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SENATE BILL 5937

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State of Washington

61st Legislature

2009 Regular Session

By Senator Prentice

Read first time 02/09/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to exemption from sales and use tax for tribal  
2 administration and programs of any landless Washington state federally  
3 recognized Indian tribe; amending RCW 82.14.050 and 82.14.060; adding  
4 a new section to chapter 82.08 RCW; adding a new section to chapter  
5 82.12 RCW; providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW  
8 to read as follows:

9 (1) The tax levied under RCW 82.08.020 does not apply to any  
10 landless Washington state federally recognized Indian tribe in respect  
11 to sales for tribal administration or tribal programs. For purposes of  
12 this section, "landless" means that the tribe does not have either a  
13 reservation or land in the state held in trust by the United States for  
14 the benefit of the tribe.

15 (2) The exemption under subsection (1) of this section is in the  
16 form of a refund.

17 (a) A seller must collect the tax imposed under this chapter and  
18 any applicable local sales taxes imposed under chapter 82.14 RCW, RCW

1 81.104.170, or other provision of law on sales subject to the  
2 exemption.

3 (b) For a refund of exempted taxes paid as required under (a) of  
4 this subsection, a buyer must apply to the department according to the  
5 form, manner, and frequency prescribed by the department.

6 (c) The department must refund directly to the buyer the total  
7 amount of state and local sales taxes paid as required under (a) of  
8 this subsection from the state portion of taxes collected under this  
9 chapter. The department, in its sole discretion, may make refunds  
10 under this section on a quarterly or more frequent basis.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW  
12 to read as follows:

13 (1) The provisions of this chapter do not apply in respect to use  
14 by any landless Washington state federally recognized Indian tribe for  
15 tribal administration or tribal programs. For purposes of this  
16 section, "landless" has the same meaning as in section 1 of this act.

17 (2)(a) Except as provided in (b) of this subsection, an exemption  
18 under this section must be claimed on a return as required in RCW  
19 82.32.045. To claim the exemption, taxpayers must report the amount of  
20 exempted use taxes that would otherwise have been due under this  
21 chapter, chapter 82.14 RCW, RCW 81.104.170, or other provision of law.

22 (b) Taxpayers need not report under (a) of this subsection with  
23 respect to sales exempted under section 1 of this act.

24 **Sec. 3.** RCW 82.14.050 and 2005 c 336 s 20 are each amended to read  
25 as follows:

26 (1)(a) The counties, cities, and transportation authorities under  
27 RCW 82.14.045, public facilities districts under chapters 36.100 and  
28 35.57 RCW, public transportation benefit areas under RCW 82.14.440,  
29 regional transportation investment districts, and transportation  
30 benefit districts under chapter 36.73 RCW shall contract, prior to the  
31 effective date of a resolution or ordinance imposing a sales and use  
32 tax, the administration and collection to the state department of  
33 revenue, which shall deduct a percentage amount, as provided by  
34 contract, not to exceed two percent of the taxes collected for  
35 administration and collection expenses incurred by the department. The  
36 remainder of any portion of any tax authorized by this chapter that is

1 collected by the department of revenue shall be deposited by the state  
2 department of revenue in the local sales and use tax account hereby  
3 created in the state treasury.

4 (b) The amount of local use tax liability that is subject to the  
5 exemption in and is reported to the department under section 2 of this  
6 act must be deposited in the local sales and use tax account from the  
7 state portion of taxes collected under chapters 82.08 and 82.12 RCW.  
8 For purposes of this subsection (1)(b), "local use tax" means a tax  
9 imposed by a local taxing authority under this chapter, RCW 81.104.170,  
10 or other provision of law.

11 (2) Moneys in the local sales and use tax account may be spent only  
12 for distribution to counties, cities, transportation authorities,  
13 public facilities districts, public transportation benefit areas,  
14 regional transportation investment districts, and transportation  
15 benefit districts imposing a sales and use tax.

16 (3) All administrative provisions in chapters 82.03, 82.08, 82.12,  
17 and 82.32 RCW, as they now exist or may hereafter be amended, shall,  
18 insofar as they are applicable to state sales and use taxes, be  
19 applicable to taxes imposed pursuant to this chapter. Counties,  
20 cities, transportation authorities, public facilities districts, and  
21 regional transportation investment districts may not conduct  
22 independent sales or use tax audits of sellers registered under the  
23 streamlined sales tax agreement.

24 (4) Except as provided in RCW 43.08.190, all earnings of  
25 investments of balances in the local sales and use tax account shall be  
26 credited to the local sales and use tax account and distributed to the  
27 counties, cities, transportation authorities, public facilities  
28 districts, public transportation benefit areas, regional transportation  
29 investment districts, and transportation benefit districts monthly.

30 **Sec. 4.** RCW 82.14.060 and 2005 c 336 s 21 are each amended to read  
31 as follows:

32 (1)(a) Monthly, the state treasurer shall ((make distribution))  
33 distribute from the local sales and use tax account to the counties,  
34 cities, transportation authorities, public facilities districts, and  
35 transportation benefit districts:

36 (i) The amount of tax collected on behalf of each taxing authority,  
37 less the deduction provided for in RCW 82.14.050; and

1        (ii) The amount, if any, deposited on behalf of each taxing  
2 authority as provided in RCW 82.14.050(1)(b).

3        (b) The state treasurer shall make the distribution under this  
4 section without appropriation.

5        (2) In the event that any ordinance or resolution imposes a sales  
6 and use tax at a rate in excess of the applicable limits contained  
7 herein, such ordinance or resolution shall not be considered void in  
8 toto, but only with respect to that portion of the rate which is in  
9 excess of the applicable limits contained herein.

10        NEW SECTION.    **Sec. 5.**    This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of the  
12 state government and its existing public institutions, and takes effect  
13 July 1, 2009.

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