

RCW 82.24.020 Tax imposed—Absorption of tax—Possession defined—Exempt tribal members. (1) There is levied and collected as provided in this chapter, a tax upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to 12.125 cents per cigarette.

(2) Wholesalers subject to the payment of this tax may, if they wish, absorb five one-hundredths cents per cigarette of the tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

(3) For purposes of this chapter, "possession" means both (a) physical possession by the purchaser and, (b) when cigarettes are being transported to or held for the purchaser or his or her designee by a person other than the purchaser, constructive possession by the purchaser or his or her designee, which constructive possession is deemed to occur at the location of the cigarettes being so transported or held.

(4) In accordance with federal law and rules prescribed by the department, an enrolled member of a federally recognized Indian tribe may purchase cigarettes from an Indian tribal organization under the jurisdiction of the member's tribe for the member's own use exempt from the applicable taxes imposed by this chapter. Except as provided in subsection (5) of this section, any person, who purchases cigarettes from an Indian tribal organization and who is not an enrolled member of the federally recognized Indian tribe within whose jurisdiction the sale takes place, is not exempt from the applicable taxes imposed by this chapter.

(5) If the state enters into a cigarette tax contract or agreement with a federally recognized Indian tribe under chapter 43.06 RCW, the terms of the contract or agreement take precedence over any conflicting provisions of this chapter while the contract or agreement is in effect. [2010 1st sp.s. c 22 § 2; 2009 c 479 § 66. Prior: 2008 c 226 § 3; 2008 c 86 § 301; 2003 c 114 § 1; 1994 sp.s. c 7 § 904 (Referendum Bill No. 43, approved November 8, 1994); 1993 c 492 § 307; 1989 c 271 § 504; 1987 c 80 § 1; 1983 2nd ex.s. c 3 § 15; 1982 1st ex.s. c 35 § 8; 1981 c 172 § 6; 1972 ex.s. c 157 § 3; 1971 ex.s. c 299 § 13; 1965 ex.s. c 173 § 23; 1961 ex.s. c 24 § 3; 1961 c 15 § 82.24.020; prior: 1959 c 270 § 2; prior: 1949 c 228 § 13, part; 1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Application—2010 1st sp.s. c 22 § 2: "Section 2 of this act applies only with respect to tax liability incurred under chapter 82.24 RCW on or after May 1, 2010, for the sale, use, consumption, handling, possession, or distribution of cigarettes." [2010 1st sp.s. c 22 § 9.]

Intent—2010 1st sp.s. c 22: "It is the intent of the legislature to use revenue raised from taxes levied on the sales of cigarettes and other tobacco products to fund basic health care services." [2010 1st sp.s. c 22 § 1.]

Effective date—2010 1st sp.s. c 22: "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 May 1, 2010." [2010 1st sp.s. c 22 § 12.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Finding—Intent—2008 c 226: See note following RCW 82.24.080.

Severability—Savings—Part headings not law—2008 c 86: See notes following RCW 82.14.030.

Contingent partial referendum—1994 sp.s. c 7 §§ 901-909: See note following RCW 66.24.210.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates—1989 c 271: See note following RCW 66.28.200.

Severability—1989 c 271: See note following RCW 9.94A.510.

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—1981 c 172: See note following RCW 82.04.240.

Severability—1972 ex.s. c 157: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1972 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 157 § 8.]