

106TH CONGRESS
1ST SESSION

H. R. 1814

To provide incentives for Indian tribes to collect and pay lawfully imposed State sales taxes on goods sold on tribal lands and to provide for penalties against Indian tribes that do not collect and pay such State sales taxes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1999

Mr. VISCLOSKY (for himself, Mr. ISTOOK, Mr. SANDLIN, Mr. LAHOOD, Mr. ROEMER, Mr. MCINTOSH, Mr. SKELTON, Mr. COBLE, Mr. SOUDER, Mrs. MYRICK, Mr. HOSTETTLER, Mrs. EMERSON, Mr. NEY, Mr. NETHERCUTT, Mr. HILL of Montana, Mr. SESSIONS, Mr. TANCREDO, Mr. BURTON of Indiana, Mr. ROTHMAN, Mr. BUYER, Mr. GRAHAM, and Mr. CANADY of Florida) introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide incentives for Indian tribes to collect and pay lawfully imposed State sales taxes on goods sold on tribal lands and to provide for penalties against Indian tribes that do not collect and pay such State sales taxes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INCENTIVE FOR INDIAN TRIBES TO ENSURE**
2 **COLLECTION OF STATE SALES TAXES.**

3 Priority among Indian tribes competing for Federal
4 grants shall be given to Indian tribes that certify, through
5 a process established by the Secretary in consultation with
6 the States, that retail establishments operating on trust
7 lands within a tribe's jurisdiction are collecting and paying
8 to the appropriate State all qualified State retail taxes.

9 **SEC. 2. CERTIFICATION OF FAILURE TO PAY TAX.**

10 If an Indian or Indian tribe consistently and willfully
11 fails—

12 (1) to pay any qualified State retail tax on any
13 retail item sold, by a retail establishment located on
14 land that is held in trust for the benefit of the In-
15 dian or Indian tribe, to a person who is not either
16 a member of the Indian tribe on behalf of which the
17 land is held in trust or a member of the same Indian
18 tribe as the Indian for whom the land is held in
19 trust;

20 (2) to make equal payment to the State in lieu
21 of such qualified State retail tax; or

22 (3) to make payment to a State pursuant to a
23 compact governing the payment of qualified State
24 retail tax between the Indian or Indian tribe and the
25 State,

1 then the Governor or the Attorney General of the State
2 may document and certify such failure to the Assistant
3 Secretary and request that the land upon which the struc-
4 ture which houses the retail establishment is located be
5 taken out of trust status.

6 **SEC. 3. NOTICE OF REQUEST; COMMENT PERIOD.**

7 (a) NOTICE.—

8 (1) FEDERAL REGISTER.—Not later than 30
9 days after receiving documentation, certification,
10 and a request from the Governor or attorney general
11 of a State in accordance with section 2, the Assist-
12 ant Secretary shall publish notice of the request and
13 the reason therefor in the Federal Register.

14 (2) OTHER NOTICE.—Not later than 90 days
15 after the date of the enactment of this Act, the Sec-
16 retary shall promulgate rules to ensure prompt noti-
17 fication of any Indian or Indian tribe regarding
18 whose land a request for removal from trust has
19 been made under section 2, the time and manner in
20 which the Indian or Indian tribe has to respond to
21 the request, and the Indian or Indian tribe's rights
22 regarding the request.

23 (b) COMMENT PERIOD.—The Assistant Secretary
24 shall provide a period of 90 days after the publication pur-

1 suant to subsection (a) for interested persons to submit
2 comments on the request.

3 (c) HEARING.—

4 (1) IN GENERAL.—If a request is made under
5 this Act for removal of an Indian or Indian tribe’s
6 land from trust, the Indian or Indian tribe may re-
7 quest a timely hearing on the request to remove
8 such land from trust.

9 (2) TIME PERIOD.—If a hearing is requested
10 under paragraph (1) not later than 60 days after
11 the publication pursuant to subsection (a), the Sec-
12 retary shall grant the hearing request. A hearing
13 under this paragraph shall be held not later than the
14 expiration of the 90-day period provided for com-
15 ment under subsection (b).

16 (3) REGULATIONS.—Not later than 90 days
17 after the date of the enactment of this Act, the Sec-
18 retary shall promulgate regulations to implement
19 this section.

20 **SEC. 4. INVESTIGATION; PUBLICATION OF FINDINGS.**

21 (a) INVESTIGATION.—Upon receipt of documenta-
22 tion, certification, and a request from the Governor or at-
23 torney general of a State in accordance with section 2,
24 the Assistant Secretary shall begin an investigation to
25 verify that the Indian or Indian tribe consistently and will-

1 fully failed to make payment described in paragraph (1),
2 (2), or (3) of section 2 as documented and certified by
3 the Governor or attorney general of the State.

