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HOUSE BILL 1355

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State of Washington

69th Legislature

2025 Regular Session

By Representatives Berg, Ryu, Lekanoff, and Peterson; by request of Department of Revenue

1 AN ACT Relating to modifying retail taxes compacts between the  
2 state of Washington and federally recognized tribes located in  
3 Washington state by increasing the revenue-sharing percentages when a  
4 compacting tribe has completed a qualified capital investment;  
5 amending RCW 43.06.523; and creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 43.06.523 and 2020 c 132 s 2 are each amended to  
8 read as follows:

9 (1)(a) The governor may enter into compacts with tribes  
10 concerning revenue collected by the state from the state sales tax,  
11 state use tax, and certain state business and occupation taxes, to  
12 the extent these taxes are imposed on qualified transactions. All  
13 compacts must meet the requirements under this section.

14 (b)(i) Except with regard to the terms of a compacting tribe's  
15 qualified capital investment, the governor may delegate the authority  
16 to negotiate compacts to the department.

17 (ii) In negotiating the terms of a compacting tribe's qualified  
18 capital investment, the governor must be satisfied that the  
19 compacting tribe's qualified capital investment is substantially  
20 proportionate to the compacting tribe's estimated tax revenue under  
21 the compact as compared to qualified capital investments contained in

1 other compacts. For purposes of estimating a compacting tribe's tax  
2 revenue under a compact, tax revenue from new development is not  
3 included in the estimate.

4 (2) Any compact or any amendment to an existing compact  
5 authorized under this section must include provisions that allow the  
6 compacting tribe to receive, beginning on the compact's  
7 (~~implementation~~) or amendment's effective date, the following  
8 amounts of tax collected on qualified transactions and received by  
9 the state:

10 (a) One hundred percent of certain state business and occupation  
11 tax revenues;

12 (b) The first (~~five hundred thousand dollars~~) \$500,000 of the  
13 total amount of state sales tax and state use tax collected during  
14 each calendar year from taxpayers, regardless of whether the  
15 taxpayers meet the requirements of a new development. If this (~~five~~  
16 ~~hundred thousand dollar~~) \$500,000 cap is reached during a calendar  
17 year, any amounts collected from taxpayers that do not meet the  
18 requirements of a new development will be deemed to have been  
19 collected and applied to the cap first, but only in the calendar  
20 month in which the cap is reached;

21 (c) The following amounts of state sales tax and state use tax  
22 collected during each calendar year from taxpayers meeting the  
23 requirements of a new development:

24 (i) Twenty-five percent of any amount over the cap described in  
25 (b) of this subsection (2); or

26 (ii) (~~Sixty~~) One hundred percent of any amount over the cap  
27 described in (b) of this subsection (2), if the compacting tribe has  
28 completed a qualified capital investment; and

29 (d) Beginning January 1st of the fourth calendar year following  
30 the (~~signing of the~~) compact's effective date, the following  
31 amounts of state sales tax and state use tax collected during each  
32 calendar year from taxpayers that do not meet the requirements of a  
33 new development:

34 (i) Twenty-five percent of any amount over the cap described in  
35 (b) of this subsection (2); or

36 (ii) (~~Fifty~~) One hundred percent of any amount over the cap  
37 described in (b) of this subsection (2), if the compacting tribe has  
38 completed a qualified capital investment.

39 (3) The parties to any compact must agree to include the  
40 following provisions in the compact:

1 (a) A process for determining when any qualified capital  
2 investment is complete;

3 (b) A process to verify compliance with the terms of the compact;

4 (c) A delineation of the respective roles and responsibilities of  
5 the compacting tribe and the department;

6 (d) A process to resolve disputes, including the use of a  
7 nonjudicial process;

8 (e) An agreement that the compact resolves all current and future  
9 disputes between the compacting tribe and state and local taxing  
10 authorities, while the compact is in effect, to the extent such  
11 disputes relate to the levying, assessment, and collection of taxes  
12 related to the following:

13 (i) Transactions between nonmembers, where such transactions are  
14 subject to any state sales tax, local sales tax, and any other taxes  
15 in effect or authorized as of June 11, 2020, except for any business  
16 and occupation tax under chapter 82.04 RCW other than certain state  
17 business and occupation taxes;

