
Finance Committee

HB 1525

Brief Description: Providing a sales and use tax exemption for a motor vehicle sold to a tribe or tribal member.

Sponsors: Representatives Walen, Stearns, Parshley, Shavers, Pollet, Scott and Waters.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Removes delivery requirement for the sales and use tax exemption for vehicle sales to a tribe or a tribal member.

Hearing Date: 2/21/25

Staff: Tracey Taylor (786-7152).

Background:

Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes are not collected when the user acquires the property, digital product, or service, then use tax applies to the value of property, digital product, or service when used in this state.

The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.1 percent, depending on the location.

Taxation in Indian Country.

Indian country consists of all land set aside primarily for the use of Indians, including all land

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within an Indian reservation and all land outside of a reservation that is under federal jurisdiction and designated primarily for Indian use.

The federal government has the authority to tax all persons in Indian country. In Indian country, tribal governments have the authority to tax all tribal members, nonmembers on trust land, and nonmembers on fee land in certain circumstances.

State powers of taxation are limited in Indian country, particularly where Indian interests are affected. Federal law and policies preempt states from taxing the income of tribal members domiciled on the tribe's reservation.

The United States Supreme court has identified two potential barriers to states' taxation of activities or property of nonmembers on reservation land. First, the state authority to impose a tax may be preempted by federal law. Second, it may infringe on the right of the reservation Indians to make their own laws and be ruled by them.

Vehicle Sales to a Tribal Member.

The sale of a vehicle to a tribal member may be exempt from sales and use tax. There are documentation and delivery requirements that must be met in order to invoke the sales and use tax exemption.

A buyer must present to the seller, and the seller must keep a copy of, one of the following documents to substantiate that a sale was made to a tribe or an enrolled tribal member. If a buyer does not provide one of the following documents, the seller must collect retail sales tax on the sale:

- the buyer's tribal membership or citizenship card;
- the buyer's certificate of tribal enrollment; or
- a letter signed by a tribal official confirming the buyer's tribal membership status or that the buyer is a tribe.

If the sale is not made in the buyer's Indian country, the vehicle must be delivered to the buyer's Indian country. To establish delivery in the buyer's Indian country, the seller must:

- deliver the motor vehicle to the buyer's Indian country;
- complete a declaration attesting to the location of delivery and enrollment status of the buyer; both the buyer and seller must sign the declaration; and
- the seller must keep the declaration in their records.

Tax Preference Performance Statement.

Tax preferences confer reduced tax liability upon a designated class of taxpayers. These include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. There are over 700 tax preferences. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences

automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

The requirement to deliver to the buyer's Indian country is removed from the sales and use tax exemption for sales of vehicles to tribes and tribal members.

The bill contains a TPPS containing the public policy objective that these changes are to increase the efficacy of the sales and use tax exemption and directs JLARC to review the changes.

The removal of the delivery requirement to claim the sales and use tax exemption expires January 1, 2037.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2025.