



State Regulation of Tribal Tobacco Sales:

A Historical State-by-State Analysis, 2005-2015

DeLong HR, Leider J, Chriqui JF, Chaloupka FJ
University of Illinois at Chicago

October 2016



tobacconomics

Economic Research Informing Tobacco Control Policy

State Regulation of Tribal Tobacco Sales: A Historical State-by-State Analysis, 2005-2015

**DeLong HR
Leider J
Chriqui JF
Chaloupka FJ**

October 2016

Table of Contents

Acknowledgements	5
Executive Summary	6
Introduction.....	6
Methods	7
Key Findings	7
Conclusion	8
Section 1: Introduction	9
Native American Status in the United States	9
Tribal Sovereignty and Taxation.....	10
Tobacco Sales on Federal Reservations.....	10
Purpose of this Chartbook	12
Data Sources and Limitations.....	13
National Evaluation Methodology.....	14
Organization of the Report	15
Section 2: Policy Areas Covered	16
Compacts.....	16
Tax and Sales Laws	16
Section 3: National Overview of Tribal Tobacco Laws	18
Overview of Tribal Tobacco Laws	18
Compacts.....	19
Tax and Sales Laws	23
Tax Stamps.....	24
Tax-Free Allotment/Quota	25
Pre-Payment of Taxes	27
Common Strategies for Tribal Tobacco Regulation.....	28
Alternative Strategies in Tribal Tobacco Regulation: Tribal Taxation.....	30
Section 4: Individual State Profiles	32
How to Read the State Profile Pages.....	33
Alaska.....	35
Arizona.....	37
Florida.....	39
Iowa.....	41
Idaho	43
Michigan	45
Minnesota	47
Montana.....	49
Nebraska	51
Nevada	53
New Mexico.....	55
New York.....	57

North Dakota	59
Oklahoma.....	61
Oregon.....	63
South Dakota	65
Utah	67
Washington.....	69
Wisconsin.....	71
Wyoming.....	73
Section 5: Conclusion.....	75
References	77
Appendix	79
Appendix Table 1: Tribal Stamping	80
Appendix Table 2: Tribal Strategies	81
Appendix Table 3: Legal Citations.....	82

Acknowledgements

Research reported in this publication was supported by the National Cancer Institute of the National Institutes of Health under the State and Community Tobacco Control Initiative, grant number U01CA154248. The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health.

The authors also would like to thank the following people who contributed to the compilation of this report:

- Camille Gourdet, J.D. for her legal research and coding assistance.
- Colin Goodman, J.D., and Meredith Nelson for their legal research assistance.
- Laurie Lennon and Shannon Ryan from Burness for graphic design, layout, and copy editing.

The photos included on the chartbook cover and in front of the state profiles and appendices were obtained from (top to bottom): [Wally Gobetz](#) via Flickr; [Dolan Halbrook](#) via Flickr.

Suggested Citation: Hillary DeLong, Julien Leider, Jamie F. Chriqui, and Frank J. Chaloupka. *State Regulation of Tribal Tobacco Sales: A Historical State-by-State Analysis, 2005-2015*. Chicago, IL: Tobacconomics Program, Institute for Health Research and Policy, School of Public Health, University of Illinois at Chicago. 2016. Available: www.tobacconomics.org.

Executive Summary

Introduction

As sovereign nations, American Indian and Alaska Native groups function as “distinct, independent political communities”^{1,2} with the right to govern the majority of activities that take place on federal reservation land.³ Not all tribes have federal recognition – the United States currently recognizes 567 sovereign tribal groups – and not all federally-recognized tribes live on federal reservation land.^{1,4} Federal reservation land is found throughout the country, and states are limited in their ability to regulate certain activities that occur within its borders, including taxation of tobacco sales.⁴⁻⁷

The collection of state tobacco excise taxes, which ultimately get passed down to consumers through higher tobacco product prices,⁸ is heavily impacted by tribal sovereignty. Sales made by anyone (including tribal members) off of reservation land are subject to state taxes, as are those made on-reservation to customers who are not members of the tribe on whose land they are purchasing items.⁹ Further complicating matters, while federal law requires remittance of state taxes to the state for sales to non-members, a state cannot force a tribe to do so where it refuses.¹⁰⁻¹² A state’s inability to enforce its tax laws on reservation land can mean complicated logistical maneuvers for state enforcement officials. The ability of tribes to price tax-free tobacco products lower than off-reservation competitors can attract non-tribal consumers, and limitations on a state’s ability to collect taxes owed from those sales can mean significant revenue loss for the state.^{13,14} To ease this conflict, the United States Supreme Court has held that states may impose basic tax collection and enforcement mechanisms for tobacco sales to non-exempt consumers.¹²

While 20 states have implemented laws regulating tribal tobacco taxation and sales, 14 additional states with a tribal presence have yet to implement tribal tobacco tax policies, and interest in regulating tax-free tobacco products has increased, particularly as states seek much-needed revenue from tobacco taxes and the number of tribal manufacturers continues to steadily rise.¹⁵ Furthermore, many states with a tribal presence have yet to implement agreements or laws that could lessen the impact of price disparities between sales on and off of reservation land. Little research has been done on the comprehensive regulatory landscape of tribal tobacco sales. As such, we hope this chartbook will assist states that want to implement or update their tribal sales laws and provide the tobacco control community with insights into how regulatory strategies may relate to on-reservation consumption and evasion.

Specifically, this chartbook:

1. Provides a detailed overview of sales laws pertaining to cigarettes and other tobacco products (“OTP”) on tribal reservations in the twenty states with laws pertaining to on-reservation tobacco sales and taxation (“tribal states”) in effect as of January 1, 2015;
2. Illustrates the state-by-state tribal sales laws for both cigarettes and, where appropriate, OTP;
3. Describes what, if any, compact provisions are recommended or required by each state;
4. Identifies and evaluates key, state-level regulatory strategies for tribal sales in each state; and,
5. Identifies gaps and opportunities for state tobacco control advocates and policy makers relative to tribal tobacco sales.

Methods

Data for this chartbook were compiled through primary legal research that collected each state’s relevant state law, using the Lexis-Nexis and Westlaw legal research services. The relevant statutes and regulation that were in effect as of January 1st of each year, 2005 through 2015, were collected for all 50 states and the District of Columbia. This primary legal research was then verified against publicly available secondary sources, such as information from state departments of revenue or taxation websites, published articles, and state reports. Where codified law was invalidated by subsequent Attorney General opinions, Department of Revenue Notices, case law, or other administrative materials, those interpretations were used to guide collection and coding. Further ambiguities were clarified by directly contacting state enforcement agencies.

Upon review of the data, very little change was found over the decade examined. As such, this chartbook focuses primarily on 2015 data; select changes in law across the collection period are presented throughout for comparative purposes. Readers interested in reviewing the state-by-state data for all years can download the complete data set from the [Tobacconomics](http://www.tobacconomics.org) website.

Key Findings

- Only 20 states have laws regulating the taxation or sale of tobacco products sold on tribal lands. An additional 14 states have a tribal presence within their borders, but have no tribal tobacco laws.
- Within the tribal states there are four main strategies used to regulate tobacco sales on tribal lands: 1) tax stamps, 2) tax agreements between states and tribes, 3) limits or quotas on tax-free products, and 4) pre-payment of tobacco tax prior to ultimate sale. Eighteen tribal states used at least one of these strategies, while two states (Alaska and South Dakota) do not employ any of the strategies. Combining strategies was incredibly

common among the 20 tribal states: 70% use two or more key strategies, while 25% use all four.

- Thirteen of the 20 tribal states had laws that address the use of tobacco tax stamps for on-reservation sales, the majority of which (9) apply stamps to all tobacco products being sold on-reservation. The majority (8) of these states utilize multiple tax stamps, but the most commonly used is the state's standard excise tax stamp (12 states).
- Fourteen of the 20 tribal states use tobacco tax agreements, which can alleviate jurisdictional issues between state and tribe, and establish tobacco tax rates for on-reservation sales.
- Quotas (statutory limits on the amount of tax-free tobacco products that may be sold to a tribe) are used by 6 states, two of which enforce these programs using coupons or vouchers.
- Twelve tribal states require tax-exempt parties to pre-pay state excise taxes on all (6 states) or some (6 states) tobacco products, with refunds provided for taxes paid on products ultimately sold to exempt consumers.
- Tribes have the authority to impose their own tribal taxes on tobacco products sold on-reservation, but imposing these taxes can create a dual tax situation for any consumers also obligated to pay state excise tax, and effectively price these retailers out of the market. Among the 20 tribal states, only five address tribal taxation in state law in any way, with four offering solutions to dual tax scenarios.

Conclusion

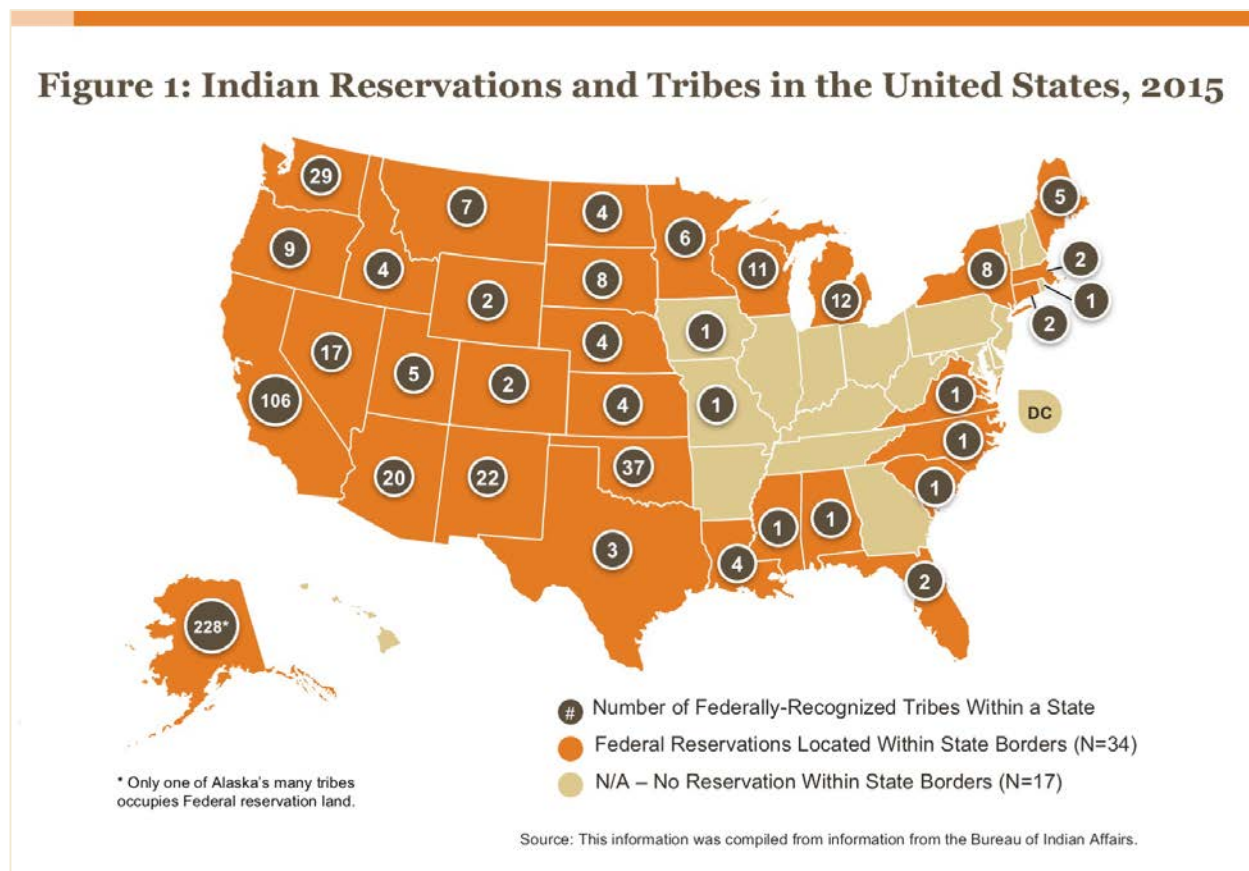
Significantly increasing tobacco product prices through taxation is one of the most effective strategies for reducing tobacco consumption,¹⁶ and harmonizing tax rates across state and tribal borders can reduce tax avoidance and evasion. States continue to use a variety of tax enforcement strategies to strengthen their abilities to limit the availability of tax-free cigarettes and OTP in the marketplace. This report shows the key strategies states use to regulate tobacco sales on tribal lands to non-members, and the challenges each of these strategies works to overcome. State tobacco tax rates are rising, and revenue loss from illicit tribal sales will likely follow in states that have not implemented regulatory measures. This report helps to inform the tobacco control community about tribal tobacco sales laws, how they function, and how they can be used in conjunction with one another to create a strong, effective regulatory framework.

Section 1: Introduction

Native American Status in the United States

In the United States, American Indian and Alaska Native groups are indigenous populations, functioning as nations within or across state borders. Many tribal governments are formally recognized as sovereign nations and maintain a governmental relationship with the United States via Federal recognition.¹ As recognized governments, tribes are considered to be “distinct, independent political communities”² with the right to self-govern.³ In addition to the ability to self-govern, federally recognized tribes also receive protections, privileges, and benefits specific to their intergovernmental relationship.³ Currently, the United States formally recognizes 567 sovereign tribal groups.¹⁷ Additional tribal groups, recognized by the states within whose borders they reside, do exist,¹⁰ may receive benefits based on their state recognition.

Figure 1: Indian Reservations and Tribes in the United States, 2015



Not all federally recognized tribes reside on officially designated reservation land, and tribal activities that occur off of reservation land are not protected from state regulation in the same way as those that take place on-reservation. Federal reservation land is spread across 34 states (See Figure 1). While located predominantly in the western half of the United States, reservation land can be found in all regions of the country.⁴ A little more than half of federally recognized tribes live on reservation land set aside by the U.S.

government for the use of these tribes. (There are currently 334 distinct areas of federally recognized tribal reservation land in the United States, all of which vary by size and resources.¹) While the largest, Navajo Nation Reservation, is 16 million acres and covers parts of Utah, New Mexico, and Arizona, many areas are less than 1,000 acres.¹

Tribal Sovereignty and Taxation

Tribes with sovereign immunity generally are shielded from state interference and a state's ability to regulate certain activities carried out on tribal reservations is uniquely limited.⁷ One of the key components of tribal sovereignty is taxation; tribes maintain the ability to apply their own taxes to activities and sales occurring on-reservation. Further, tribal members (registered members of the tribe on whose land the purchase is being made⁶) are exempt from state sales and excise taxes on commodities purchased on tribal lands, including cigarettes and other tobacco products (OTP).⁵

For example, state tobacco excise taxes, which ultimately get passed down to consumers through higher tobacco product prices,⁸ cannot be imposed on tribal members making purchases on tribal lands.^{6,13} Native Americans on another tribe's land (non-members) and non-tribal consumers are not exempt from state taxation on purchases made on-reservation, and are still obligated to pay state taxes on items purchased on-reservation.^{7,18,19}

The distinction is important in understanding tax implications in various circumstances; sales made by anyone (including tribal members) off of reservation land are subject to state taxes, as are those made on-reservation to customers who are not members of the tribe on whose land they are purchasing items.⁹ Further complicating matters, while federal law requires remittance of state taxes to the state for sales to non-members, a state cannot force a tribe to do so where it refuses¹⁰⁻¹².

