ***consignee or auctioneer, notwithstanding that the business entity***  
3-7 ***may incur liability, primarily or secondarily, in a transaction in its***  
3-8 ***capacity as an agent.***

3-9 2. ***“Pass-through revenue” includes reimbursement for***  
3-10 ***advances made by a business entity on behalf of a customer or***  
3-11 ***client, other than with respect to services rendered or with respect***  
3-12 ***to purchases of goods by the business entity in carrying out the***  
3-13 ***business in which it engages.***

3. ***“Pass-through revenue” includes revenue required by statute to be received by the business entity but which the business entity is contractually liable to pass-on to the other business entity who performed services for that revenue.***