

## **Department of Licensing State Centennial Accord Plans**

As mandated in the *Centennial Accord*, each state agency shall “establish a procedure by which the government-to-government policy shall be implemented. This procedure should be called the “*Centennial Accord Plan*” and will be developed by each state agency in conjunction with the tribes. In the development of these plans, the guiding principles and critical elements identified above in this Section should be utilized. Please feel free to submit attachments.

The key components of the *Centennial Accord Plan* should include:

### **1. Programs** - List of programs and/or services available to tribes.

#### **FUEL TAX**

- A. **State-Tribal Fuel Tax Agreements** - Agreements are available under RCW 82.36.450 and RCW 82.38.310. These agreements are regarding the imposition, collection, and use of the state motor vehicle and special fuel taxes. In general, these agreements allow the state to refund back to the tribal government tax paid on fuel delivered to the reservation and used by the tribal government, by tribal members and by tribal businesses. Due to changes in technology and a desire to reduce the record-keeping burden, we have recently been authorized to use estimates of fuel usage in lieu of detailed record-keeping.
- B. **State Fuel Tax Refunds** - Fuel used for non-highway purposes (marine, logging, construction) is not subject to the state fuel tax. RCW 82.36.280 and RCW 82.38.190 authorize the state to refund the state fuel tax on tax paid fuel that is used for non-highway purposes. In the absence of a state-tribal agreement, the refunds would be to the individual tribal businesses and members that file refund claims.

#### **TITLE & REGISTRATION**

- A. **Tribal Vessel Registration System** - Tribal members are exempt from state personal property tax and vessel excise tax if their vessel is registered with their respective tribe. Department of Licensing retains copies of the registrations and records the vessel information on the Tribal Vessel Registration System.
- B. **Exempt License Plates** - Washington state law (RCW 46.16.022) recognizes a tribe's authority for exempt license plates ("I" exempt series) for vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized by the United States Department of Interior. The tribe must elect not to receive any Washington state license plates for tribal government service vehicles. The tribe must grant the right to operate vehicles licensed under the

laws of this state on roads within the tribes reservation. The tribe must comply with state laws related to the operation of vehicles on state highways. During the 2000 year, there were 138 tribal exempt ("I") license plates issued. A total of 2,200 have been issued to date. There are currently 1,197 on the vehicle database.

C. **Regional Transportation Authority (RTA)** - RCW 46.16.020, RCW 46.16.022, WAC 308-96A-400 and DOL Contract No. 98IL98/3429 (Agreement between DOL and RTA) provide Indians and Indian tribes with exemptions from the payment of a Regional Transportation Authority (RTA) excise tax. If an Indian or Indian tribe is located within the RTA boundary, in order to qualify for this exemption an Indian must:

- Be enrolled as a tribal member of a recognized Washington tribe;
- Have their principal residence within the boundaries of Indian country of the tribe of which they are a member; and
- Be the registered owner of the vehicle for which the exemption is requested.

Vehicles owned or leased by a governing body of an Indian tribe otherwise subject to RTA excise tax are exempt from this tax if:

- The vehicles are owned or leased by a governing body of an Indian tribe.

A tribal member is required to submit an affidavit of exemption at the time the exemption is established and at the time of renewal if there is an address change and the new address is located inside the RTA boundary.

D. **Title and Licensing** - Washington state law (RCW 46.16.022) recognizes a tribe's authority to title, register and issue license plates for vehicles owned or leased by the tribe's governing body. The state has the authority to require the tribe to provide vehicle description, including license plate numbers, for vehicles under the provisions of this law but does not do so. The tribe must grant the right to operate vehicles licensed under the laws of this state on roads within the tribes reservation. The tribe must comply with state laws related to the operation of vehicles on state highways.

E. **Yakama Accord** - The 9th Circuit Court has ordered (No. 97-35305) that vehicles owned by Yakama tribal members and used exclusively for hauling tribal owned goods are exempt from licensing and gross weight fees and special permits.

**2. Funding Distribution** - List of funding distribution methods currently available to tribes.

**FUEL TAX**

A. **State-Tribal Fuel Tax Agreements** - These agreements require refunds of state fuel tax falling under the provisions of an agreement to be issued only to the tribal governments. Estimates of fuel usage by tribal governments, tribal businesses, and tribal members would be on a per capita basis unless unique circumstances indicate a different approach would more reasonably estimate usage. Funding distributions may be on a monthly, quarterly, or any basis mutually agreeable.

B. **State Fuel Tax Refunds** - All refunds are issued directly to the business or individuals using the fuel for non-highway purposes. All refund claims must be submitted within thirteen months from the purchase of the fuel.

**TITLE & REGISTRATION**

A. **Tribal Vessel Registration System** - N/A

B. **Exempt License Plates** - N/A

C. **Regional Transportation Authority (RTA)** - N/A

D. **Title and Licensing** - N/A

E. **Yakama Accord** - N/A

**3. Definitions** - Detailed definitions of relevant terms as they apply to agencies.

**FUEL TAX**

A. **State-Tribal Fuel Tax Agreements** - All definitions of relevant terms are found in RCW 82.36, RCW 82.38, WAC 308-72, WAC 308-77, and in each State-Tribal Fuel Agreement.

B. **State Fuel Tax Refunds** – N/A

**TITLE & REGISTRATION**

A. **Tribal Vessel Registration System** -  
**Indian Tribe** – an Indian nation, tribe, band or community recognized as an “Indian tribe” by the United States Department of the Interior.  
**Eligible Tribes** – Eligible tribes are listed and defined within the attached Consent Decree in section II, paragraphs A&B.