A state's inability to enforce its tax laws on reservation land can mean complicated logistical maneuvers for state enforcement officials. In New York, enforcement officials resorted to confiscating contraband products just before the state/tribe border, as they were unable to do so once the products crossed onto reservation land.¹⁴ (See [Case Studies in Targeted Regulatory Strategies: Oklahoma and New York](#).) Because of this stratified tax obligation, there is a conflict between a tribe's interest in protecting its right to self-govern and a state's interest in being able to enforce its tax laws non-member and non-tribal consumers.

Tobacco Sales on Federal Reservations

Tobacco sales can be a valuable source of revenue for both states and tribes, but tribal tobacco sales can be complicated by the (sometimes conflicting) interests of several, distinct governments: federal, state, local, and tribe. As tribes are exempt from state excise taxes, tribal retailers can legally purchase untaxed cigarettes from state-licensed distributors as tax-exempt entities, which can result in lower cigarette prices than

consumers would see at off-reservation retailers.²⁰ These lower prices can attract buyers to tribal retailers, costing the state tax revenue it would otherwise be able to collect.

This has been an issue for some time, and some states continue to see significant losses in tax revenue. In 2000, for example, Washington state officials estimated that they lost approximately \$80 million dollars in tobacco tax revenue due to on-reservation tobacco purchases.²¹ At the time, cartons of cigarettes sold on reservations were about \$10 less than cartons sold off-reservation.²¹ In New York, “revenue lost to the state as a result of purchasing low price (mainly untaxed) cigarettes is estimated to be between \$436 million and \$576 million in 2004.”²² In that same year, a quarter of New York smokers purchased tobacco on tribal reservations regularly or all the time.²² In 2011, New York State Attorney General Eric Schneiderman estimated that the state lost approximately \$500,000 a day to sales on tribal lands.²³ According to 2011 sales data, on-reservation cigarettes in Washington were priced approximately 65% lower than their off-reservation counterparts, with almost one-in-five smokers reporting making purchases on reservations.²⁰

States have a legitimate interest in enforcing existing tobacco tax laws against tobacco product sales to non-members or non-tribal consumers on tribal lands. On the other hand, however, income derived from tribal businesses is generally the only source of revenue for tribes outside of federal sources, as tribes do not generally collect property or income taxes from their members. As such, revenue derived from tobacco sales can represent an important part of a tribe’s economic viability. To ease this conflict, the U.S. Supreme Court held that states could impose basic enforcement mechanisms to collect taxes from non-members or non-tribal consumers on tribal lands when such mechanisms were determined to be a “minimal burden.”¹² As such, a state can require tribes to utilize common tobacco regulatory mechanisms, such as tobacco tax stamps or recordkeeping. They also can require tribes to pay state excise taxes on some or all products up-front, with refunds made to the tribe for sales to members.¹²

While some states have adopted enforcement mechanisms, jurisdictional issues can make it difficult for states to enforce tax collection on non-members or non-tribal consumers who purchase tobacco on tribal lands.²⁴⁻²⁶ The number of non-tribal consumers purchasing on a reservation can be limited by proximity, but is often incentivized by higher state cigarette prices.²² In New York’s Niagara County, which contains two Native American reservations, 81% of resident smokers reported routinely purchasing cigarettes on a reservation between October 2002 and March 2003.²² In this same study by Hyland and colleagues, 73% of white smokers residing in Niagara and nearby Erie Counties reported that Native American reservations were their usual cigarette source.²²

Although states may utilize regulatory mechanisms to enforce tax laws on sales as they occur, it can be difficult for states to seek out a remedy for taxes owed on past sales. As sovereign nations, tribes are generally protected from state litigation, which is one way in which a state’s ability to collect taxes post-sale is limited.¹³ However, while tribal sovereignty can protect tribes from lawsuits, the U.S. Supreme Court has held that tribal

sovereignty does not completely prevent a state from seeking remedy.¹³ Specifically, states may seek recourse by filing suit against individual agents or tribal officers for lost tax revenue, by collecting taxes from wholesalers prior to purchase by tribal retailers, or by entering into tax agreements with a tribe.¹³ It is under this guidance that many states have created their existing tribal tobacco taxation and sales policies.

Purpose of this Chartbook

State interest in regulating tax-free cigarettes and OTP within the distribution chain and enforcing tax obligations on-reservation for non-member consumers has increased, particularly as states seek much-needed revenue from tobacco taxes and the number of tribal manufacturers continues to steadily rise.¹⁵ While some states impose basic tax enforcement mechanisms on tribal sales and have begun shifting their enforcement strategies to reflect conflicting jurisdictional control, little research has been done on the comprehensive regulatory landscape of tribal tobacco sales.

Further, many states with a tribal presence have yet to implement agreements or laws that could lessen the impact of price disparities between sales on and off of reservation land. Previous studies have been done on individual state strategies. For instance, Kurti and colleagues found that on-reservation tobacco sales in New York declined more than 30% after changes were made in tax stamp implementation procedures.²⁷ A report by Laux and colleagues analyzed compact negotiations between Oklahoma and its tribes, highlighting the state's intent towards gradual tax harmonization²⁸ in a state where nearly one-third of its smokers purchased cigarettes from tribal retailers in 2011.²⁰

This chartbook helps to fill the evidence gap by identifying key components of state-tribal tobacco sales regulations, including laws that minimize the availability of tax-free products within the distribution chain, and specify or require specific tax agreement provisions that regulate sales on-reservation. Despite a changing tribal landscape, including an increase in tribal tobacco manufacturing, many states have yet to implement regulatory mechanisms to address potential evasion. With states looking to increase tobacco taxes, interest in evasion reduction remains high. A better understanding of these strategies may help to guide future changes to tribal tobacco regulations. We hope this chartbook will assist states that want to implement or update their tribal sales laws and provide the tobacco control community with insights into how regulatory strategies may relate to on-reservation consumption and evasion.

Specifically, this chartbook:

1. Provides a detailed overview of sales laws pertaining to cigarettes and other tobacco products (“OTP”) on tribal reservations in the twenty states with laws pertaining to on-reservation tobacco sales and taxation (“tribal states”) in effect as of January 1, 2015;
 2. Illustrates the state-by-state tribal sales laws for both cigarettes and, where appropriate, OTP;
 3. Describes what, if any, compact provisions are recommended or required by each state;
 4. Identifies and evaluates key, state-level regulatory strategies for tribal sales in each state; and,
 5. Identifies gaps and opportunities for state tobacco control advocates and policy makers relative to tribal tobacco sales.
-

Data Sources and Limitations

Data for this chartbook were compiled through primary legal research using Boolean terms and connectors in each state’s statutes, regulations, relevant agency opinions, and (where appropriate) state or federal case law, available through commercial legal research services, [Lexis-Nexis](#) and [Westlaw](#). Research was conducted on laws in effect as of January 1 of each year, 2005 through 2015, inclusive. Upon review of the data, very little change was found over the decade examined. As such, this chartbook focuses primarily on 2015 data, with select changes in law across the collection period presented throughout for comparative purposes. Readers interested in reviewing the state-by-state data for all years can download the complete data set from the [Tobacconomics](#) website.

All relevant laws pertaining to the sales of cigarettes or OTP involving tribal entities were collected and evaluated for each state. The effective date of each year’s tax rate was verified through session laws or administrative law history documents. To assess inter-coder reliability, all laws for all states for the year 2012 were reviewed and coded by two attorneys. A consensus coding process was used to ensure accurate documentation of coding protocols and decision rules to guide the coding process. A copy of the coding tool and decision rule document is available on the [Tobacconomics](#) website.

Publicly available secondary sources, such as published articles and information from state departments of revenue or taxation websites, were used to compare initial collection results and clarify ambiguities. Where codified law was invalidated or amended by subsequent Attorney General opinions, Department of Revenue notices, case law, or other administrative materials, those interpretations were used to guide collection and coding.

While this chartbook examines the impact of various policy strategies in the area of tribal tobacco sales, the data contained within this report are limited as follows:

1. The data are based entirely on codified law as noted above. As such, other state policy instruments, including session laws (except for effective date verification), legislative bills, state constitutions, and non-codified policies were beyond the scope of this chartbook as were laws pertaining to direct sales, master settlement agreements (hereafter, “MSA”), or other non-tax issues.
2. While data collection included broader information on whether states have codified mechanisms for establishing intergovernmental agreements, it did not include collection of actual intergovernmental agreements or contractual terms where they were not included in a state’s codified law. The content of these agreements might further highlight a state’s attempts to establish tax collection mechanisms in ways not clear from codified law. Similarly, laws put into place by a tribe as part of their self-governance were excluded from collection.
3. Collection of laws was limited to those specifically related to taxation compacts/ agreements (either general framework for compact formation for any product or service, or tobacco-specific compacting parameters); as well as tobacco sales by/to tribal entities.
4. This chartbook does not examine the actual implementation of these tribal sales laws at the state level. Specific agency processes and protocols, as well as actual application and enforcement, were not included in analysis, and may lead to different policies “in practice.”

National Evaluation Methodology

In addition to examining individual components of states’ tribal tobacco laws, we identified four common strategies and looked at how those strategies worked together. For this chartbook, the strength of each state’s tribal tobacco laws was determined using one scale, which measured the four main ways states can regulate the amount of tax-free cigarettes in the marketplace or enforce tax obligations on-reservation. The scale was coded as “not applicable” if a state does not address tribal tobacco sales, and states with no tribal reservations within their borders were identified using secondary data from the Bureau of Indian Affairs.⁴

The scale is the sum of four dichotomous measures (compacts, tax stamps, tax-free allotments/quotas, and tax pre-payment) with a maximum value of four.

- **Compacts:** This measure evaluates whether a state has established a framework for intergovernmental agreements, regardless of tobacco specificity (1=yes, 0=no/silent). **Note:** All states CAN enter into intergovernmental agreements. The compact variable is meant to identify states that have established codified frameworks, which, in the absence of actual compacts (which were not collected for this chartbook), may tend to identify states that actually utilize compacts.

- **Tax stamps:** This measure evaluates whether a state addresses the use of tax stamps as a means of identifying tobacco purchased on tribal reservations (1=yes, 0=no/silent).
- **Tax-free allotments/quotas:** This measure evaluates whether a state establishes a tax-free allotment or quota for tribes seeking to purchase tobacco for resale on-reservation (1=yes, 0=no/silent).
- **Tax pre-payment:** This measure evaluates whether a state requires tribes to pre-pay state excise taxes on some or all products sold on-reservation (1=yes, 0=no/silent).

Organization of the Report

This report is divided into five major sections. The next section ([Section 2](#)) explains the policy areas examined in this chartbook, including key regulatory mechanisms pertaining to tribal tobacco sales both within the distribution chain and on-reservation. [Section 3](#) provides a national overview of tribal tobacco sales policies across the states, focusing specifically on compact provisions and sales laws impacting the availability of tax-free cigarettes to tribal retailers, as well as a national evaluation of these policies. [Section 4](#) includes detailed state profiles of tribal tobacco sales policies. The state profiles are followed by concluding comments ([Section 5](#)), references and appendices.

Section 2: Policy Areas Covered

This report identifies the ways in which states enforce tax obligations on tribal purchases through codified law, and is divided into two methods: tax agreements (compacts), and other tax and sales laws (regulatory mechanisms that exist outside of compacts). The latter includes mechanisms such as tax-free allotments, tax pre-payment, and tax stamps.

Compacts

Compacts, or tax agreements, are contracts between governments, such as between tribes and states in the case of tobacco sales made on reservation land. These intergovernmental agreements often establish tax rates for tobacco sales made on reservation land by tribal retailers to non-members. They also may dictate how tax revenues can be used or the ways in which the terms of the agreement will be enforced. Compacts are negotiated between the parties much like a typical business contract, and often are limited in duration.

While the actual compacts are not enacted into law (an unnecessary process, as both parties are bound to the terms by contract law), a state can pass legislation regarding which parties may represent the state in forming these agreements, as well as the types of provisions the agreements must include. States that have established the general framework necessary for forming tax agreements with tribes, but do not specifically apply that framework to tobacco sales and have not delineated specific provisions for these sales, are still considered to utilize compacts, but their general nature has been noted.

Tax and Sales Laws

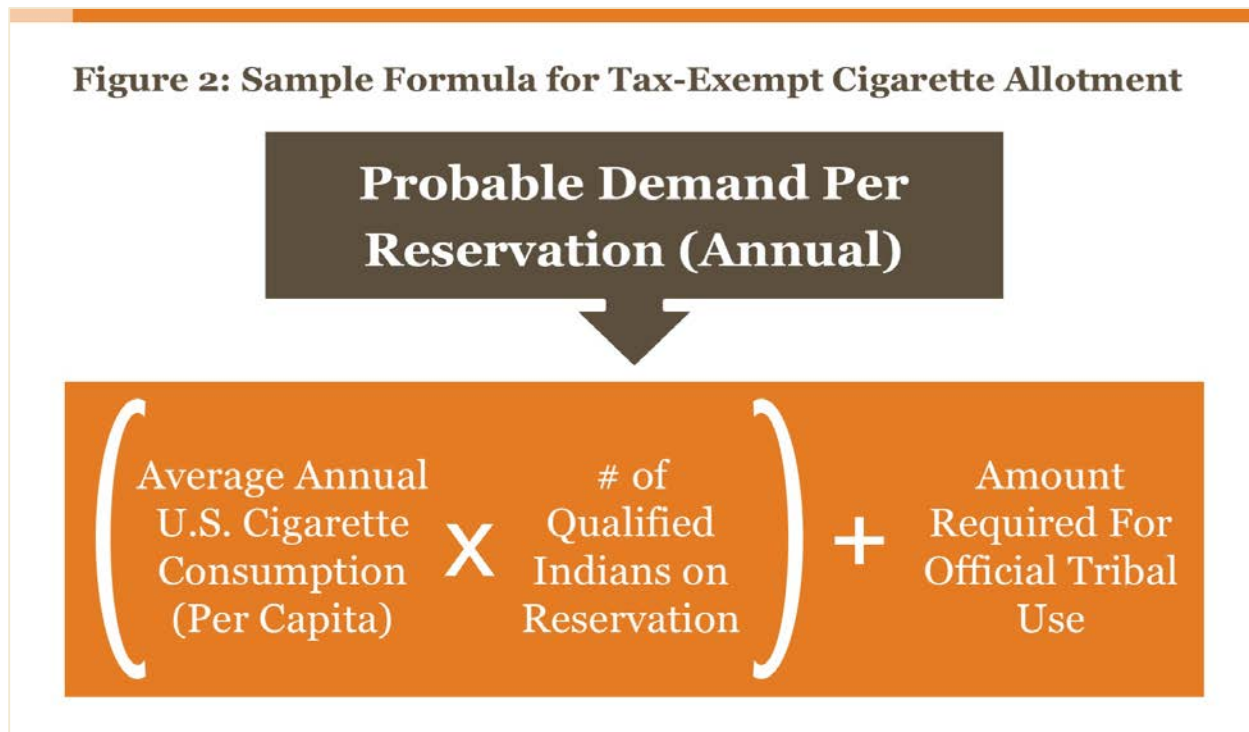
Laws pertaining to the taxation and sales of tobacco on tribal lands can also exist outside of compact agreements. Because state governments do not have the authority to enforce state laws on reservation lands, these laws regulate tobacco sales activity prior to its ultimate sale on-reservation, and often seek to regulate the availability of tax-free products within the marketplace. There are three key regulatory strategies common to tribal tobacco sales:

1. Tax stamps;
2. Tax-free allotments or quotas; and
3. Required pre-payment of excise taxes on tobacco products sold on-reservation.

