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For more information, contact:
Mike Gowrylow
(360) 570-6048

State to Terminate Cigarette Compact with Yakama Nation

OLYMPIA, Wash., Feb. 8, 2007 — The State of Washington has notified the Yakama Nation that it intends to terminate their cigarette tax compact due to the Tribe's failure to adhere to the agreement.

The Washington State Department of Revenue took the action after finding that cigarettes continued to be sold on the reservation without valid tribal tax stamps, in violation of the agreement, and it had been unable to resolve the issue with the Tribe.

"We regret that we have no other choice than to initiate termination proceedings," Department Director Cindi Holmstrom said. "It's clear to us that the Tribe has struggled with working within the regulatory framework established by the agreement."

"We have put tremendous time and effort into making it work, and have worked well with tribal staff, but it's time to recognize that this particular agreement is just not working," she added.

Under the termination provisions, the Tribe can request a mediator to review the basis of the termination. A mediator, if requested, would need to be selected within 10 days.

The agreement, in effect since November 2004, allowed the Tribe to impose its own cigarette tax in lieu of the state tax. The Tribal tax was to begin at 80 percent of the state tax and ramp up to 100 percent over three years. The Tribe retained all the revenues generated from the tax, and the state considered purchases of tribally-stamped cigarettes by non-Indians to be legitimate.

Similar agreements have been signed with 17 other tribes, while the Puyallup Tribe signed a separate agreement that permitted a lower tax rate but required the Tribe to share 30 percent of its profits with the state. Several other tribes are eligible to negotiate standard agreements while legislation is pending in Olympia to add the Spokane and Hoh tribes to the list of eligible tribes.

Once the Yakama compact is terminated, sales of cigarettes without state stamps to non-Indians will again be considered contraband sales subject to state and federal enforcement, she said. The Department will notify the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which enforces the federal Contraband Cigarette Trafficking Act, and the State Liquor Control Board, which enforces cigarette taxes on behalf of the Department of Revenue.

Holmstrom said the compacts have been a great success elsewhere, but the Yakama Nation may need a compact similar to the one negotiated with the Puyallup Tribe, as both Tribes have smokeshops owned by tribal members as opposed to the tribe itself. She noted the Puyallup model was developed to be much simpler in the recognition of member-retailer issues. The revenue sharing and the lower tax rate was one of the trade offs that protected the state's interest while meeting the needs of the Puyallup Tribe.

“We stand ready to work with the Tribe to develop a workable agreement,” Holmstrom said. “Our goal is to resolve this issue on a government-to-government basis rather than through enforcement and confrontation. We hope we can achieve that.”

The Legislature would need to authorize the state to negotiate any compact with terms different than the standard compact. The Department of Revenue negotiates the compacts on behalf of the governor, who has authority to sign them.

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