- B. **Exempt License Plates** - Definitions related to exempt license plates are in Chapters 46.04 RCW and 46.16 RCW, WAC 308-96A-400.
- C. **Regional Transportation Authority (RTA)** - See WAC 308-96A-400 for definitions of Indian, Indian country and Indian tribe. See RCW 81.104.160 for authority to collect RTA excise tax.

RTA = Central Puget Sound Regional Transit Authority which includes portions of Snohomish, King and Pierce counties. The tax is used to improve high capacity transportation throughout the RTA region. Excise tax at the rate of three tenths of one percent of the vehicle value is charged to residents of the RTA areas when purchasing registration for their vehicles, unless otherwise exempted.

- D. **Title and Licensing** - Definitions related to vehicle licensing are in Chapters 46.04 RCW, 46.12 RCW and 46.16. RCW.
- E. **Yakama Accord** - The United States Department of Interior, RCW 46.04, RCW 46.12, RCW 46.16, RCW 46.44, WAC 308-56A, WAC 308-96A, all provide definitions to administer the requirements of the court order by defining key terms.

**4. Consultation Process-Procedures** (including policy development, program development and implementation of funds distribution).

**FUEL TAX**

- A. **State-Tribal Fuel Tax Agreements** - All State-Tribal Fuel Agreements are negotiated with each tribe using the federal consent decree, "Confederated Tribes of the Reservation & Department of Licensing," as a generic model.
- B. **State Fuel Tax Refunds** – N/A

**TITLE & REGISTRATION**

- A. **Tribal Vessel Registration System** -
- Consent Decree signed in November 1994.
  - Letters to Legislative Transportation Committee, Department of Fisheries Manager and Coast Guard in January 1995.
  - Requirements developed in January 1995.
  - System Service Request prepared in January 1995.
  - Letter to tribal attorneys in April 1995.
  - Procedures adopted in February 1995.
  - Registration forms provided to tribes and accepted at the Department of Licensing in July 1995.
  - Notification of law enforcement through APB sent May 1996.

- B. **Exempt License Plates** - This policy was developed by the Legislature when this law was passed. Program development included designing and manufacturing the "I" Exempt plates and modifying computer programs.
- C. **Regional Transportation Authority (RTA)** - RTA exemption process includes recording the exemption on the appropriate vehicle record.
- D. **Title and Licensing** - This policy was developed by the Legislature when this law was passed in 1986. No tribal governing body currently produces plates and titles for their vehicles.
- E. **Yakama Accord** - In addition to the annual summit organized by the Governor's Office of Indian Affairs, the Department of Licensing involves the Yakama Nation in any rules or policy development, which would affect the administering of the court order.

5. **Dispute Resolution Process** - Describes dispute resolution processes and outlines when particular processes may be used.

#### **FUEL TAX**

- A. **State-Tribal Fuel Tax Agreements** - Our current agreements contain the following processes:
- There is a notification in writing that sets out the issues in dispute and the notifying parties' position(s).
  - There is a face-to-face meeting between the representatives of the two governments and an attempt to resolve the issue(s) through negotiation. This meeting will take place within 30 days of the written notification.
  - If the parties cannot resolve the dispute within 60 days of the written notice, the parties shall engage the services of a mutually agreed upon, qualified mediator. If the parties cannot agree to a mediator, then either party may petition the United States District Court for a mediator. Costs of the mediator shall be equally divided.
  - If either party terminates the mediation process, or the dispute cannot be resolved, either party may petition the United States District Court for enforcement of the agreement. Sovereign immunity rights are waived.
- B. **State Fuel Tax Refunds** – N/A

(Continued))

## **TITLE & REGISTRATION**

- A. **Tribal Vessel Registration System** - Dispute Resolution Process is defined on page 11, in paragraph VII of the attached Settlement Agreement.
- B. **Exempt License Plates** - Representatives from the Department of Licensing attend the summits organized by the Governor's Office of Indian Affairs. During these summits exempt license plate issues that impact the Centennial Accord may be addressed. In addition, disputes specifically related to vehicle or vessel titling and registration can be raised at any time through local county auditor offices, or by contacting the Director of Department of Licensing, Assistant Director of Vehicle Services, Administrator for Title and Registration Services, or the Licensing Services Manager for Field Support. The process is to review the dispute relative to state laws and court decisions. The process is to review the dispute relative to state laws and court decisions and to involve tribal representatives in rule making and/or policy revisions.
- C. **Regional Transportation Authority (RTA)** - If an Indian or Indian Tribe is erroneously charged the RTA excise tax, they may apply to the Department of Licensing for a refund of the tax erroneously paid.
- D. **Title and Licensing** - The Director of Department of Licensing and the Assistant Director of Vehicle Services attend the summits organized by the Governor's Office of Indian Affairs. The purpose of these summits is to address taxing and other issues that impact the Centennial Accord and other state agency activities that affect the tribes. In addition, disputes specifically related to vehicle or vessel titling and registration can be raised at any time through local county auditor offices, or by contacting the Director of Department of Licensing, Assistant Director of Vehicle Services, Administrator for Title and Registration Services, or the Licensing Services Manager for Field Support. The process is to review the dispute relative to state laws and court decisions and to involve tribal representatives in rule making and/or policy revisions.
- E. **Yakama Accord** - Any dispute (there haven't been any this far in regards to this court order) is handled at the Vehicle Services Assistant Director level through participation in the summit.

It is recognized that these Plans will vary among state agencies. However, the basic policy and guidance included in these *Government-to-Government Implementation Guidelines* should govern the development of these Plans and be embraced by both state and tribal officials. Each state agency *Centennial Accord Plan* should be completed prior to the Annual State/Tribal Centennial meeting. These Plans will be included as attachments to this document and reviewed annually and updated as necessary.