Tax stamps act as indicia that the excise tax for a state has been paid prior to sale, and can vary in size, shape, and color.²⁶ Some states have laws that require different stamp application strategies for sales to tribal retailers, including the application of stamps that indicate a tax-exempt party (either tribe-specific or generic “tax-exempt” stamps). Other states apply the same stamp to all products, regardless of purchasing party, and some other states specifically prohibit the application of stamps on products sold to tribal

retailers. While state laws often dictate how stamps should be used, government agencies charged with enforcing the stamping laws often have authority to determine what those stamps look like and how often their appearance changes.

Tax-free allotments or quotas establish a pre-determined amount of tax-free products available to a specific tribe. These allotments are meant to provide tribes with enough tax-free tobacco to account for personal usage by tribal members, as those members are exempt from state tobacco taxes. Allotments are calculated with codified formulas, and often take into account national smoking rates and tribal population (Figure 2).



Typically, these annual allotments are distributed in quarterly or semi-regular amounts. Some states, as a means of administering allotments, utilize a coupon system, in which tribes receive coupons that can be redeemed for tax-free cigarettes from distributors. These distributors can then submit those coupons to the state for refunds on any taxes that may have been pre-paid by the distributor.

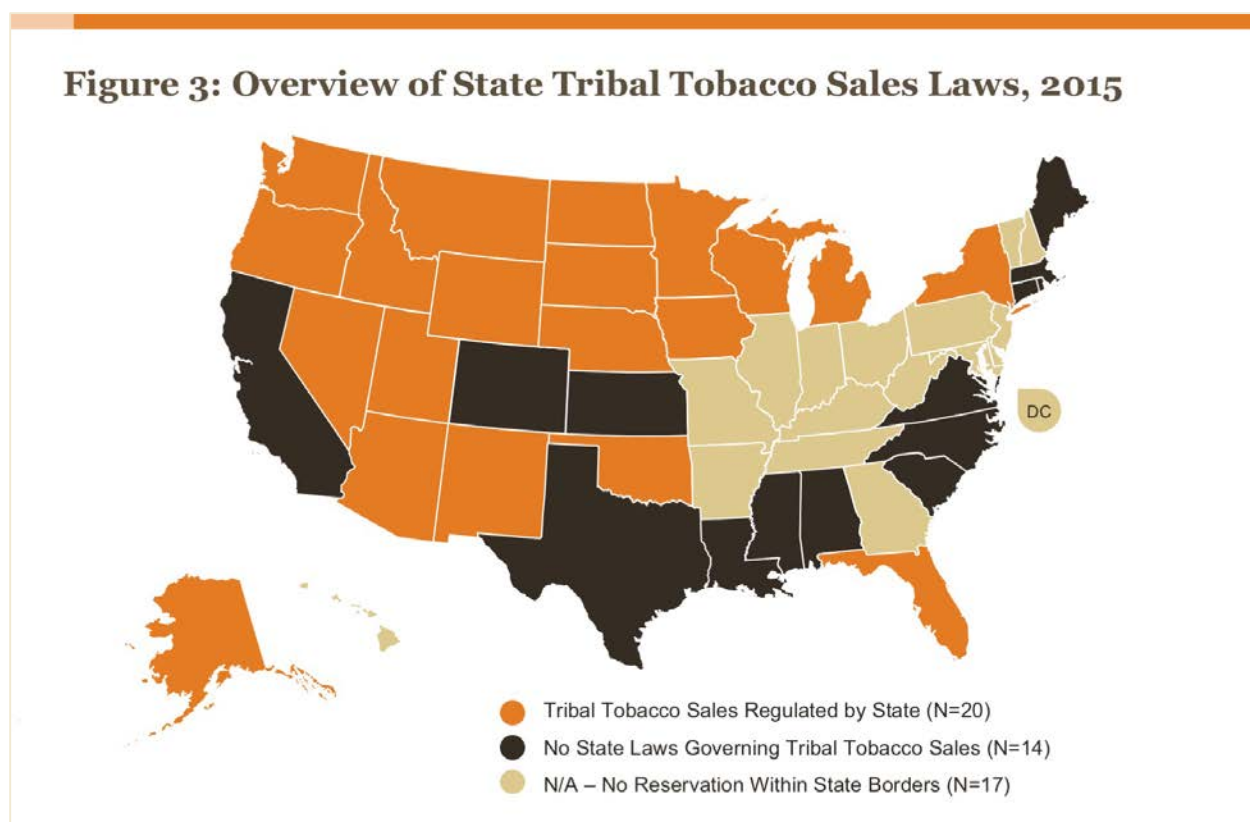
Pre-payment of taxes on tobacco products sold on-reservation is another way in which states can attempt to collect taxes owed on sales to non-members prior to distribution on-reservation. In using this strategy, states require parties to pay taxes on some or all tobacco products purchased, regardless of tax status. For tax-exempt tribes, a refund representing any taxes paid is then given at regular intervals for any sales made to its tax-exempt tribal members (verified via recordkeeping). While some states require the payment of taxes on all products sold on reservations, others only require pre-payment of taxes on any products sold to tribes above and beyond any established tax-free quota. In this way, all three strategies (tax stamps, allotments, and pre-payments) work together to minimize the amount of tax-free tobacco available in the marketplace.

Section 3: National Overview of Tribal Tobacco Laws

This section includes a national overview of state-level laws pertaining to tribal tobacco sales as of January 1, 2015. While this section contains summary data, detailed state-by-state analyses can be found in [Section 4](#). Companion slides, which contain the charts and tables from this section, are available on the [Tobacconomics](#) website.

Overview of Tribal Tobacco Laws

Thirty-four states have tribal reservations within their borders; of those, only 20 had laws specifically regulating tribal sales as of January 1, 2015 (Figure 3).



Within the 20 tribal states, two main strategies of law are utilized: compacts and tax/sales laws. While the majority (11) of these states employ both strategies in tandem, the remaining states are split between strategies: six use only tax and sales laws, while three use only compacts (Figure 4).

Figure 5: Changing Use of State-Tribal Compacts, 2005 vs 2015

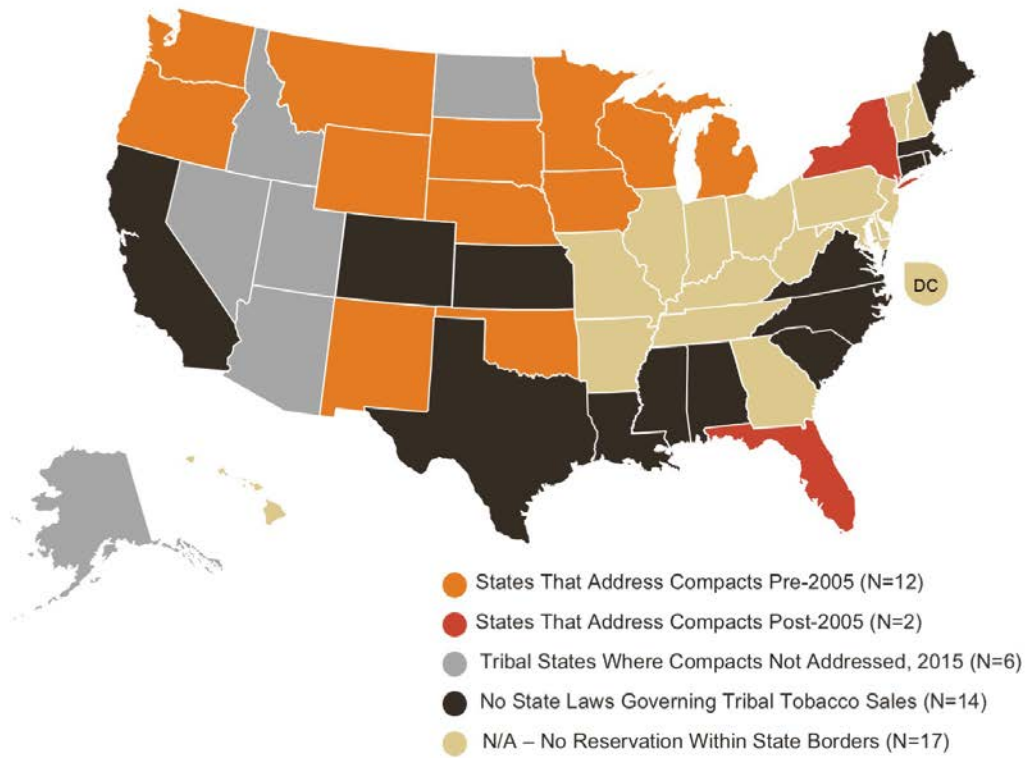
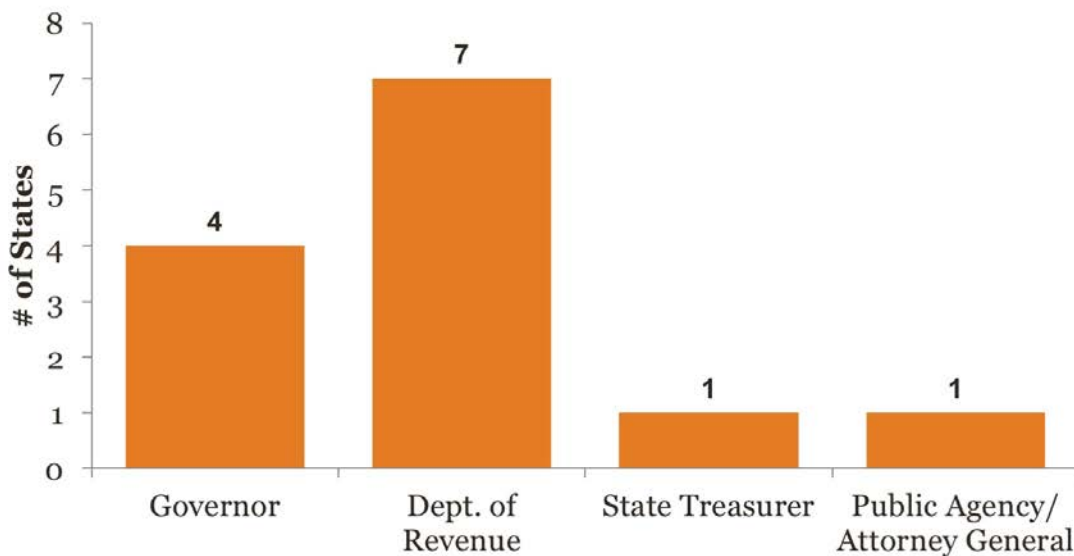


Figure 6: State Parties Authorized to Enter State-Tribal Compacts (N=10), 2015



Data are not mutually exclusive.

Some states also recommend or require that tobacco compacts contain specific provisions to facilitate the collection of taxes from non-member consumers, and to clarify enforcement procedures across jurisdictional boundaries (Table 1).

Table 1: Compact States with Suggested or Required Compact Provisions, 2015

State	Compact Provision Types								
	Revenue Collection/ Sharing	Enforcement	Duration/ Renewal Period (yrs)	Distribution of Funds	Tax Stamps	Record-keeping	Tax Rate	Waiver of Sovereign Immunity	Refund Amnt.
FL	✓								
IA [†]	✓			✓					
MI	✓	✓	Regular (2)					✓	
MN	✓								✓
MT [†]	✓		N/S	✓					
NE	✓	✓	N/S	✓	✓			✓	
NM [†]	✓	✓							
NY	<i>Utilizes compacts, but does not suggest or require compact provisions within its codified laws.</i>								
OK	✓	✓			✓	✓	✓		
OR		✓							
SD	✓		Regular (5)						
WA [*]	✓	✓	Regular (8)	✓	✓	✓	✓		
WI									✓
WY	✓		Regular (1)			✓			
Total	11	6	6	4	3	3	2	2	2

Source: DeLong et al., Common State Mechanisms Regulating Tribal Tobacco Taxation and Sales, United States—2015, July 2016.

Notes:

† Codified tribal compact framework not limited to tobacco sales.

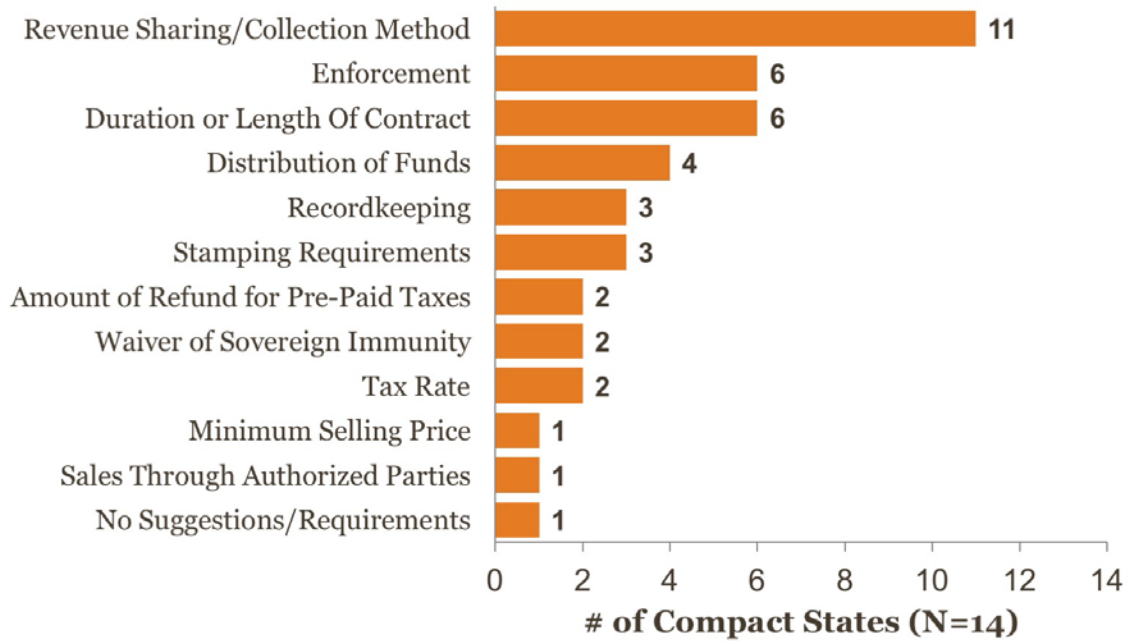
*Regular – The duration or renewal period of compacts occurs on an established, regular basis.

