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CALIFORNIA LEGISLATURE

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January 14, 2000

Hon. Bruce Thompson
 Assembly Member, 66th District
 Room 2160, State Capitol
 Sacramento, California 95814

Dear Assembly Member Thompson:

You requested that my office provide you with estimates of state and local government revenues from tribal gambling establishments located on tribal land in California. Further, you requested that we contrast revenues from those gambling establishments with revenues from a nontribal enterprise located off tribal land. Pursuant to federal law, tribal gambling operations must be located on tribal land.

Taxes levied by the state or local governments include taxes on items such as personal and corporate income, sales of goods, real property, motor vehicle fuel, and cigarettes. Federally recognized Indian tribes are sovereign governments that generally are not subject to the taxing authority of state and local governments. However, Indian tribes are under the taxing jurisdiction of the federal government.

In general, transactions between an Indian tribe and its members that occur on the tribe's land are *not* taxable by the state or local governments. For example, a tribe member who is employed by the tribe *and* lives on the tribe's land does not pay state income tax. If the member does *not* live on the tribe's land, the member would be subject to state income taxes on the wages paid by the tribe. Also, "businesses" owned by the tribe and operated on the tribe's land are not subject to the state's corporate income tax.

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On the other hand, transactions between tribal governments and *nontribe* members are, for the most part, taxable. There are two major sales tax exceptions to this rule. First, when a tribe purchases goods off tribal land but takes possession of the goods on tribal land, then no sales tax is paid. Second, if a nontribe member is operating a business on tribal land, then sales to tribe members are not taxable (the income earned by the nontribal business owner from these sales, however, is taxable).

Figure 1 lists the most common taxes collected by the state or local governments and compares the applicability of these taxes on transactions that occur in a tribal-owned business on tribal land to transactions that occur in a business located off tribal land.

Figure 1		
Taxable Transactions of Businesses Located On Tribal Land and Off Tribal Land		
State or Local Tax	Tribal-Owned Casino Located On Tribal Land	Privately Owned Convenience Store With Gas Station Located Off Tribal Land
Personal Income Tax		
Tribal member employees ^a	not taxable	taxable
Nonmember employees	taxable	taxable
Corporate Income Tax	not taxable	taxable
Property Tax	not taxable	taxable
Sales and Use Taxes		
Transactions with tribe members	not taxable	taxable
Transactions with nonmembers	taxable	taxable
Other Local Option Taxes^b	not taxable	taxable
Excise Taxes		
Fuel Tax	not taxable ^c	taxable
Cigarette Taxes	not taxable ^d	taxable

^a The tribe member must live on the tribe's land.

^b Included in this category are locally imposed business franchise taxes and the transient occupancy—or hotel lodging—tax.

^c Tribe member must pay the tax and then can request a refund from the Board of Equalization.

^d A tribe member can request that cigarettes be sold for the retail price less the tax amount. The retailer would have already paid the tax, since the tax is paid by the distributor and is therefore included in the price paid by the retailer. The retailer can ask the Board of Equalization to refund the amount of tax paid on these cigarettes.

As shown in Figure 1, each dollar consumers spend in tribal gambling operations generates less direct tax revenue than an equivalent dollar spent in other areas of the California economy. However, these expenditures do generate indirect tax revenues. For this reason the *net* impact of expenditures in Indian gambling operations is uncertain. If Indian gambling operations entice expenditures that would otherwise have occurred outside California, then state and local government revenues would increase as a

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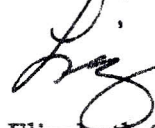
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result of an expansion of tribal gambling. However, if an increase in tribal gambling results from a shifting of expenditures from the taxable economy to tribal gambling operations, then state and local revenues would decrease.

If you have any questions, please contact my office at 445-4656.

Sincerely,



Elizabeth G. Hill
Legislative Analyst