

**Chapter 50.50 RCW
INDIAN TRIBES**

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RCW 50.50.010 Employment. The term "employment" includes service performed in the employ of an Indian tribe, as defined in section 3306(u) of the federal unemployment tax act, provided such service is excluded from "employment" as defined in the federal unemployment tax act solely by reason of section 3306(c)(7), the federal unemployment tax act, and is not otherwise excluded from "employment" under this title. For purposes of this section, the exclusions from employment in RCW 50.44.040, except *RCW 50.44.040(12) addressing nongovernmental preschools, are applicable to services performed in the employ of an Indian tribe. [2001 1st sp.s. c 11 s 3.]

***Reviser's note:** RCW 50.44.040 was amended by 2007 c 386 s 1, changing subsection (12) to subsection (9).

RCW 50.50.020 Benefits—Generally. Benefits based on service in employment defined in this chapter are payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service under this title. [2001 1st sp.s. c 11 s 4.]

RCW 50.50.030 Contributions—Election of payments in lieu of contributions. (1) Indian tribes or tribal units, including subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to this title shall pay contributions under the same terms and conditions as all other subject employers, unless they elect to pay into the unemployment compensation fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(2) Indian tribes electing to make payments in lieu of contributions shall make such election in the same manner and under the same conditions as provided in RCW 50.44.030 pertaining to other units of government subject to this title. Indian tribes shall determine if reimbursement for benefits paid are to be elected by the

tribe as a whole, by individual tribal units, or by combinations of tribal units.

(3) Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(4) At the discretion of the commissioner and on the same basis as other employers with the same election option, any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions is required, within thirty days after the effective date of its election, to: (a) Execute and file with the commissioner a surety bond approved by the commissioner; or (b) deposit with the commissioner money or securities in an amount determined by the commissioner. [2001 1st sp.s. c 11 s 5.]

RCW 50.50.040 Option to make payments in lieu of contributions—Revocation—Reinstatement—Notices.

(1)(a) The commissioner shall revoke the option for an Indian tribe or tribal unit to make payments in lieu of contributions as described in RCW 50.50.030 if the Indian tribe or tribal unit: (i) Did not make payments, including assessments of interest and penalties, required under this chapter within ninety days of receipt of statement; or (ii) entered into an approved agency deferred payment contract, and was not in compliance with the contract on the cut-off date, as authorized in chapter 50.29 RCW. The revocation shall begin on January 1 of the first calendar year after the Indian tribe or tribal unit meets these conditions, and shall continue until the option is reinstated as described in (b) of this subsection.

(b) The commissioner shall reinstate the option if, as of the cut-off date, an Indian tribe or tribal unit whose option was revoked as described in (a) of this subsection: (i) Paid contributions owed in the current calendar year when due; and (ii) made required payments, including assessments of interest and penalties, for any preceding calendar years. The reinstatement shall begin on January 1 of the first calendar year after the Indian tribe or tribal unit satisfies these conditions.

(2)(a) Services performed for an Indian tribe or tribal unit are not services in "employment" for purposes of RCW 50.04.265 and 50.50.010 if:

(i) The Indian tribe or tribal unit elected to make payments in lieu of contributions, had the option revoked, and has not met the conditions for reinstatement of the option; and

(ii) The Indian tribe or tribal unit either: (A) Did not make required payments, including assessments of interest and penalties, within one hundred eighty days of receipt of statement; or (B) entered into an approved agency deferred payment contract, and was not in compliance with the contract on the last day of the current calendar quarter.

This revocation of coverage shall begin on the first day of the first calendar quarter after the Indian tribe or tribal unit meets these conditions, and shall continue until coverage is reinstated as described in (c) of this subsection.

(b) Services performed for an Indian tribe or tribal unit are not services in "employment" for purposes of RCW 50.04.265 and 50.50.010 if:

(i) The Indian tribe or tribal unit is a contribution-paying employer; and

(ii) The Indian tribe or tribal unit either: (A) Did not make required payments, including assessments of interest and penalties, within one hundred eighty days of receipt of statement; or (B) entered into an approved agency deferred payment contract, and was not in compliance with the contract on the last day of the current calendar quarter.

This revocation of coverage shall begin on the first day of the first calendar quarter after the Indian tribe or tribal unit meets these conditions, and shall continue until coverage is reinstated as described in (c) of this subsection.

(c) The commissioner may reinstate coverage if the Indian tribe or tribal unit has made required payments, including assessments of interest and penalties. This reinstatement of coverage may begin on the first day of the first calendar quarter after these payments are made.

(3)(a) The commissioner shall immediately notify the United States internal revenue service and the United States department of labor if an Indian tribe or tribal unit does not make required payments, including assessments of interest and penalties, within ninety days of receipt of statement.

(b) The commissioner shall immediately notify the United States internal revenue service and the United States department of labor of any revocation or reinstatement of the option to make payments in lieu of contributions under subsection (1) of this section or any revocation or reinstatement of coverage under subsection (2) of this section. [2001 1st sp.s. c 11 s 6.]

RCW 50.50.050 Notices—Contents. Notices of payment and reporting delinquency to Indian tribes or their tribal units must include information that failure to make full payment within the prescribed time frames: (1) Causes the Indian tribe to be liable for taxes under the federal unemployment tax act; (2) causes the Indian tribe to lose the option to make payments in lieu of contributions; and (3) causes the Indian tribe to be excepted from the definition of "employing unit," as provided in RCW 50.04.090, and services in the employ of the Indian tribe, as provided in RCW 50.04.265 and 50.50.010, to be excepted from "employment." [2001 1st sp.s. c 11 s 7.]

RCW 50.50.060 Extended benefits—Financing by Indian tribe. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government must be financed in their entirety by such Indian tribe. [2001 1st sp.s. c 11 s 8.]

RCW 50.50.070 Indian tribes subject to same terms and conditions as other employers. Unless specifically addressed in this chapter, Indian tribes or their tribal units are subject to the same terms and conditions as are other employers subject to contributions under [RCW] 50.29.021 or other units of government under RCW 50.44.030 that make

payments in lieu of contributions. [2020 c 86 s 4; 2001 1st sp.s. c 11 s 9.]

Conflict with federal requirements—2020 c 86: See note following RCW 50.12.200.

RCW 50.50.900 Conflict with federal requirements—2001 1st sp.s. c 11. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [2001 1st sp.s. c 11 s 10.]

RCW 50.50.902 Effective date—2001 1st sp.s. c 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 11, 2001]. [2001 1st sp.s. c 11 s 12.]

RCW 50.50.903 Retroactive application—2001 1st sp.s. c 11. This act applies retroactively to services performed on or after December 21, 2000. Indian tribes or tribal units may elect to make payments in lieu of contributions effective December 21, 2000, or a subsequent date. [2001 1st sp.s. c 11 s 13.]