†N/S – The state addresses the need for an established duration or renewal period, but does not specify what that should be.

*Washington is the only state that explicitly requires two additional provisions; 1) that purchases must be made from licensed or authorized parties; and 2) that cigarettes sold on-reservation must apply a form of minimum selling price (a tribal tax equal to 100% of the state excise tax after a phase-in period must be applied to all purchases).

The most common provision that states encourage or require to be included within compacts are those pertaining to the method of collecting and sharing revenue between parties (11 states; Figure 7). These provisions can determine how tribal retailers collect tax revenue from their customers.²⁹ Enforcement strategies for tax collection (found in six states), are important for regulating on-reservation sales, as a state’s ability to enforce its tax laws within reservation borders is limited. Similarly, limiting the duration or length of the compact (six states) forces the parties to renegotiate the terms of the agreement, and can allow parties to adjust to new laws over time. Four states limit the duration of a compact to a specific period of time (between one and eight years), while an additional two states do not specify an expiration date.

Figure 7: Compact Provisions Suggested or Required by Law, 2015



Data are not mutually exclusive.

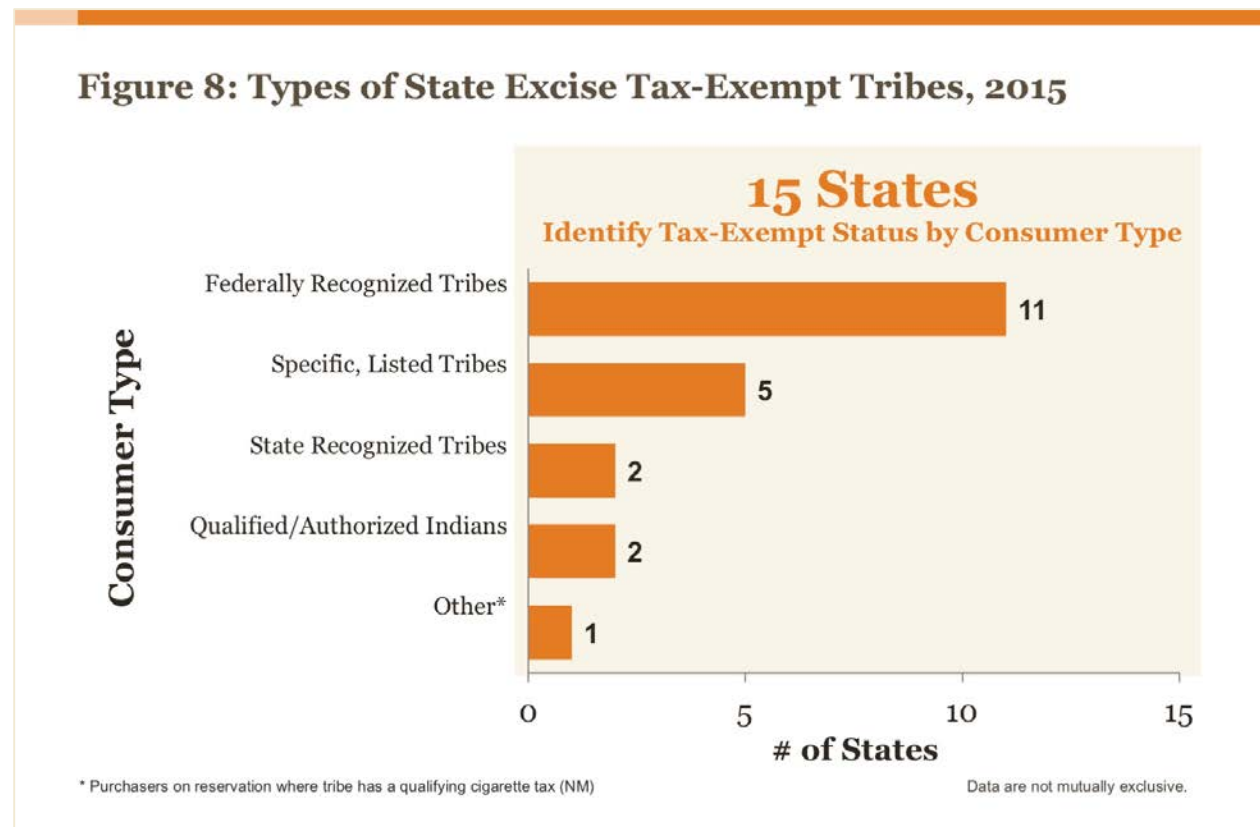
Two states, Oklahoma and Washington, set actual tax rates for compacting tribes within their codified laws. Both states vary the tax rates for different parties or scenarios. For example, Oklahoma sets two rates within its laws: a tax rate of \$1.03 per pack for tribes without compacts,³⁰ and a tax rate of 80% of factory list price for tribes with compacts established after 2013.³¹ Washington has different tax rates (and strategies) for different tribes: the Puyallup tribe uses a specific tax rate (\$11.75/carton),³² while the Yakama tribe uses a gradually increasing tax strategy that accounts for any increases in the state tax (rising from 80% to 87.6% of the state excise tax rate over eight years).³³ In addition to these tribe-specific rates, the tax rate for other tribes establishing compacts is 100% of the state sales, use, and excise tax within a three-year phase-in period³⁴.

While additional provisions, such as the use of tax stamps (three states) and recordkeeping requirements (three states), are not as commonly found within the state laws governing compact formation, they are still important, and are likely more common than their inclusion in these laws suggests.

Tax and Sales Laws

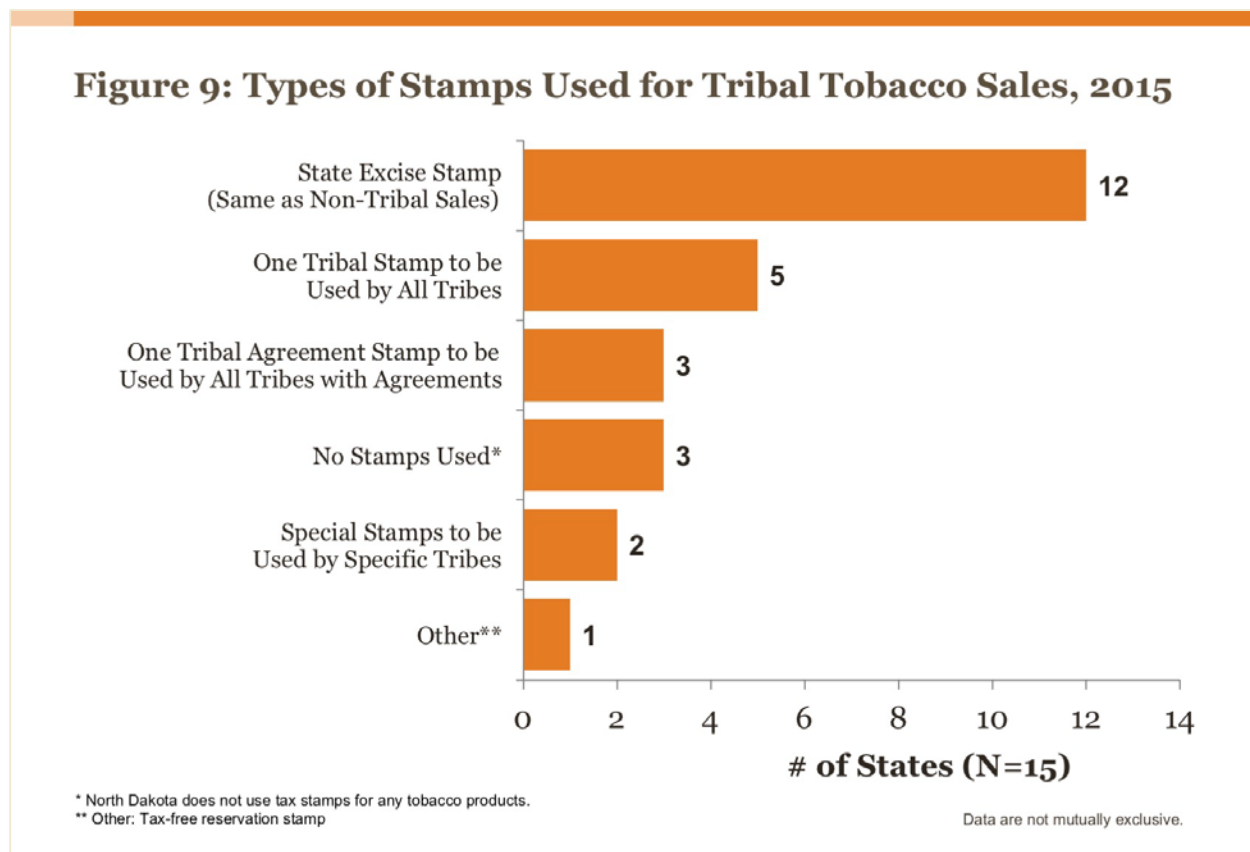
To avoid enforcement and jurisdictional complications, many states regulate the distribution of tobacco prior to its sale on tribal reservations. Through these laws, states can attempt to limit the amount of tax-free tobacco products available in the marketplace, and limit evasion opportunities. One way states can do this is by distinguishing which parties are exempt from state taxes. At the federal level, federally-recognized tribes are exempt from state tobacco taxation, but states can exempt other tribes as well.

Fifteen of the 20 tribal states identify tax-exempt tribes within their codified laws, often identifying more than one type of tribe (Figure 8). Of those 15 states, 11 explicitly apply tax-exempt status to federally recognized tribes. Because these tribes are already exempt under federal law, their inclusion here is a formality at the state level. Five states identify specific tribes that are tax-exempt, while an additional two states (Florida and Montana) extend tax-exempt status to state-recognized tribes. These tribes do not receive the same privileges and benefits from the U.S. government as their federally recognized counterparts, but may still be eligible for certain state benefits or assistance. One state (New Mexico) applies its tax-exempt status broadly to all purchasers on a reservation that has a qualifying tribal cigarette tax.



Tax Stamps

One way that states enforce tax payment on and off of reservation land is through tax stamps. Across the United States, only three states do not use tax stamps (North Carolina, North Dakota, and South Carolina).²⁴ Fifteen of the 20 tribal states employ tax stamps in some fashion (including those that choose not to use stamps for tribal sales), and many use several types of stamps for different types of sales (Figure 9).



Most commonly, states use their regular excise tax stamp on some or all products sold on a reservation (12 states), but other states use some form of tribal stamp. Nine states employ a broader stamp for multiple types of tribal sales: five states use one stamp for all tribes, three states use one stamp for all tribes with state compacts, and one state (Arizona) uses a “tax-free reservation stamp.” Two states (Nebraska and Washington) have stamps specific to certain tribes. Rather than having a stamp specific or related to tribal sales, three states do not use any stamps for sales made on-reservation: Iowa and Wyoming specifically prohibit stamping tribal tobacco products, while North Dakota does not use stamps for any tobacco sales within the state. (See [Appendix Table 1](#))

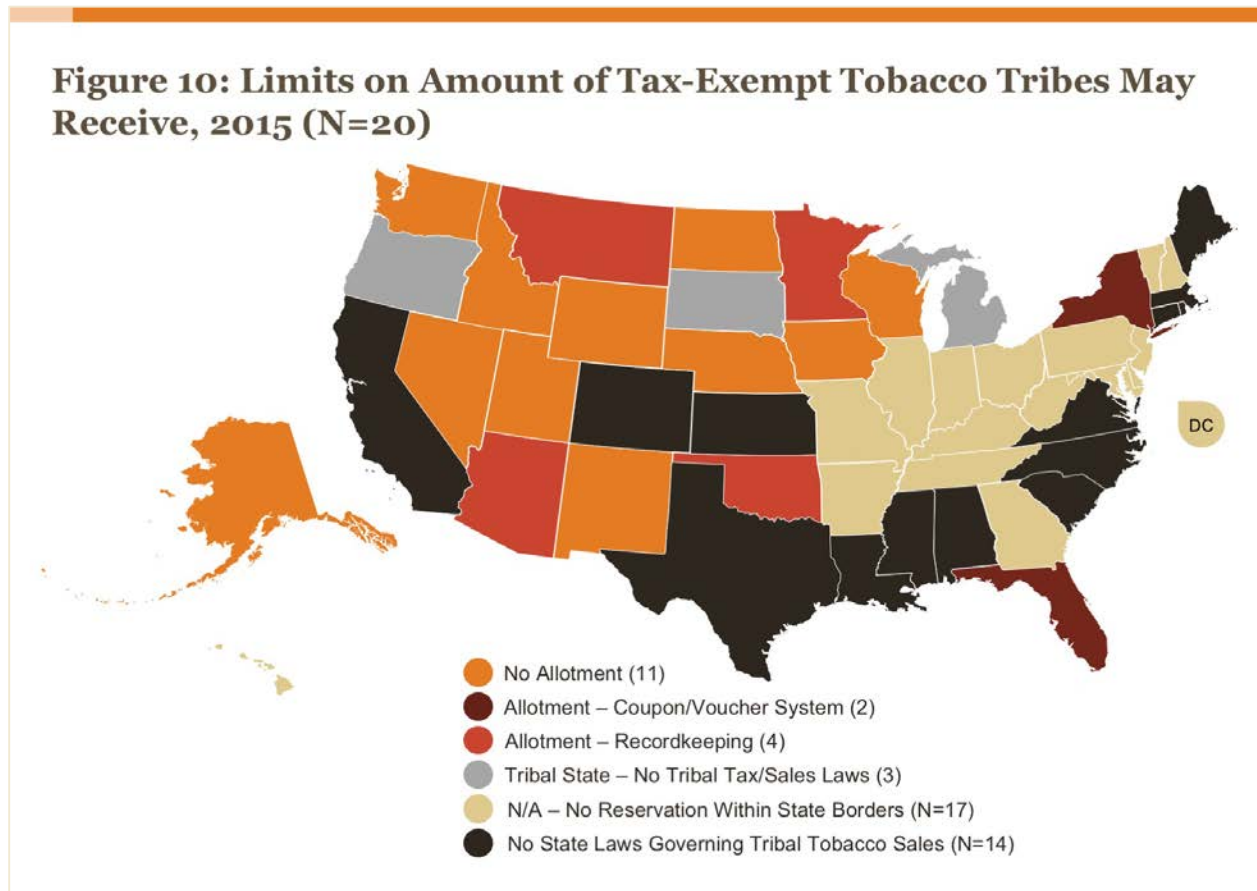
Tax-Free Allotment/Quota

The use of tax-free allotments or quotas is a less popular strategy than tax stamps. Allotments set a statutory limit on the amount of tax-free tobacco products that a tribe may purchase from distributors in a given period of time. These limits are meant to represent the amount of tobacco that the tribal members will purchase for personal consumption (versus non-member consumption), and are a means of regulating how many tax-free cigarettes are available in the tribal marketplace for sale to non-members. If tribes wish to purchase more than their allotment allows, they must pay state excise taxes on those additional products, and may apply for refunds for any full-tax products ultimately sold to tribal members. In this way, fewer tax-free tobacco products are available for sale to non-member consumers who are not exempt from state excise taxes. Of the 20 tribal states, only six states utilize some form of quota system, and all formulate their quotas in similar ways (generally based on tribal membership and average smoking rates) (Table 2).