18 (ii) State and local use tax imposed on nonmembers and sourced to  
19 a location within the Indian country of the compacting tribe pursuant  
20 to RCW 82.32.730; and

21 (iii) State and local personal property taxes imposed on  
22 nonmembers;

23 (f) An agreement that in the event of a change in state tax laws  
24 that affects the negotiated terms of a compact, or a change in the  
25 department's interpretation regarding the property taxation of  
26 nonmember-owned improvements on Indian trust land:

27 (i) The parties must discuss in good faith any changes in the  
28 compact or this section that may be appropriate to preserve the  
29 intended benefits of the compact; and

30 (ii) A compacting tribe may terminate the compact if the good  
31 faith discussions do not result in a mutually satisfactory  
32 resolution;

33 (g) (i) An agreement that the department must perform all  
34 functions related to the administration and collection of the taxes  
35 collected on qualified transactions. The department may not impose  
36 any charge on a compacting tribe for these services. However, the  
37 department may seek legislative appropriations to cover its  
38 administrative costs associated with compact negotiations and  
39 administration.

1 (ii) As part of the department's authority under (g)(i) of this  
2 subsection (3), the department will apply the provisions contained in  
3 Title 82 RCW insofar as they are applicable to the taxes at issue in  
4 any compact authorized under this section;

5 (h) An agreement that the compacting tribe will provide  
6 information the department determines is necessary to fulfill the  
7 department's tax administration obligations under the compact,  
8 including information related to parcel ownership and business  
9 operations in the compact covered area; and

10 (i) Terms specifying the duration of the compact, and any related  
11 terms.

12 (4)(a) A compacting tribe may examine department records related  
13 to the payment of tax amounts to the compacting tribe. The compacting  
14 tribe must agree to keep information obtained from the department  
15 pursuant to a compact confidential to the same extent as the  
16 department is required to keep that information confidential pursuant  
17 to RCW 82.32.330.

18 (b) Information received by the state or open to state review  
19 under the terms of a compact is deemed tax information under RCW  
20 82.32.330.

21 (5) The amounts in subsection (2) of this section must be paid to  
22 the compacting tribe on a monthly basis within (~~sixty~~) 60 days  
23 after the department receives the tax amounts.

24 (6) All refunds and credits the department issues to taxpayers of  
25 amounts previously paid to the compacting tribe under the terms of a  
26 compact will be charged to the compacting tribe.

27 (7) Funds dedicated under RCW 82.08.020 and 82.12.0201 to the  
28 performance audits of government account under RCW 43.09.475 are not  
29 reduced by any payment to the compacting tribe.

30 (8) The department may adopt rules as may be necessary to  
31 administer the provisions of this section.

32 (9) This section does not affect the depositing of state sales  
33 tax, state use tax, and certain state business and occupation tax  
34 into the general fund as required by RCW 82.32.380.

35 (10) The definitions in this subsection apply throughout this  
36 section unless the context clearly requires otherwise.

37 (a) "Certain state business and occupation tax" means the tax  
38 imposed in chapter 82.04 RCW with respect to any qualified  
39 transaction as defined in (o)(i) of this subsection (10).

40 (b) "Compact" means a compact authorized by this section.

1 (c) (i) "Compact covered area" means: (A) Trust land, whether  
2 located within or outside of the boundaries of the compacting tribe's  
3 reservation; and (B) fee land within the boundaries of the compacting  
4 tribe's reservation and under tribal or tribal-member ownership.

5 (ii) For purposes of this subsection (10) (c), "tribal or tribal-  
6 member ownership" means fee land with a greater than (~~fifty~~) 50  
7 percent ownership interest being held by any combination of the  
8 compacting tribe or its tribal members.

9 (iii) "Compact covered area" does not include any land that, as  
10 of June 11, 2020, was fee land in which one or more nonmembers held a  
11 majority ownership, but only with respect to:

12 (A) A business that was in operation on that land as of June 11,  
13 2020, and continues to be in operation on that same land; or

14 (B) A substantially similar successor business to a business  
15 described in (c) (iii) (A) of this subsection (10) is in operation on  
16 that same land.

17 (d) "Compacting tribe" means, with respect to any specific  
18 compact, the tribe that is a party to the compact.

