RCW 43.06.523 State sales, use, and business and occupation taxes—Indian tribe compacts. (1)(a) The governor may enter into compacts with tribes concerning revenue collected by the state from the state sales tax, state use tax, and certain state business and occupation taxes, to the extent these taxes are imposed on qualified transactions. All compacts must meet the requirements under this section.

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

(ii) In negotiating the terms of a compacting tribe's qualified capital investment, the governor must be satisfied that the compacting tribe's qualified capital investment is substantially proportionate to the compacting tribe's estimated tax revenue under the compact as compared to qualified capital investments contained in other compacts. For purposes of estimating a compacting tribe's tax revenue under a compact, tax revenue from new development is not included in the estimate.

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

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

(b) The first $500,000 of the total amount of state sales tax and state use tax collected during each calendar year from taxpayers, regardless of whether the taxpayers meet the requirements of a new development. If this $500,000 cap is reached during a calendar year, any amounts collected from taxpayers that do not meet the requirements of a new development will be deemed to have been collected and applied to the cap first, but only in the calendar month in which the cap is reached;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) "Indian tribe" or "tribe" means a federally recognized Indian tribe located at least partially within the geographical boundaries of

the state of Washington and includes its enterprises, subsidiaries, and constituent parts.

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

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

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

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

(ii) Conducts business operations in a structure within the compact covered area, and construction of that structure began on or after the compact's effective date, but not including any such construction involving the renovation of or addition to a structure existing before the compact's effective date; and

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

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

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

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

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

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

(o) "Qualified transaction" means:

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

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

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

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

(r) "Tribal member" means an enrolled member of a federally recognized tribe, or in the context of a marital community, the spouse of a tribal member of the compacting tribe. [2025 c 136 s 1; 2020 c 132 s 2.]

Savings—Local taxes—2025 c 136: "Nothing in this act in any way limits, restricts, reduces, or affects local taxes authorized under chapter 82.14 RCW, RCW 81.104.170, Title 35, 36, or 84 RCW, or any other provision of state law authorizing a local tax." [2025 c 136 s 2.]

Administration by department of revenue—2025 c 136: "The department of revenue may begin administering the provisions of this act on or after July 1, 2027." [2025 c 136 s 3.]

Application—2025 c 136: "This act applies to a compact or compact amendment, as applicable, with an effective date on or after January 1, 2028." [2025 c 136 s 4.]