Table 2: Quota Formulations in Select States, 2015

State	Statutory Formula/Definition
Arizona	“On the basis of tribal membership, each tribe has been allocated a maximum number of tax-exempt cigarettes that retailers can sell annually on a reservation to enrolled members of the tribe.” (Source: Tobacco Tax, Arizona Department of Revenue Pub 541, September 2012)
Florida	The annual total number of Indian-tax-and-surcharge-exemption coupons to be given to the recognized governing body of each Indian tribe shall be calculated by multiplying the number of members of the tribe times five packs of cigarettes times 365.” (Source: F.S.A. § 210. 1801)
Minnesota	“The amount of unstamped or untaxed stock that wholesalers may deliver to an Indian reservation is limited to amounts necessary to meet the personal consumption needs of qualified purchasers.” (Source: M.S.A. § 297F.07)
Montana	“‘Quota’ means 150% of the national average individual consumption of cigarettes multiplied by the enrolled tribal member population of an Indian reservation on which the cigarette sales are made or any other formula or amount agreed to in a state-tribal cooperative agreement.” (Source: MCA 16-11-155)
New York	“The amount of Indian tax exemption coupons [...] shall be based upon the probable demand of the qualified Indians on such nation’s or tribe’s qualified reservation plus the amount needed for official nation or tribal use. Probable demand shall be determined by [...] the United States average cigarette consumption per capita [...] multiplied by the number of qualified Indians for each such affected Indian nation or tribe.” (Source: NY TAX § 471-e)
Oklahoma	“The probable demand [...] shall be determined by the Tax Commission by ascertaining the total membership in Oklahoma of the tribe [...] and multiplying that number by the percentage of smokers in Oklahoma or in the United States, whichever is greater [...] The product of that calculation shall be multiplied by the average yearly consumption of cigarettes by smokers in Oklahoma or the United States, whichever is greater...” (Source: 68 Okl.St. Ann. § 349.1)

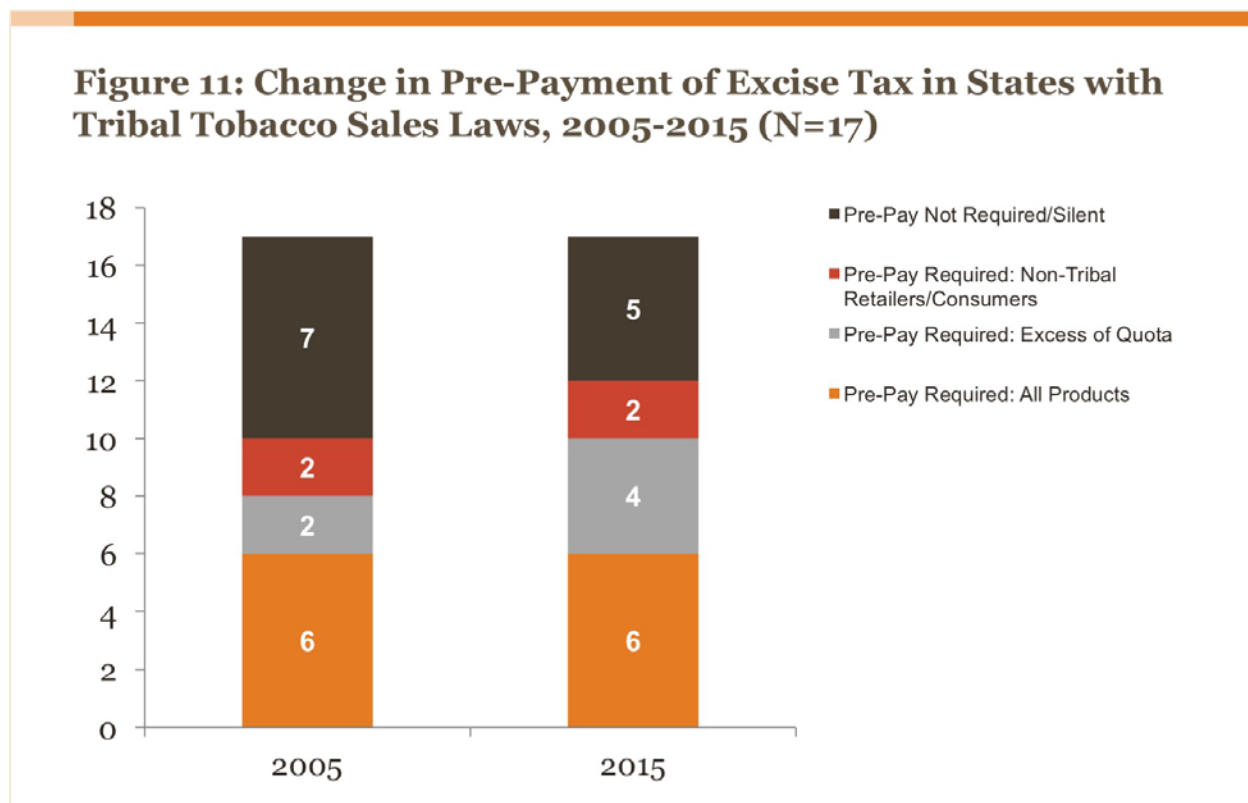
One way that these six states attempt to enforce their quota systems is through the use of coupons or vouchers. These coupons/vouchers are distributed to tribes based on the statutory allotment and may be redeemed for tax-free tobacco products from distributors. Where taxes have already been paid on tobacco products sold to tribes, distributors may submit those vouchers to the state for tax refunds. Only two states (Florida and New York) use this system (Figure 10); the remaining four states use recordkeeping as a means of distributing tax-free tobacco to tribes.



While implemented as a means of limiting the availability of tax-free tobacco within the marketplace, tribal allotment formulas often assume an abnormally high level of personal consumption (perhaps based on the traditionally high smoking rates within the demographic³⁵), and are often based on total member enrollment (versus the number of members living on-reservation). As such, the amount of tax-free tobacco available to the tribes is often far greater than the tribal members will consume.²⁶ For example, Florida’s formula assumes every tribal member, including children, will consume five packs of cigarettes daily.²⁹

Pre-Payment of Taxes

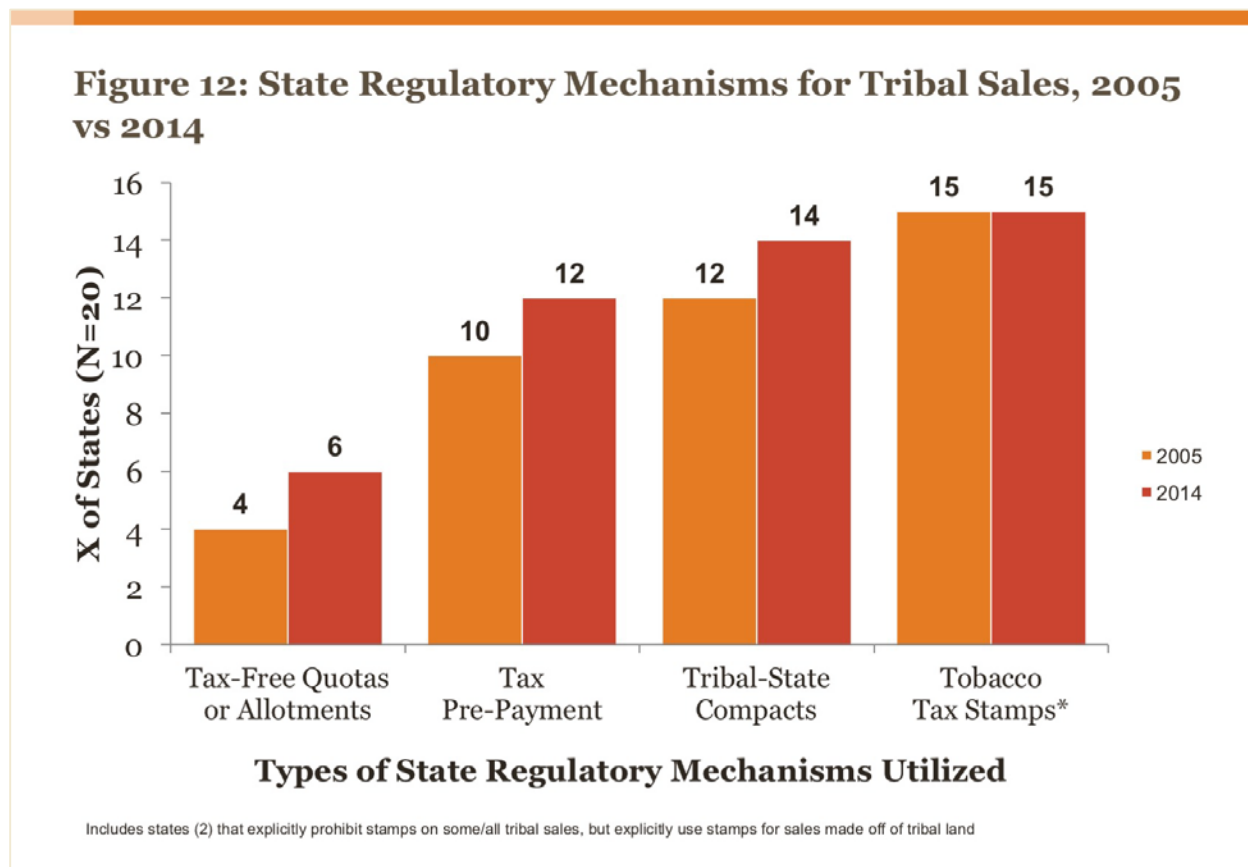
Requiring tax-exempt parties to pre-pay the standard amount of taxes on tobacco products with the expectation of a refund is another way that states seek to limit the amount of tax-free products available in the marketplace. Of the 20 tribal states, 12 require pre-payment on some or all tobacco products sold to tax-exempt tribes (up from 10 in 2005) (Figure 11). Of those 12 states, half require pre-payment on all tobacco products, while half require pre-payment on only some tobacco products (four states require it on products in excess of the statutory, tax-free allotment; and two on products sold on-reservation by non-tribal retailers).



Between 2005 and 2015, an additional two states (Florida and New York) began using a pre-payment system in tandem with their allotment systems, requiring tribes to pre-pay taxes on tobacco products in excess of the statutory allotment. With this change, these states have introduced new policies that complement or bolster existing tribal tax regulations. (See [Common Strategies for Tribal Tobacco Regulation](#))

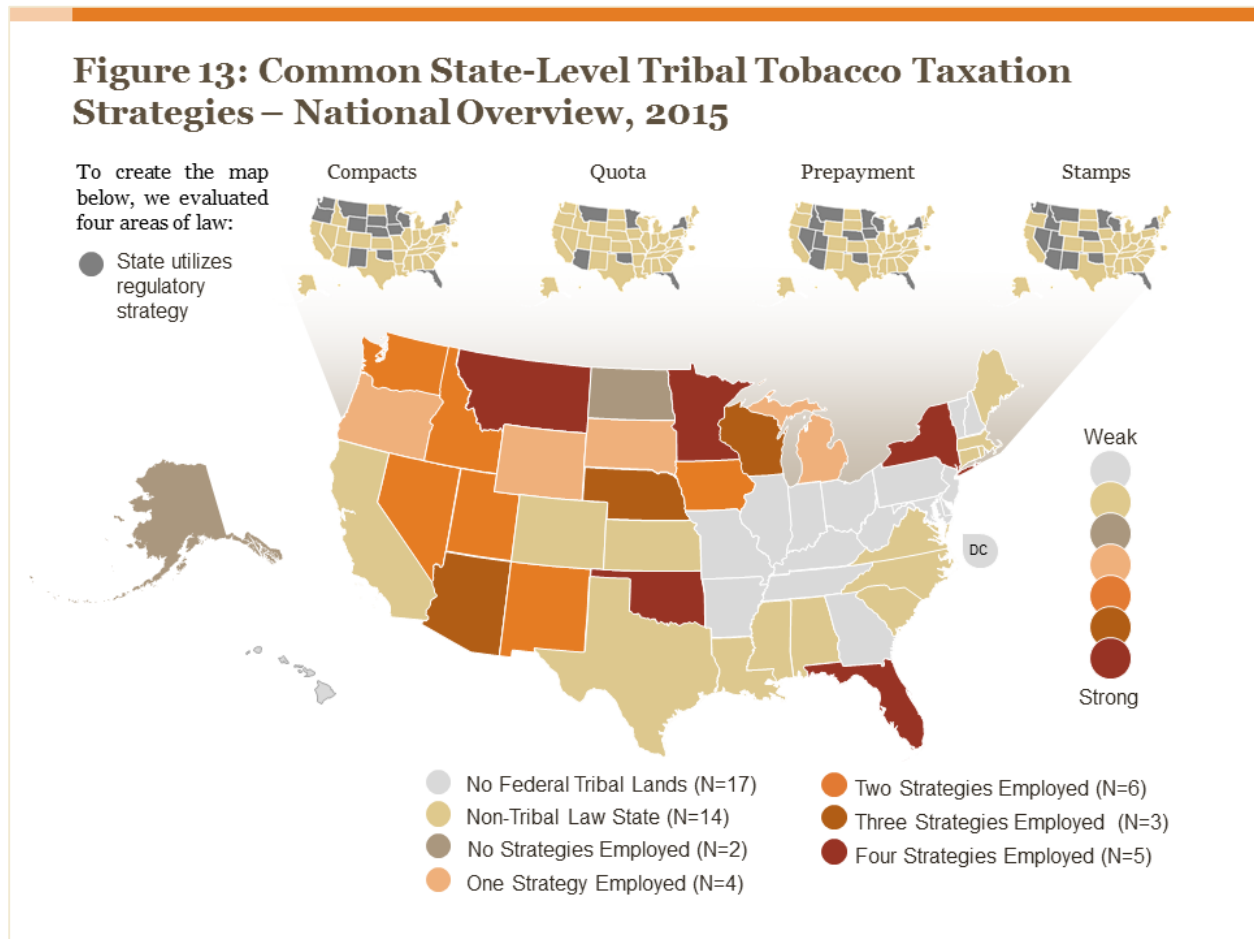
Common Strategies for Tribal Tobacco Regulation

While each of the four main strategies discussed above (compacts, tax stamps, allotments, and tax pre-payment) can be effective in minimizing state tax revenue loss on its own, combining these strategies can create a comprehensive regulatory framework that targets non-member tax collection both on and off tribal reservations. In fact, most of the four strategies saw an increase in usage between 2005 and 2014 (Figure 12).



