
SENATE BILL 6193

State of Washington

64th Legislature

2016 Regular Session

By Senator King

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1 AN ACT Relating to clarifying the collection of fuel taxes within
2 tribal jurisdictions; amending RCW 82.36.022, 82.36.026, 82.38.031,
3 82.38.035, and 82.38.035; providing an effective date; and providing
4 an expiration date.

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

6 **Sec. 1.** RCW 82.36.022 and 2007 c 515 s 20 are each amended to
7 read as follows:

8 (1) It is the intent and purpose of this chapter that the tax
9 shall be imposed at the time and place of the first taxable event and
10 upon the first taxable person within this state. Any person whose
11 activities would otherwise require payment of the tax imposed by RCW
12 82.36.020 but who is exempt from the tax nevertheless has a
13 precollection obligation for the tax that must be imposed on the
14 first taxable event within this state. Failure to pay the tax with
15 respect to a taxable event (~~shall~~) does not prevent tax liability
16 from arising by reason of a subsequent taxable event.

17 (2) It is the intent of the legislature that, in the absence of a
18 tribal fuel tax agreement, as referenced in RCW 82.36.450, applicable
19 taxes imposed by this chapter be collected on motor vehicle fuel sold
20 by a business licensed by an Indian tribal organization to any person
21 who is not an enrolled member of the federally recognized Indian

1 tribe within whose jurisdiction the sale takes place consistent with
2 collection of these taxes generally within the state. The legislature
3 finds that applicable collection and enforcement measures under this
4 chapter are reasonably necessary to prevent fraudulent transactions
5 and place a minimal burden on the Indian tribal organization. For the
6 purposes of this subsection: "Indian tribal organization" means a
7 federally recognized Indian tribe, or tribal entity, and includes an
8 Indian wholesaler or retailer that is owned by an Indian who is an
9 enrolled tribal member conducting business under tribal license or
10 similar tribal approval within Indian country; and "Indian country"
11 is defined in the manner set forth in 18 U.S.C. Sec. 1151.

12 **Sec. 2.** RCW 82.36.026 and 2007 c 515 s 4 are each amended to
13 read as follows:

14 (1) A licensed supplier shall be liable for and pay tax to the
15 department as provided in RCW 82.36.020. On a two-party exchange, or
16 buy-sell agreement between two licensed suppliers, the receiving
17 exchange partner or buyer shall be liable for and pay the tax.

18 (2) A refiner shall be liable for and pay tax to the department
19 on motor vehicle fuel removed from a refinery as provided in RCW
20 82.36.020(2)(b).

21 (3) A licensed importer shall be liable for and pay tax to the
22 department on motor vehicle fuel imported into this state as provided
23 in RCW 82.36.020(2)(c).

24 (4) A licensed blender shall be liable for and pay tax to the
25 department on the removal or sale of blended motor vehicle fuel as
26 provided in RCW 82.36.020(2)(e).

27 (5) Nothing in this chapter shall prohibit the licensee liable
28 for payment of the tax under this chapter from including as a part of
29 the selling price an amount equal to the tax.

30 (6) Any person who purchases motor vehicle fuel from a business
31 licensed by an Indian tribal organization that does not have a fuel
32 tax agreement with the state, as referenced in RCW 82.36.450, and who
33 is not an enrolled member of the federally recognized Indian tribe
34 within whose jurisdiction the sale takes place, is not exempt from
35 the applicable taxes imposed by this chapter. For the purposes of
36 this subsection: "Indian tribal organization" means a federally
37 recognized Indian tribe, or tribal entity, and includes an Indian
38 wholesaler or retailer that is owned by an Indian who is an enrolled
39 tribal member conducting business under tribal license or similar

1 tribal approval within Indian country; and "Indian country" is
2 defined in the manner set forth in 18 U.S.C. Sec. 1151.

3 **Sec. 3.** RCW 82.38.031 and 2007 c 515 s 33 are each amended to
4 read as follows:

5 (1) It is the intent and purpose of this chapter that the tax
6 ((shall)) must be imposed at the time and place of the first taxable
7 event and upon the first taxable person within this state. Any person
8 whose activities would otherwise require payment of the tax imposed
9 by RCW 82.38.030 but who is exempt from the tax nevertheless has a
10 precollection obligation for the tax that must be imposed on the
11 first taxable event within this state. Failure to pay the tax with
12 respect to a taxable event ((shall)) does not prevent tax liability
13 from arising by reason of a subsequent taxable event.

14 (2) It is the intent of the legislature that, in the absence of a
15 tribal fuel tax agreement, as referenced in RCW 82.38.310, applicable
16 taxes imposed by this chapter be collected on motor vehicle fuel sold
17 by a business licensed by an Indian tribal organization to any person
18 who is not an enrolled member of the federally recognized Indian
19 tribe within whose jurisdiction the sale takes place consistent with
20 collection of these taxes generally within the state. The legislature
21 finds that applicable collection and enforcement measures under this
22 chapter are reasonably necessary to prevent fraudulent transactions
23 and place a minimal burden on the Indian tribal organization. For the
24 purposes of this subsection: "Indian tribal organization" means a
25 federally recognized Indian tribe, or tribal entity, and includes an
26 Indian wholesaler or retailer that is owned by an Indian who is an
27 enrolled tribal member conducting business under tribal license or
28 similar tribal approval within Indian country; and "Indian country"
29 is defined in the manner set forth in 18 U.S.C. Sec. 1151.