19 (e) "Department" means the department of revenue.

20 (f) "~~(Implementation)~~ Effective date" means the date,  
21 negotiated by the parties to the compact or compact amendment, on  
22 which the department is required to begin administering the terms of  
23 such compact or compact amendment, as applicable.

24 (g) "Indian country" has the same meaning as provided in 18  
25 U.S.C. Sec. 1151, as existing on June 11, 2020.

26 (h) "Indian reservation" means all lands, notwithstanding the  
27 issuance of any patent, within the boundaries of areas set aside by  
28 the United States for the use and occupancy of Indian tribes by  
29 treaty, law, or executive order, or otherwise designated or described  
30 "reservation" by any federal act, and that are currently recognized  
31 as "Indian reservations" by the United States department of the  
32 interior. The term applies to all land within the boundaries of the  
33 Indian reservation, regardless of whether the land is owned by  
34 nonmembers, tribal members, or an Indian tribe.

35 (i) "Indian tribe" or "tribe" means a federally recognized Indian  
36 tribe located at least partially within the geographical boundaries  
37 of the state of Washington and includes its enterprises,  
38 subsidiaries, and constituent parts.

1 (j) "Local sales tax" means any sales tax that a local taxing  
2 authority is authorized to impose under chapter 82.14 RCW, RCW  
3 81.104.170, or any other provision of state law.

4 (k) "Local use tax" means any use tax that a local taxing  
5 authority is authorized to impose under chapter 82.14 RCW, RCW  
6 81.104.170, or any other provision of state law.

7 (l) "New development" means, with respect to any specific compact  
8 and the compact covered area associated with that compact, a person  
9 that:

10 (i) Is subject to state sales tax or state use tax collection or  
11 payment obligations as a result of business activity within the  
12 compact covered area;

13 (ii) Conducts business operations in a structure within the  
14 compact covered area, and construction of that structure began on or  
15 after the ~~((date the compact is signed by the parties))~~ compact's  
16 effective date, but not including any such construction involving the  
17 renovation of or addition to a structure existing before the ~~((date~~  
18 ~~the compact is signed by the parties))~~ compact's effective date; and

19 (iii) Has not previously been subject to state sales tax or state  
20 use tax collection or payment obligations as a result of that same  
21 business activity operated within a different structure located  
22 elsewhere within the compact covered area.

23 (m) "Nonmember" means, with respect to any specific compact:

24 (i) A natural person who is not a tribal member of the compacting  
25 tribe;

26 (ii) A tribe that is not the compacting tribe; or

27 (iii) Any entity where not more than ~~((fifty))~~ 50 percent of the  
28 ownership interests are held by any combination of the compacting  
29 tribe or any tribal members of the compacting tribe.

30 (n) "Qualified capital investment" means a contribution to the  
31 development and construction of a project agreed to by the governor  
32 and the compacting tribe.

33 (o) "Qualified transaction" means:

34 (i) A retail sale subject to state sales tax, involving a seller  
35 and purchaser who are both nonmembers, and that is sourced to a  
36 location within the compact covered area pursuant to RCW 82.32.730;  
37 or

38 (ii) Any use by a nonmember upon which the state use tax is  
39 imposed and sourced to a location within the compact covered area  
40 pursuant to RCW 82.32.730.

1 (p) "State sales tax" means the tax imposed in RCW 82.08.020(1).

2 (q) "State use tax" means the tax imposed in RCW 82.12.020 at the  
3 rate in RCW 82.08.020(1).

4 (r) "Tribal member" means an enrolled member of a federally  
5 recognized tribe, or in the context of a marital community, the  
6 spouse of a tribal member of the compacting tribe.

7 NEW SECTION. **Sec. 2.** Nothing in this act in any way limits,  
8 restricts, reduces, or affects local taxes authorized under chapter  
9 82.14 RCW, RCW 81.104.170, Title 35, 36, or 84 RCW, or any other  
10 provision of state law authorizing a local tax.

11 NEW SECTION. **Sec. 3.** The department of revenue may begin  
12 administering the provisions of this act on or after July 1, 2027.

13 NEW SECTION. **Sec. 4.** This act applies to a compact or compact  
14 amendment, as applicable, with an effective date on or after January  
15 1, 2028.

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