All three categories with increased usage (compacts, tax pre-payment, and quotas) saw equal growth over the coding period, while tax stamps, the most popular strategy for on-reservation tax enforcement, remained stable. The four categories represent different means of approaching tax enforcement; so it is not surprising that many states employ more than one strategy. In fact, the average tribal state uses at least two different strategies. Of the 20 tribal states, 14 include two or more tribal tax strategies in their laws. Two states (Alaska and North Dakota) do not utilize any of the four key strategies, due, in part, to low on-reservation purchase rates³⁶ and the isolated locations of reservation lands.²⁶

A broader look at the variety of strategies employed presents an interesting (albeit somewhat incomplete) understanding of potential impact, and highlights the importance of tailored and nuanced policy implementation. At the broader level, five states utilize all four major strategies identified in this chartbook (Figure 13; [Appendix Table 2](#)).



Of these, three states (Florida, Minnesota, and Montana) maintain a relatively low price differential between on- and off-reservation cigarettes, and the share of on-reservation cigarette purchases is low in these states.²⁰ This could suggest that a broad policy framework using intergovernmental agreements alongside broader tax policies, such as stamping, may result in tax harmonization across state-tribal lines. The remaining two states (New York and Oklahoma) present interesting cases that illustrate the complicated nature of tribal tobacco sales and the context with which they should be approached (see [Case Studies in Targeted Regulatory Strategies](#)).

Despite the concentration of tribal reservations in the western half of the country, there is no discernible geographic pattern to the states with the most comprehensive regulatory framework (as determined by the use of key strategies). States without laws addressing tribal tobacco sales, despite a tribal presence within their borders, tend to see relatively

low on-reservation tobacco purchases, suggesting that reservation-based tax avoidance or evasion is not a current problem in these states.³⁷ However, some states may have been incentivized to create a stronger, more comprehensive tobacco tax strategy due to the size or proximity of tribal reservations to large, urban areas; the number of tribal retailers; or a desire to capture more tax revenue in the face of increasing state tobacco tax.³⁷

Alternative Strategies in Tribal Tobacco Regulation: Tribal Taxation

As sovereign nations, tribes have the authority to establish and apply their own taxation schemes, which can apply equally to both members and non-members.³⁸ Tribes generally seek to apply taxes for the same reasons that states do: revenue raised through taxes can be used toward infrastructure, health care, and education.²⁵ The application of a tribal tax to all on-reservation sales can be a net positive for states as well: tribal taxes can help prevent non-member evasion and lessen the resultant loss of revenue to state retailers by flattening the pricing differential between tribal and non-tribal retailers.²⁶

While tribal taxes can be beneficial to both states and tribes, the application of tribal taxes does not negate the state tax obligations of non-member consumers.^{38,39} As such, those consumers can face a dual-tax situation that increases the price of tobacco products above what consumers would pay off-reservation. This dual-taxation can price tribal retailers out of the competitive market, reducing much-needed revenue for the tribal community. Some states have addressed this issue by working with tribes to establish tribal taxes closer to state tax levels, resulting in a more harmonized tax environment.

Among the 20 tribal states, only five address tribal taxation in state law. Perhaps unsurprisingly, the Navajo Nation, the country's largest tribal reservation, is located in three of those states (Arizona, Nevada, and Utah). There are three main scenarios addressed by the five states, each with different strategies for avoiding dual-taxation. In the first strategy, where the tribal tax is greater than or equal to the state tax, no state tax is applied to purchases made by non-members. This strategy is found in three states where the Navajo Nation is located (Arizona Nevada, Utah). In the second strategy, where the tribal tax is less than the state tax, the difference must be paid by non-members. This strategy is found in two states (Arizona and Utah).

In the third strategy—where the tribal tax is lower than the state tax, but equal to or higher than an established, alternative rate—no state tax is applied to purchases made by non-members. Only one state, New Mexico, uses this strategy, which exempts tribal tobacco sales from state taxation (\$1.66/pack) where a “qualifying tribal cigarette tax” rate of \$0.75 per standard pack is applied (non-standard package tax rates range from \$0.075 to \$0.15 per cigarette).⁴⁰ The fifth state (Iowa) addresses the existence of tribal taxes, but does not specifically address the issue of dual-taxation.

Case Studies in Targeted Regulatory Strategies: Oklahoma and New York

Oklahoma does not have traditional reservation lands; its tribal population is integrated with the non-tribal population, and smoke shops owned by the state's federally recognized tribes are scattered across the state. Because of the unique challenges that a readily accessible tribal cigarette market presents (nearly 32% of smokers purchased cigarettes from tribal retailers in 2011),²⁰ Oklahoma has relied heavily on compacts as a means of tackling competing jurisdictional and economic interests. Specifically, its compacts include tax rates that favor compacting over non-compacting tribes (previously utilizing lower border zone tax rates), which have gradually increased over time, with rebates provided for taxes paid by tax-exempt purchasers.²⁸ These compacts have been and will continue to be renegotiated over time; by 2023, tribal tax rates will equal those for tobacco products sold in non-tribal shops, and all tribes will receive a 50% rebate.²⁸ As negotiated tax rates for tribal retailers in Oklahoma continue to rise to meet state excise levels, state revenue has also risen, and the tribal share of overall cigarette sales has declined.⁴¹

If Oklahoma highlights the importance of compacts in dense markets, **New York's** tobacco landscape presents the opposite scenario. Unlike Oklahoma's integrated marketplace, New York's tax-free tribal sales are limited to reservations, but a famously contentious relationship between the state and its tribes has made tax collection challenging.²³ From a broader view, New York's strategy to cut across major regulatory mechanisms hasn't changed over the years. However, small tweaks to its stamping policies suggest big results can be found in tailoring those strategies to address implementation gaps.

Facing large amounts of state revenue lost to tribal sales in 2010,²³ New York began stamping all cigarettes sold to tribal distributors, which meant that tribal distributors were forced to recoup those taxes from its tribal retailers.^{10,27,42} In the year immediately preceding the law's implementation, in June of 2011, 17% of New York smokers reported purchasing tobacco on a reservation, which was priced as low as 39.28% of off-reservation tobacco.²⁰ Despite tribal efforts to bypass the new stamping requirements through increased on-reservation manufacturing efforts,^{15,43} more recent sales data suggests a significant decrease in reservation sales since the implementation of the new stamping law (untaxed cigarettes purchased by Native American reservations was 0.10% as of May 31, 2013, down from 34.1% in 2008).²⁷ Despite the increase in tribally produced tax-free brands, collection of cigarette pack litter in the South Bronx suggests that tribal brand cigarettes have not replaced name-brand cigarettes, and that the majority of illicit cigarettes now flow from Virginia, shifting the cause of lost revenues from tribes to other lower-taxed jurisdictions.²⁷



Section 4: Individual State Profiles

How to Read the State Profile Pages

1. **[Areas of Law]** This indicates what areas of law a state uses to regulate tobacco sales on tribal lands. “Compacts” refers to laws addressing the formation and content of compacts or tax agreements. “Tribal Sales and Taxation” refers to laws addressing the sale and taxation of tobacco on tribal lands to non-tribal consumers, and the laws that surround the distribution of tobacco products to tribal distributors or retailers prior to its ultimate sale on-reservation.

2. **[Law Application]** This indicates whether or not the areas of law a state addresses are specifically applied to cigarettes and/or OTP.

3. **[Table: Overview of State Laws]** This table indicates whether or not the laws relating to state-tribal compacts are tobacco-specific, take precedence over existing state law in the areas addressed by both, and whether or not states are limited as to with whom they may compact.

4. **[Compact Provisions]** This indicates whether or not a state specifies what kind of provisions a state-tribal compact should or can include.

5. **[Table: Suggested or Required Compact Provisions]** This table shows whether provisions covering specific areas of tobacco sales distribution are recommended or required for parties forming compacts with the state.

6. **[Duration of Compact]** This indicates the specific time frame, if any, that a state’s tribal compacts may remain in place before renewal is required.

7. **[Tax Rate for Non-Compacting Tribes]** This indicates what, if any, tobacco tax rate exists for tribes that have not negotiated a compact with the state.

The screenshot displays the Oklahoma State Profile Page. At the top, the state name "Oklahoma" is shown next to a map of the United States with Oklahoma highlighted. Below this, there are several numbered sections:

- 1 Compacts** **Tribal Sales and Taxation**
- 2 Laws explicitly apply to:** Cigarettes OTP ✓ Yes Blank No -- Not Applicable/Addressed
- Tribal Compacts – 2015**
- 3 Overview of State Laws**

Compacts specific to tobacco sales?	
Compacts take precedence over existing state laws governing area?	
Limits to which tribes are authorized to compact with state?	
- 4 State requires/suggests specific provisions within tobacco compacts?** Yes No N/A
- 5 Suggested or Required Compact Provisions**

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	
Tax Rate	
Distribution of Funds	
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	
Enforcement	
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	
- 6 Duration of Compact:** XXXXXX | **7 Tobacco Tax Rate for Non-Compacting Tribes:** XXXXXX

8. [Table: Tax-Exempt Status Limited To] This table indicates which types of tribes a state specifically indicates are exempt from tobacco taxation.

9. [Tax-Exempt Tribes Identified by State] This lists any tribe that a state has specifically identified by name as a tax-exempt group for purposes of tobacco sales.

10. [Tobacco Sales Laws Directed at Specific Tribe?] This indicates whether a state has codified tobacco laws directed at a specific tribe.

11. [Which Tribe(s)?] Where a state has codified laws directed at specific tribes, this lists the applicable tribes.

12. [Table: Which Types of Tobacco Require Stamps] This table indicates the types of tobacco products sold on-reservation that require tax stamps.

13. [Table: Stamp Types Required for Tribal Sales] This indicates which types of tax stamps a state uses, if any, for some or all tribal tobacco sales.

14. [Table: How State Regulates Taxation of Tobacco Sold on Tribal Lands] This table indicates which types of tax strategies are utilized by a state with regards to tobacco sold on tribal lands.

15. [Pre-Payment of Taxes] This indicates whether or not a state requires tribal vendors to pre-pay state excise taxes on any tobacco products purchased for sale on tribal lands.

16. [Other Description] This describes “other” scenarios, if any, for which a state may require pre-payment of state excise taxes by tribal vendors.

17. [Coupon System for Quota] This indicates a state’s use of a coupon or voucher system to implement and enforce an existing quota or allotment system, wherein tribes receive vouchers that allow for the purchase of tax-free tobacco products.

Selected State Tribal Tobacco Laws as of January 1, 2015 **Oklahoma**

Tribal Sales – 2015

8 Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	
Qualified/Authorized Tribes	
State-Recognized Tribes	

9 Tax-Exempt Tribes Identified by State:

- XXXXXX

10 Tobacco sales laws directed at specific tribes?

No N/A

11 Which tribes? XXXXX

12 Which Types of Tobacco Require Stamps?

Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

13 Stamp Types Required for Tribal Sales:

State Excise Stamp	
Stamp Specific to Tribe	
Generic Tribal Stamp	
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

14 State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	

15 Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

16 Other: XXXXX

17 Utilizes Coupon System to Implement Quota: Yes No N/A

Alaska



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	--
Compacts take precedence over existing state laws governing area?	--
Limits to which tribes are authorized to compact with state?	--

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	--
Recordkeeping	--
Purchases Must Be Made From Licensed or Authorized Parties	--
Duration or Length Of Contract	--
Tax Rate	--
Distribution of Funds	--
Waiver of Sovereign Immunity	--
Tax or Fee-Generated Revenue Sharing/Collection	--
Enforcement	--
Amount of Refund for Taxes Paid by Tribal Consumers	--
Minimum Selling Price	--

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	<input checked="" type="checkbox"/>
Federally-Recognized Tribes	<input type="checkbox"/>
Qualified/Authorized Tribes	<input type="checkbox"/>
State-Recognized Tribes	<input type="checkbox"/>

Tax-Exempt Tribes Identified by State:

- Annette Islands Reserve (Metlakatla Indian Community)

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	<input type="checkbox"/>
Those Sold To Tribes Without Agreements	<input type="checkbox"/>
Those Sold To Nonmembers	<input type="checkbox"/>
Those Sold To Other Parties Not Otherwise Tax-Exempt	<input type="checkbox"/>
None/Silent	<input checked="" type="checkbox"/>

Stamp Types Required for Tribal Sales:

State Excise Stamp	--
Stamp Specific to Tribe	--
Generic Tribal Stamp	--
Generic Agreement Stamp	--
Generic Exemption Stamp	--
Silent As to Stamp Type	--

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	<input type="checkbox"/>
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	<input type="checkbox"/>
State Requires Tax Pre-Payment	<input type="checkbox"/>

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Arizona



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes Blank No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	--
Compacts take precedence over existing state laws governing area?	--
Limits to which tribes are authorized to compact with state?	--

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	--
Recordkeeping	--
Purchases Must Be Made From Licensed or Authorized Parties	--
Duration or Length Of Contract	--
Tax Rate	--
Distribution of Funds	--
Waiver of Sovereign Immunity	--
Tax or Fee-Generated Revenue Sharing/Collection	--
Enforcement	--
Amount of Refund for Taxes Paid by Tribal Consumers	--
Minimum Selling Price	--

Duration of Compact: N/A | **State Tobacco Tax Rate for Non-Compacting Tribes:** N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	✓
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	✓
Generic Agreement Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	✓
State Limits Tribal Access to Tax-Exempt Products (Quota)	✓
State Requires Tax Pre-Payment	✓

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: Products Sold to Non-Tribal Consumers

State Utilizes Coupon System to Implement Quota: Yes No N/A

Florida



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input checked="" type="checkbox"/>
Limits to which tribes are authorized to compact with state?	