4 (b) DETERMINATION.—Not later than 60 days after
5 the completion of the 90-day notice and comment period
6 required by subsections 2(a) and 2(b), the Assistant Sec-
7 retary shall publish the results of the investigation in the
8 Federal Register.

9 **SEC. 5. REMOVAL OF LAND FROM TRUST.**

10 (a) IN GENERAL.—If the Assistant Secretary deter-
11 mines pursuant to section 4 that an Indian or Indian tribe
12 consistently and willfully failed to make payment described
13 in paragraph (1), (2), or (3) of section 2 in relation to
14 any retail item sold by a retail establishment located on
15 land that is held in trust for the benefit of the Indian
16 or Indian tribe to a person who is not either a member
17 of the Indian tribe on behalf of which the land is held
18 in trust or a member of the same Indian tribe as the In-
19 dian for whom the land is held in trust, the Assistant Sec-
20 retary shall inform the Secretary of such determination.
21 Upon receipt of such determination, the Secretary shall
22 remove from trust status such land as the Secretary deter-
23 mines to constitute the extent of the retail operations.

24 (b) EFFECT OF REMOVAL FROM TRUST.—Removal
25 of land from trust under this Act shall eliminate tribal

1 authority regarding taxation and make the property sub-
2 ject to all applicable State and local sales taxes on goods
3 purchased on such land regardless of the purchaser's sta-
4 tus as a tribal member.

5 (c) EFFECT OF PAYMENT OR AGREEMENT TO
6 PAY.—If, before the Secretary removes land from trust
7 status pursuant to subsection (a), the Indian or Indian
8 tribe that was determined to have failed to make payment
9 described in paragraph (1), (2), or (3) of section 2, makes
10 all such payments to the State or enters into an agreement
11 with the State to make such payment, the Governor or
12 attorney general of the State, the Indian, or the Indian
13 tribe may inform the Assistant Secretary of such payment
14 or agreement and request that the land not be removed
15 from trust status. If the Governor or the attorney general
16 of a State so requests, the Assistant Secretary shall imme-
17 diately inform the Secretary of the request and the land
18 shall not be removed from trust status unless new docu-
19 mentation, certification, and a new request is submitted,
20 published, and investigated in accordance with this Act.

21 (d) APPEAL OF DECISION.—The Secretary's deter-
22 mination under this section shall be final agency action
23 for purposes of judicial review.

24 (e) TRUST STATUS RESTORED.—The Secretary shall
25 take into trust for the benefit of an Indian or an Indian

1 tribe any land that was held in trust for that Indian or
2 Indian tribe but was taken out of trust in accordance with
3 the provisions of this Act, if each State in which such land
4 is located certifies to the Secretary that, for not less than
5 1 year following such removal, the Indian or Indian tribe
6 has made all applicable payments described in section 2
7 to the State or has entered into an agreement with the
8 State to make such payment.

9 **SEC. 6. ELIGIBILITY FOR BENEFITS.**

10 For the purposes of the delivery of services and bene-
11 fits furnished to federally recognized Indian tribes and
12 members of such tribes, land taken out of trust pursuant
13 to this Act shall be considered part of the service area
14 of the Indian tribe on behalf of which the land was held
15 in trust or the Indian tribe of the Indian on whose behalf
16 the land was held in trust.

17 **SEC. 7. DEFINITIONS.**

18 For the purposes of this Act—

19 (1) the term “Assistant Secretary” means the
20 Assistant Secretary of the Interior for Indian Af-
21 fairs;

22 (2) the term “Indian” means any individual
23 who is a member of an Indian tribe;

24 (3) the term “Indian tribe” means any federally
25 recognized Indian tribe, band, nation, pueblo, or

1 other organized group or community, excluding any
2 Alaska Native village or regional corporation as de-
3 fined in or established pursuant to the Alaska Na-
4 tive Claims Settlement Act;

5 (4) the term “qualified State retail tax” means
6 a lawfully imposed, nondiscriminatory State excise
7 or sales tax on any retail item sold by a retail estab-
8 lishment located on land that is held in trust for the
9 benefit of the Indian or Indian tribe to a person who
10 is not either a member of the Indian tribe on behalf
11 of which the land is held in trust or a member of
12 the same Indian tribe as the Indian for whom the
13 land is held in trust; and

14 (5) the term “Secretary” means the Secretary
15 of the Interior.

16 **SEC. 8. RULEMAKING AUTHORITY.**

17 Except as otherwise provided in this Act, not less
18 than 90 days after the date of the enactment of this Act,
19 the Secretary shall issue interim rules to implement the
20 provisions of this Act.

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