

ASSEMBLY BILL NO. 241—ASSEMBLYMEN WHEELER, ELLISON,
KRAMER; EDWARDS, LEAVITT AND ROBERTS

MARCH 11, 2019

Referred to Committee on Taxation

SUMMARY—Revises the commerce tax as it applies to certain motor vehicle dealers. (BDR 32-15)

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; authorizing a business entity which is engaged in business as a vehicle dealer to deduct certain amounts from its gross revenue when computing the commerce tax owed by the business entity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a commerce tax upon each business entity whose Nevada gross revenue in a taxable year exceeds \$4,000,000. (NRS 363C.200) In computing the commerce tax owed by a business entity, existing law authorizes the business entity to deduct from its gross revenue certain amounts to the extent such amounts are included in the gross revenue of the business entity, including certain amounts designated as pass-through revenue. (NRS 363C.070, 363C.210) This bill designates as pass-through revenue the proceeds from the sale of a new vehicle by a vehicle dealer in an amount equal to the portion of the wholesale purchase price of the vehicle on which the manufacturer paid the commerce tax.

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

Section 1. NRS 363C.070 is hereby amended to read as follows:

363C.070 1. "Pass-through revenue" means:

(a) Revenue received by a business entity that is required by law or fiduciary duty to be distributed to another person or governmental entity;



(b) Taxes collected from a third party by a business entity and remitted by the business entity to a taxing authority;

(c) Reimbursement for advances made by a business entity on behalf of a customer or client, other than with respect to services rendered or with respect to purchases of goods by the business entity in carrying out the business in which it engages;

(d) Revenue received by a business entity that is mandated by contract or subcontract to be distributed to another person or entity if the revenue constitutes:

(1) Sales commissions that are paid to a person who is not an employee of the business entity, including, without limitation, a split-fee real estate commission;

(2) The tax basis of securities underwritten by the business entity, as determined for the purposes of federal income taxation; or

(3) Subcontracting payments under a contract or subcontract entered into by a business entity to provide services, labor or materials in connection with the actual or proposed design, construction, remodeling, remediation or repair of improvements on real property or the location of the boundaries of real property;

(e) Revenue received by a business entity that provides legal services if the revenue received by the business entity is:

(1) Mandated by law, fiduciary duty or contract to be distributed to a claimant by the claimant's attorney or to another person or entity on behalf of a claimant by the claimant's attorney, including, without limitation, revenue received:

(I) For damages due to a client represented by the business entity;

(II) That is subject to a lien or other contractual obligation arising out of the representation provided by the business entity, other than fees owed to the business entity for the provision of legal services;

(III) That is subject to a subrogation interest or other third-party contractual claim; and

(IV) That is required to be paid to another attorney who provided legal services in a matter and who is not a member, partner, shareholder or employee of the business entity; and

(2) Reimbursement of the expenses incurred by the business entity in providing legal services to a claimant that are specific to the claimant's matter and that are not general operating expenses of the business entity; ~~for~~

(f) Revenue received by a business entity that is part of an affiliated group from another member of the affiliated group ~~for~~; or

(g) Revenue received by a vehicle dealer from the sale of a new vehicle in an amount equal to the portion of the wholesale purchase price of the vehicle that the manufacturer included in



the gross revenue reported by the manufacturer to the Department pursuant to NRS 363C.200 and on which the manufacturer paid the commerce tax.

2. As used in this section:

(a) "Affiliated group" means a group of two or more business entities, including, without limitation, a business entity described in subsection 2 of NRS 363C.020, each of which is controlled by one or more common owners or by one or more members of the group.

(b) "Controlled by" means the direct or indirect ownership, control or possession of 50 percent or more of a business entity.

(c) *"Manufacturer" has the meaning ascribed to it in NRS 482.060.*

(d) *"New vehicle" has the meaning ascribed to it in NRS 482.076.*

(e) "Sales commission" means:

(1) Any form of compensation paid to a person for engaging in an act for which a license is required pursuant to chapter 645 of NRS; or

(2) Compensation paid to a sales representative by a principal in an amount that is based on the amount or level of orders for or sales on behalf of the principal and that the principal is required to report on Internal Revenue Service Form 1099-MISC, Miscellaneous Income.

(f) *"Vehicle" has the meaning ascribed to it in NRS 482.135.*

(g) *"Vehicle dealer" has the meaning ascribed to it in NRS 482.020.*

(h) *"Wholesale purchase price" means the actual price paid by a vehicle dealer to a manufacturer for a vehicle, not including the amount of any dealer discounts, incentives or similar modifications to the final price.*

Sec. 2. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