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	
Tax Rate	
Distribution of Funds	
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	<input checked="" type="checkbox"/>
Federally-Recognized Tribes	<input type="checkbox"/>
Qualified/Authorized Tribes	<input type="checkbox"/>
State-Recognized Tribes	<input checked="" type="checkbox"/>

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? Seminole Indian Reservation

Tax-Exempt Tribes Identified by State:

- Seminole Indian Reservation

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	<input checked="" type="checkbox"/>
Those Sold To Tribes Without Agreements	<input type="checkbox"/>
Those Sold To Nonmembers	<input type="checkbox"/>
Those Sold To Other Parties Not Otherwise Tax-Exempt	<input type="checkbox"/>
None/Silent	<input type="checkbox"/>

Stamp Types Required for Tribal Sales:

State Excise Stamp	<input type="checkbox"/>
Stamp Specific to Tribe	<input type="checkbox"/>
Generic Tribal Stamp	<input type="checkbox"/>
Generic Agreement Stamp	<input type="checkbox"/>
Generic Exemption Stamp	<input type="checkbox"/>
Silent As to Stamp Type	<input checked="" type="checkbox"/>

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	<input type="checkbox"/>
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	<input checked="" type="checkbox"/>
State Requires Tax Pre-Payment	<input checked="" type="checkbox"/>

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Iowa



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	
Compacts take precedence over existing state laws governing area?	
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	
Tax Rate	
Distribution of Funds	<input checked="" type="checkbox"/>
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	✓

Stamp Types Required for Tribal Sales:

State Excise Stamp	--
Stamp Specific to Tribe	--
Generic Tribal Stamp	--
Generic Agreement Stamp	--
Generic Exemption Stamp	--
Silent As to Stamp Type	--

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	✓*

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Idaho



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	--
Compacts take precedence over existing state laws governing area?	--
Limits to which tribes are authorized to compact with state?	--

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	--
Recordkeeping	--
Purchases Must Be Made From Licensed or Authorized Parties	--
Duration or Length Of Contract	--
Tax Rate	--
Distribution of Funds	--
Waiver of Sovereign Immunity	--
Tax or Fee-Generated Revenue Sharing/Collection	--
Enforcement	--
Amount of Refund for Taxes Paid by Tribal Consumers	--
Minimum Selling Price	--

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	✓
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	✓

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: Products Sold On-Reservation by Non-Tribal Retailers

State Utilizes Coupon System to Implement Quota: Yes No N/A

Michigan



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input checked="" type="checkbox"/>
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	<input checked="" type="checkbox"/>
Tax Rate	
Distribution of Funds	
Waiver of Sovereign Immunity	<input checked="" type="checkbox"/>
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	<input checked="" type="checkbox"/>
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	

Duration of Compact: 2 Years | **State Tobacco Tax Rate for Non-Compacting Tribes:** N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	--
Federally-Recognized Tribes	--
Qualified/Authorized Tribes	--
State-Recognized Tribes	--

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	✓

Stamp Types Required for Tribal Sales:

State Excise Stamp	--
Stamp Specific to Tribe	--
Generic Tribal Stamp	--
Generic Agreement Stamp	--
Generic Exemption Stamp	--
Silent As to Stamp Type	--

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	--
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	--
State Requires Tax Pre-Payment	--

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Minnesota



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	
Tax Rate	
Distribution of Funds	
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	
Amount of Refund for Taxes Paid by Tribal Consumers	<input checked="" type="checkbox"/>
Minimum Selling Price	

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	✓
State-Recognized Tribes	

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Tax-Exempt Tribes Identified by State:

- N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	✓
Those Sold To Nonmembers	✓
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	
Generic Agreement Stamp	✓
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	✓
State Requires Tax Pre-Payment	✓*

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Montana



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	
Compacts take precedence over existing state laws governing area?	
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	<input checked="" type="checkbox"/>
Tax Rate	
Distribution of Funds	<input checked="" type="checkbox"/>
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	

Duration of Compact: Not Specified | **State Tobacco Tax Rate for Non-Compacting Tribes:** N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	✓

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Tax-Exempt Tribes Identified by State:

- N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	✓
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	✓
State Requires Tax Pre-Payment	✓*

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Nebraska



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	<input checked="" type="checkbox"/>
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	<input checked="" type="checkbox"/>
Tax Rate	
Distribution of Funds	<input checked="" type="checkbox"/>
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	<input checked="" type="checkbox"/>
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	

Duration of Compact: Not Specified | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	--
Federally-Recognized Tribes	--
Qualified/Authorized Tribes	--
State-Recognized Tribes	--

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	✓
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	✓
Generic Tribal Stamp	
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	✓*

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Nevada



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes Blank No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	--
Compacts take precedence over existing state laws governing area?	--
Limits to which tribes are authorized to compact with state?	--

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	--
Recordkeeping	--
Purchases Must Be Made From Licensed or Authorized Parties	--
Duration or Length Of Contract	--
Tax Rate	--
Distribution of Funds	--
Waiver of Sovereign Immunity	--
Tax or Fee-Generated Revenue Sharing/Collection	--
Enforcement	--
Amount of Refund for Taxes Paid by Tribal Consumers	--
Minimum Selling Price	--

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

<p>Tax-Exempt Tribes Identified by State:</p> <ul style="list-style-type: none"> N/A
--

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	✓
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	✓
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	✓
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	✓*

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

New Mexico



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	
Compacts take precedence over existing state laws governing area?	
Limits to which tribes are authorized to compact with state?	✓

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	
Tax Rate	
Distribution of Funds	
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	✓
Enforcement	✓
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	

Duration of Compact: N/A | **State Tobacco Tax Rate for Non-Compacting Tribes:** \$0.0375/cigarette (20 or 25 pack)

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Tax-Exempt Tribes Identified by State:

- N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	✓
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	✓
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	✓*
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	

* State excise tax waived where tribe imposes a qualifying tax rate of \$.0375/pack

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

New York



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input checked="" type="checkbox"/>
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	--
Recordkeeping	--
Purchases Must Be Made From Licensed or Authorized Parties	--
Duration or Length Of Contract	--
Tax Rate	--
Distribution of Funds	--
Waiver of Sovereign Immunity	--
Tax or Fee-Generated Revenue Sharing/Collection	--
Enforcement	--
Amount of Refund for Taxes Paid by Tribal Consumers	--
Minimum Selling Price	--

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	<input checked="" type="checkbox"/>
Federally-Recognized Tribes	<input type="checkbox"/>
Qualified/Authorized Tribes	<input checked="" type="checkbox"/>
State-Recognized Tribes	<input type="checkbox"/>

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Tax-Exempt Tribes Identified by State:

- Cayuga Indian Nation of New York
- Oneida Indian Nation of New York
- Onondaga Nation of Indians
- Poospatuck or Unkechaug Nation
- St. Regis Mohawk
- Seneca Nation of Indians
- Shinnecock Tribe
- Tonawanda Band of Senecas and Tuscarora Nation of Indians

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	<input checked="" type="checkbox"/>
Those Sold To Tribes Without Agreements	<input type="checkbox"/>
Those Sold To Nonmembers	<input type="checkbox"/>
Those Sold To Other Parties Not Otherwise Tax-Exempt	<input type="checkbox"/>
None/Silent	<input type="checkbox"/>

Stamp Types Required for Tribal Sales:

State Excise Stamp	<input checked="" type="checkbox"/>
Stamp Specific to Tribe	<input type="checkbox"/>
Generic Tribal Stamp	<input type="checkbox"/>
Generic Agreement Stamp	<input type="checkbox"/>
Generic Exemption Stamp	<input type="checkbox"/>
Silent As to Stamp Type	<input type="checkbox"/>

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	<input type="checkbox"/>
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	<input checked="" type="checkbox"/>
State Requires Tax Pre-Payment	<input checked="" type="checkbox"/> *

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

North Dakota



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	--
Compacts take precedence over existing state laws governing area?	--
Limits to which tribes are authorized to compact with state?	--

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	--
Recordkeeping	--
Purchases Must Be Made From Licensed or Authorized Parties	--
Duration or Length Of Contract	--
Tax Rate	--
Distribution of Funds	--
Waiver of Sovereign Immunity	--
Tax or Fee-Generated Revenue Sharing/Collection	--
Enforcement	--
Amount of Refund for Taxes Paid by Tribal Consumers	--
Minimum Selling Price	--

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	--
Federally-Recognized Tribes	--
Qualified/Authorized Tribes	--
State-Recognized Tribes	--

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	✓

Stamp Types Required for Tribal Sales:

State Excise Stamp	--
Stamp Specific to Tribe	--
Generic Tribal Stamp	--
Generic Agreement Stamp	--
Generic Exemption Stamp	--
Silent As to Stamp Type	--

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Oklahoma



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes No Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input checked="" type="checkbox"/>
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	<input checked="" type="checkbox"/>
Recordkeeping	<input checked="" type="checkbox"/>
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	
Tax Rate	<input checked="" type="checkbox"/>
Distribution of Funds	
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	<input checked="" type="checkbox"/>
Amount of Refund for Taxes Paid by Tribal Consumers	
Minimum Selling Price	

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: \$1.03/pack (non-tribal consumers)

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	✓
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	✓
Generic Agreement Stamp	✓
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	✓
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	✓
State Requires Tax Pre-Payment	✓

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Oregon



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input type="checkbox"/>
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	<input type="checkbox"/>
Recordkeeping	<input type="checkbox"/>
Purchases Must Be Made From Licensed or Authorized Parties	<input type="checkbox"/>
Duration or Length Of Contract	<input type="checkbox"/>
Tax Rate	<input type="checkbox"/>
Distribution of Funds	<input type="checkbox"/>
Waiver of Sovereign Immunity	<input type="checkbox"/>
Tax or Fee-Generated Revenue Sharing/Collection	<input type="checkbox"/>
Enforcement	<input checked="" type="checkbox"/>
Amount of Refund for Taxes Paid by Tribal Consumers	<input type="checkbox"/>
Minimum Selling Price	<input type="checkbox"/>

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	--
Federally-Recognized Tribes	--
Qualified/Authorized Tribes	--
State-Recognized Tribes	--

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	✓

Stamp Types Required for Tribal Sales:

State Excise Stamp	--
Stamp Specific to Tribe	--
Generic Tribal Stamp	--
Generic Agreement Stamp	--
Generic Exemption Stamp	--
Silent As to Stamp Type	--

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	--
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	--
State Requires Tax Pre-Payment	--

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

South Dakota



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input type="checkbox"/>
Limits to which tribes are authorized to compact with state?	<input type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	<input type="checkbox"/>
Recordkeeping	<input type="checkbox"/>
Purchases Must Be Made From Licensed or Authorized Parties	<input type="checkbox"/>
Duration or Length Of Contract	<input checked="" type="checkbox"/>
Tax Rate	<input type="checkbox"/>
Distribution of Funds	<input type="checkbox"/>
Waiver of Sovereign Immunity	<input type="checkbox"/>
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	<input type="checkbox"/>
Amount of Refund for Taxes Paid by Tribal Consumers	<input type="checkbox"/>
Minimum Selling Price	<input type="checkbox"/>

Duration of Compact: 5 Years | **State Tobacco Tax Rate for Non-Compacting Tribes:** N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	--
Federally-Recognized Tribes	--
Qualified/Authorized Tribes	--
State-Recognized Tribes	--

Tax-Exempt Tribes Identified by State:

- N/A

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	✓

Stamp Types Required for Tribal Sales:

State Excise Stamp	--
Stamp Specific to Tribe	--
Generic Tribal Stamp	--
Generic Agreement Stamp	--
Generic Exemption Stamp	--
Silent As to Stamp Type	--

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	--
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	--
State Requires Tax Pre-Payment	--

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Utah



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	--
Compacts take precedence over existing state laws governing area?	--
Limits to which tribes are authorized to compact with state?	--

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	--
Recordkeeping	--
Purchases Must Be Made From Licensed or Authorized Parties	--
Duration or Length Of Contract	--
Tax Rate	--
Distribution of Funds	--
Waiver of Sovereign Immunity	--
Tax or Fee-Generated Revenue Sharing/Collection	--
Enforcement	--
Amount of Refund for Taxes Paid by Tribal Consumers	--
Minimum Selling Price	--

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

Tax-Exempt Tribes Identified by State:

- NA

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	✓
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	✓
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	✓*

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Washington



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes Blank No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input checked="" type="checkbox"/>
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	<input checked="" type="checkbox"/>
Recordkeeping	<input checked="" type="checkbox"/>
Purchases Must Be Made From Licensed or Authorized Parties	<input checked="" type="checkbox"/>
Duration or Length Of Contract	<input checked="" type="checkbox"/>
Tax Rate	<input checked="" type="checkbox"/>
Distribution of Funds	<input checked="" type="checkbox"/>
Waiver of Sovereign Immunity	<input type="checkbox"/>
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	<input checked="" type="checkbox"/>
Amount of Refund for Taxes Paid by Tribal Consumers	<input type="checkbox"/>
Minimum Selling Price	<input checked="" type="checkbox"/>

Duration of Compact: 8 Years | **State Tobacco Tax Rate for Non-Compacting Tribes:** N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	<input checked="" type="checkbox"/>
Federally-Recognized Tribes	<input checked="" type="checkbox"/>
Qualified/Authorized Tribes	<input type="checkbox"/>
State-Recognized Tribes	<input type="checkbox"/>

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? Puyallup, Yakama Nation

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	<input checked="" type="checkbox"/>
Those Sold To Tribes Without Agreements	<input type="checkbox"/>
Those Sold To Nonmembers	<input type="checkbox"/>
Those Sold To Other Parties Not Otherwise Tax-Exempt	<input type="checkbox"/>
None/Silent	<input type="checkbox"/>

Tax-Exempt Tribes Identified by State:

- Puyallup
- Yakama Nation

Stamp Types Required for Tribal Sales:

State Excise Stamp	<input checked="" type="checkbox"/>
Stamp Specific to Tribe	<input checked="" type="checkbox"/>
Generic Tribal Stamp	<input type="checkbox"/>
Generic Agreement Stamp	<input checked="" type="checkbox"/>
Generic Exemption Stamp	<input type="checkbox"/>
Silent As to Stamp Type	<input type="checkbox"/>

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	<input type="checkbox"/>
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	<input type="checkbox"/>
State Requires Tax Pre-Payment	<input type="checkbox"/>

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Wisconsin



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	
Recordkeeping	
Purchases Must Be Made From Licensed or Authorized Parties	
Duration or Length Of Contract	
Tax Rate	
Distribution of Funds	
Waiver of Sovereign Immunity	
Tax or Fee-Generated Revenue Sharing/Collection	
Enforcement	
Amount of Refund for Taxes Paid by Tribal Consumers	<input checked="" type="checkbox"/>
Minimum Selling Price	

Duration of Compact: N/A | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	
Federally-Recognized Tribes	✓
Qualified/Authorized Tribes	
State-Recognized Tribes	

