



House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

STATE TAX AGREEMENT WITH INDIAN TRIBES

House Bills 6478-6481
Sponsor: Rep. Charles LaSata
Committee: Tax Policy

Complete to 11-8-02

A SUMMARY OF HOUSE BILLS 6478-6481 AS INTRODUCED 11-7-02

House Bill 6480 would amend the Revenue Act (MCL 205.30c) to allow the Department of Treasury to enter into a tribal agreement with a federally recognized Indian tribe specifying the applicability of a state tax to that tribe, its members, and any person conducting business with them. The tribe, its members, and persons conducting business with them would remain fully subject to the state's tax acts except as otherwise specifically provided by an agreement in effect for the period at issue. A tribal agreement would have to include:

- A statement of its purpose.
- Provisions governing duration and termination making the agreement terminable by either party if there was noncompliance and terminable at-will after a period of up to two years.
- Provisions governing administration, collection, and enforcement. Those provisions would have to include the collection of taxes under the General Sales Tax Act and the Use Tax Act; under the Tobacco Products Act, the Motor Fuel Tax Act, and the Motor Carrier Fuel Tax Act for sales of tobacco and motor fuels not exempt under the agreement; withholding and remittance of income taxes under the state Income Tax Act from employees not exempt; the reporting of gambling winnings to the same extent and the same manner as reported to the federal government; and a waiver of tribal sovereign immunity sufficient to make the agreement enforceable against both parties.
- Provisions governing disclosure of information between the department and the tribe as necessary for the proper administration of the tribal agreement.
- A provision ensuring that the members of the tribe will be bound by the terms of the agreement.

Further, a tribal agreement could include a provision for dispute resolution between the state of Michigan and the tribe, which could include a nonjudicial forum; a provision for the sharing between the parties of certain taxes collected by the tribe and its members; and any other provisions beneficial to the administration or the enforcement of the tribal agreement.

A tribal agreement authorized under the bill could not authorize the approval of a Class 3 gaming compact negotiated under the federal Indian Gaming Regulatory Act.

House Bills 6478-6481 (11-8-02)

House Bill 6478 would amend the Use Tax Act (MCL 205.94x) and House Bill 6481 would amend the General Sales Tax Act (MCL 205.54aa) to provide an exemption for the sale of a motor vehicle, recreational watercraft, snowmobile, or all terrain vehicle, not for resale, to a resident tribal member if it was for personal use and was principally garaged, berthed, or stored within the tribe agreement area. The bills would also exempt the sale of a mobile home, not for resale, if it was to be used as the resident tribal member's principal residence and the mobile home was located within the tribe agreement area. The term "resident tribal member" would mean an individual who was an enrolled member of a federally recognized tribe that had an agreement with the state under the Revenue Act in full force and effect and whose principal place of residence was within the agreement area as designated in the tribal agreement.

House Bill 6479 would amend the Income Tax Act (MCL 206.30) to allow a resident tribal member to deduct from taxable income all nonbusiness income earned or received in the tax year and during the period during which a tribal agreement was in full force and effect. The term "nonbusiness income" would refer to all income derived from wages, whether earned inside or outside the agreement area; all interest and passive dividends; all rents and royalties derived from real property within the agreement area; all rents and royalties derived from tangible personal property to the extent it was used within the agreement area; capital gains from the sale or exchange of real property within the agreement area; capital gains from the sale or exchange of tangible personal property located within the agreement area at the time of sale; capital gains from the sale or exchange of intangible personal property; all pension income and benefits, including distributions from 401(k) plans, individual retirement accounts, and defined contribution plans, and payments from defined benefit plans; all per capita payments by the tribe to resident tribal members, without regard to the source of payment; and all gaming winnings. The term "resident tribal member" would be defined as in House Bills 6478 and 6481

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.