30 **Sec. 4.** RCW 82.38.035 and 2007 c 515 s 23 are each amended to
31 read as follows:

32 (1) A licensed supplier shall be liable for and pay tax on
33 special fuel to the department as provided in RCW 82.38.030((+7))
34 (9)(a). On a two-party exchange, or buy-sell agreement between two
35 licensed suppliers, the receiving exchange partner or buyer ((shall
36 be)) is liable for and pay the tax.

1 (2) A refiner shall be liable for and pay tax to the department
2 on special fuel removed from a refinery as provided in RCW
3 82.38.030(~~((7))~~) (9)(b).

4 (3) A licensed importer shall be liable for and pay tax to the
5 department on special fuel imported into this state as provided in
6 RCW 82.38.030(~~((7))~~) (9)(c).

7 (4) A licensed blender shall be liable for and pay tax to the
8 department on the removal or sale of blended special fuel as provided
9 in RCW 82.38.030(~~((7))~~) (9)(e).

10 (5) A licensed dyed special fuel user shall be liable for and pay
11 tax to the department on the use of dyed special fuel as provided in
12 RCW 82.38.030(~~((7))~~) (9)(f).

13 (6) Nothing in this chapter prohibits the licensee liable for
14 payment of the tax under this chapter from including as a part of the
15 selling price an amount equal to such tax.

16 (7) Any person who purchases motor vehicle fuel from a business
17 licensed by an Indian tribal organization that does not have a fuel
18 tax agreement with the state, as referenced in RCW 82.38.310, and who
19 is not an enrolled member of the federally recognized Indian tribe
20 within whose jurisdiction the sale takes place, is not exempt from
21 the applicable taxes imposed by this chapter. For the purposes of
22 this subsection: "Indian tribal organization" means a federally
23 recognized Indian tribe, or tribal entity, and includes an Indian
24 wholesaler or retailer that is owned by an Indian who is an enrolled
25 tribal member conducting business under tribal license or similar
26 tribal approval within Indian country; and "Indian country" is
27 defined in the manner set forth in 18 U.S.C. Sec. 1151.

28 **Sec. 5.** RCW 82.38.035 and 2013 c 225 s 105 are each amended to
29 read as follows:

30 (1) A licensed supplier is liable for and must pay tax on fuel as
31 provided in RCW 82.38.030(~~((7))~~) (9) (a) and (i). On a two-party
32 exchange, or buy-sell agreement between two licensed suppliers, the
33 receiving exchange partner or buyer (~~shall be~~) is liable for and
34 pay the tax.

35 (2) A refiner is liable for and must pay tax on fuel removed from
36 a refinery as provided in RCW 82.38.030(~~((7))~~) (9)(b).

37 (3) A licensed distributor is liable for and must pay tax on fuel
38 as provided in RCW 82.38.030(~~((7))~~) (9)(c).

1 (4) A licensed blender is liable for and must pay tax on fuel as
2 provided in RCW 82.38.030(~~((7))~~) (9)(f).

3 (5) A licensed dyed special fuel user is liable for and must pay
4 tax on fuel as provided in RCW 82.38.030(~~((7))~~) (9)(g).

5 (6) A terminal operator is jointly and severally liable for and
6 must pay tax on fuel if, at the time of removal:

7 (a) The position holder of the fuel is a person other than the
8 terminal operator and is not a licensee;

9 (b) The terminal operator is not a licensee;

10 (c) The position holder has an expired internal revenue
11 notification certificate;

12 (d) The terminal operator has reason to believe that information
13 on the internal revenue notification certificate is false.

14 (7) A terminal operator is jointly and severally liable for and
15 must pay tax on special fuel if the special fuel is removed and is
16 not dyed or marked in accordance with internal revenue service
17 requirements, and the terminal operator provides a person with a bill
18 of lading, shipping paper, or similar document indicating the special
19 fuel is dyed or marked in accordance with internal revenue service
20 requirements.

21 (8) International fuel tax agreement licensees, or persons
22 operating motor vehicles under other reciprocity agreements entered
23 into with the state of Washington, are liable for and must pay tax on
24 fuel used to operate motor vehicles on state highways.

25 (9) Dyed special fuel users are liable for and must pay tax on
26 dyed special fuel used on state highways unless the use of the fuel
27 is exempt from the tax.

28 (10) Any person who purchases fuel from a business licensed by an
29 Indian tribal organization that does not have a fuel tax agreement
30 with the state, as referenced in RCW 82.38.310, and who is not an
31 enrolled member of the federally recognized Indian tribe within whose
32 jurisdiction the sale takes place, is not exempt from the applicable
33 taxes imposed by this chapter. For the purposes of this subsection:
34 "Indian tribal organization" means a federally recognized Indian
35 tribe, or tribal entity, and includes an Indian wholesaler or
36 retailer that is owned by an Indian who is an enrolled tribal member
37 conducting business under tribal license or similar tribal approval
38 within Indian country; and "Indian country" is defined in the manner
39 set forth in 18 U.S.C. Sec. 1151.

1 NEW SECTION. **Sec. 6.** Section 5 of this act takes effect July 1,
2 2016.

3 NEW SECTION. **Sec. 7.** Sections 1, 2, and 4 of this act expire
4 July 1, 2016.

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