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? N/A

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	✓
Those Sold To Tribes Without Agreements	
Those Sold To Nonmembers	
Those Sold To Other Parties Not Otherwise Tax-Exempt	
None/Silent	

Tax-Exempt Tribes Identified by State:

- N/A

Stamp Types Required for Tribal Sales:

State Excise Stamp	✓
Stamp Specific to Tribe	
Generic Tribal Stamp	✓
Generic Agreement Stamp	
Generic Exemption Stamp	
Silent As to Stamp Type	

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	
State Requires Tax Pre-Payment	✓*

* Refunds made for pre-payment of tax for sales to tax-exempt parties

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Wyoming



Compacts Tribal Sales and Taxation

Laws explicitly apply to: Cigarettes OTP

Yes *Blank* No -- Not Applicable/Addressed

Tribal Compacts – 2015

Overview of State Laws

Compacts specific to tobacco sales?	<input checked="" type="checkbox"/>
Compacts take precedence over existing state laws governing area?	<input type="checkbox"/>
Limits to which tribes are authorized to compact with state?	<input checked="" type="checkbox"/>

State requires/suggests specific provisions within tobacco compacts? Yes No N/A

Suggested or Required Compact Provisions

Stamping Requirements	<input type="checkbox"/>
Recordkeeping	<input checked="" type="checkbox"/>
Purchases Must Be Made From Licensed or Authorized Parties	<input type="checkbox"/>
Duration or Length Of Contract	<input checked="" type="checkbox"/>
Tax Rate	<input type="checkbox"/>
Distribution of Funds	<input type="checkbox"/>
Waiver of Sovereign Immunity	<input type="checkbox"/>
Tax or Fee-Generated Revenue Sharing/Collection	<input checked="" type="checkbox"/>
Enforcement	<input type="checkbox"/>
Amount of Refund for Taxes Paid by Tribal Consumers	<input type="checkbox"/>
Minimum Selling Price	<input type="checkbox"/>

Duration of Compact: Annually | State Tobacco Tax Rate for Non-Compacting Tribes: N/A

Tribal Sales – 2015

Tax-Exempt Status Limited To:

Specific, Listed Tribes	<input checked="" type="checkbox"/>
Federally-Recognized Tribes	<input type="checkbox"/>
Qualified/Authorized Tribes	<input type="checkbox"/>
State-Recognized Tribes	<input type="checkbox"/>

Tax-Exempt Tribes Identified by State:

- Wind River Reservation (Shoshone and Northern Arapaho)

Tobacco sales laws directed at specific tribes?

Yes No N/A

If yes, which tribes? Wind River Reservation (Shoshone and Northern Arapaho)

Which Types of Tobacco Require Stamps?

All Products Sold On Tribal Land	<input type="checkbox"/>
Those Sold To Tribes Without Agreements	<input type="checkbox"/>
Those Sold To Nonmembers	<input type="checkbox"/>
Those Sold To Other Parties Not Otherwise Tax-Exempt	<input type="checkbox"/>
None/Silent	<input checked="" type="checkbox"/>

Stamp Types Required for Tribal Sales:

State Excise Stamp	--
Stamp Specific to Tribe	--
Generic Tribal Stamp	--
Generic Agreement Stamp	--
Generic Exemption Stamp	--
Silent As to Stamp Type	--

Tribal Taxation – 2015

How State Regulates Taxation of Tobacco Sold on Tribal Land:

State Authorizes/Requires Alternative Payment in Lieu of Excise Tax	<input type="checkbox"/>
State Tax Waived If Tribal Tax Is Same or Greater	--
State Limits Tribal Access to Tax-Exempt Products (Quota)	<input type="checkbox"/>
State Requires Tax Pre-Payment	<input type="checkbox"/>

State Requires Pre-Payment of Taxes on: All Products Excess of Quota None Other

Other: N/A

State Utilizes Coupon System to Implement Quota: Yes No N/A

Section 5: Conclusion

Significantly increasing tobacco product prices through taxation is one of the most effective strategies for reducing tobacco consumption,¹⁶ and harmonizing tax rates across state and tribal borders can reduce tax avoidance and evasion. States continue to use a variety of tax enforcement strategies to strengthen their abilities to limit the availability of tax-free cigarettes and OTP in the marketplace. This chartbook presents a comprehensive overview of tribal tobacco sales policies at the state level that help to inform the overall tribal and state tobacco tax discussion.

Several key themes emerged from this study:

1. **There is a dearth of tribal tobacco sales laws in the United States.** Despite having a tribal presence within their borders, many states have no laws regulating tax payments for tobacco sold on-reservation. As state tax rates continue to rise, a growing number of consumers may seek out lower-priced tobacco in jurisdictions where state tax laws are not enforced. Many states without current tribal tobacco policies may not have reached a tipping point regarding lost tax revenue. A small reservation presence, low state taxes, or convenience of reservations to the general population are all contributing factors.
2. **There are several ways to achieve harmonized tax rates.** While all four key tax strategies can be effective in equalizing tax rates across state-tribal borders, it is important that states adopt strategies tailored to their specific challenges, as these will likely result in more effective tax enforcement. Fractured relationships between states and tribes may require alternative means of tax enforcement, and may suggest a need for a more focused effort in off-reservation distribution strategies.
3. **It is important to limit the availability of tax-free tobacco products in the marketplace.** Tax strategies that limit the amount of tax-free tobacco products available in the marketplace can be useful in enforcing state tax obligations before tobacco reaches reservation land, and they ease jurisdictional conflicts. Many common tax enforcement strategies are considered to be “minimally burdensome,” and can help states to collect taxes prior to ultimate sale.
4. **Tribal taxes could effectively reduce tax avoidance and evasion.** Working with tribes to establish tribal taxes in line with state excise rates can benefit both state and tribal governments. Increased revenue assists both parties in funding community needs, and tribal retailers can remain competitive where dual taxation is eased or eliminated.
5. **Minor changes can lead to big results.** Small tweaks to existing tax enforcement strategies, such as tax stamp application, can be an efficient and effective means of limiting tax evasion on tribal lands and can create an increased revenue stream for states.

In summary, this report shows the key strategies states use to regulate tobacco sales on tribal lands to non-members, and the challenges each of these strategies works to overcome. By examining the variety of regulatory mechanisms used over an 11-year period (2005-2015, inclusive), we were better able to understand the unique challenges that tribal sales present, the ways states have sought to address tax obligations under the lens of tribal sovereignty, and how they have adjusted those strategies over time. As policymakers look to accommodate the sometimes conflicting needs of states and tribes, implementing mutually beneficial policies can result in holistically healthier communities.

Similarly, where traditional tax laws are particularly challenging to enforce, alternative strategies, such as compacts, can seek to bridge jurisdictions. State tobacco tax rates are rising, and revenue loss from illicit tribal sales will likely follow in states that have not implemented regulatory measures. This report helps to inform the tobacco control community about tribal tobacco sales laws, how they function, and how they can be used in conjunction with one another to create a strong, effective regulatory framework. The in-depth, state-level data contained within this report can be used by policymakers, state and local agencies, tobacco control practitioners and advocates, and the research community in future efforts to reduce tobacco tax evasion on tribal lands.

References

1. Bureau of Indian Affairs. *Frequently Asked Questions*. <http://www.bia.gov/FAQs>. Updated 2016 . Accessed June 16, 2016.
2. Worcester v. Georgia, 31 U.S. 515 (1832).
3. Williams v Lee, 358 U.S. 217 (1959).
4. Bureau of Indian Affairs. Indian reservations in the continental United States. Accessed June 4, 2016.
5. Indian tribal governments treated as states for certain purposes. 26 CFR 305.7871-1 (1982).
6. Oklahoma Tax Commission v. Sac and Fox Nation, 508 U.S. 114 (1993).
7. Galanda GS, Broadman AS. The law of business in Indian country. *GP Solo: Law Trends & News: Practice Area Newsletter*. 2009;5(2).
8. World Health Organization. WHO Technical Manual on Tobacco Tax Administration. http://www.who.int/tobacco/publications/tax_administration/en/. Updated 2010. Accessed May 13, 2016.
9. Oklahoma Tax Commission v. Chickasaw Nation, 515 U. S. 450 (1995).
10. Samuel KA, Ribisl KM, Williams RS. Internet cigarette sales and Native American sovereignty: Political and public health contexts. *J Public Health Policy*. 2012;33(2):173-187.
11. Matter of New York Assn of Convenience Stores v. Urbach, 275 AD2d 520 (3d dept 2000).
12. Department of Taxation and Finance of New York v. Milhelm Attea & Bros., Inc., 512 US 61 (1994).
13. Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 498 U.S. 505 (1991).
14. Kaplan T. In tax fight, tribes make, and sell, cigarettes. *The New York Times*. Feb. 23, 2012.
15. Bondaryk M, Okamoto J, Henderson PN, Leischow S. Master settlement agreement compliance tobacco directories: A tool to track tribally manufactured cigarettes. *Nicotine Tobacco Res*. 2015;00(00):1-4.
16. Chaloupka FJ, Yurekli A, Fong GT. Tobacco taxes as a tobacco control strategy. *Tob Control*. 2012;21(2):172-180. doi: 10.1136/tobaccocontrol-2011-050417.
17. Indian entities recognized and eligible to receive services from the United States Bureau of Indian Affairs. *Fed Regist*. 2016;81(86):26826-26830.
18. Washington v. Confederated Tribes, 447 U.S. 134 (1980).
19. Montana v. United States, 450 U S 544 (1981).
20. National Cancer Institute. The Tobacco Use Supplement to the Current Population Survey May 2010-2011 (TUS-CPS). 2015. <http://cancercontrol.cancer.gov/brp/tcrb/tus-cps/>.
21. Stehr M. Cigarette tax avoidance and evasion. *Journal of Health Economics*. 2005;24(2):277-297. doi: 10.1016/j.jhealeco.2004.08.005.
22. Davis K, Farrelly M, Li Q, Hyland A. Cigarette purchasing patterns among New York smokers: Implications for health, price, and revenue. *New York State Department of Public Health*. 2006.
23. Gralla J. New York wins ruling in tribal cigarette tax clash. *Reuters*. May 9, 2011. <http://www.reuters.com/article/newyork-tobacco-idUSN0924451920110509>.
24. Chriqui J, DeLong H, Gourdet C, et al. Use of tobacco tax stamps to prevent and reduce illicit tobacco trade--United States, 2014. *MMWR Morb Mortal Wkly Rep*. 2015;64(20):541-546.
25. DeLong H, Chriqui J, Leider J, Chaloupka FJ. Common state mechanisms regulating tribal tobacco taxation and sales, the USA, 2015. *Tob Control*. 2016. doi: 10.1136/tobaccocontrol-2016-053079.
26. National Research Council. Understanding the U.S. illicit tobacco market: characteristics, policy context, and lessons from international experiences. Washington D.C.: The National Academies Press; 2015.
27. Kurti M, von Lampe K, Johnson J. The intended and unintended consequences of a legal measure to cut the flow of illegal cigarettes into New York City: The case of the South Bronx. *Am J Public Health*. 2015;105(4):750.
28. Laux FL, Bucksin SD. An Oklahoma history of cigarette taxation. *Tobacconomics*. 2015:1-18.
29. Exempt cigarettes for members of recognized Indian tribes. Fla. Stat. Ann. § 210.1801 (2015).
30. Tobacco products tax rates for sales by federally-recognized Indian tribes and nations. Okla. Admin. Code 710:70-7-9 (2015).
31. Cigarette stamp tax rate for sales by federally-recognized Indian tribes and nations. Okla. Admin. Code 710:70-7-8 (2015).
32. Cigarette tax agreement with Puyallup tribe of Indians. RCW 43.06.465 (2015).
33. Cigarette tax agreement -- Yakama nation. RCW 43.06.466 (2015).
34. Cigarette tax contracts—Eligible tribes—Tax rate. RCW 43.06.460 (2015).
35. Jamal A, Homa DM, O'Connor E, et al. Current cigarette smoking among adults -- United States, 2005-2014. *Morbidity and Mortality Weekly Report (MMWR)*. 2015;64(44):1233-1240.
36. 201 Alaska Atty. Gen. Op. No. 663-98-0101 (October 21, 1997).
37. Chaloupka FJ, Edwards SM, Ross H, et al. Preventing and reducing illicit tobacco trade in the United States. *Centers for Disease Control and Prevention*. 2015.
38. Washington v. Confederated Tribes of Colville, 447 US 134.
39. Moe v. Confederated Salish and Kootenai Tribes of the Flathead Reservation, 425 US 463 (1976).
40. Definitions. N.M. Stat. Ann. 7-12-2 (2015).
41. Chaloupka FJ, Huang J, Laux F. A significant cigarette tax rate increase in Oklahoma would produce a large, sustained increase in state tobacco tax revenues. *Tobacconomics, Institute for Health Research and Policy, University of Illinois at Chicago*. 2016:1-18.

42. Oneida Nation of New York v. Cuomo, 645 F3d 154 (2nd Cir. 2011).
43. Henderson PN, Bondaryk M. Tribal commercial tobacco and sovereignty. *Society for Research on Nicotine and Tobacco Annual Meeting*.



Appendix

Appendix Table 1

Tribal States' Use of Tobacco Stamps for On-Reservation Tobacco Sales, 2015

✓ Yes *Blank* No -- Not Addressed/Applicable

All (all tobacco sold on tribal lands is stamped); **Some** (Only some of the tobacco sold on tribal lands is stamped);
* (Those sold to tribes without agreements); + (Those sold to nonmembers); % (Tax-free reservation stamp)

	Stamps Used?	Which Products Stamped?	Types of Stamps (not mutually exclusive)				
			State Excise Stamp (Same as Non-Tribal Sales)	One Tribal Agreement Stamp to be Used by All Tribes with Agreements	One Tribal Stamp to be Used by All Tribes	Special Stamps to be Used by Specific Tribes	Other
AK			<i>No tribe-specific stamp laws</i>				
AZ	✓	All	✓		✓		✓%
FL	✓	All (silent on type)	--	--	--	--	--
IA		--	--	--	--	--	--
ID	✓	Some+	✓				
MI			<i>No tribe-specific stamp laws</i>				
MN	✓	Some* +	✓	✓			
MT	✓	Some*	✓				
ND			<i>No tribe-specific stamp laws</i>				
NE	✓	All	✓			Compacting Tribes	
NV	✓	All	✓		✓		
NM	✓	All	✓		✓		
NY	✓	All	✓				
OK	✓	All	✓	✓	✓		
OR			<i>No tribe-specific stamp laws</i>				
SD			<i>No tribe-specific stamp laws</i>				
UT	✓	Some+	✓				
WA	✓	All	✓	✓		Puyallup, Yakama	
WI	✓	All	✓		✓		
WY			<i>No tribe-specific stamp laws</i>				
Total	13	All – 9 Some – 4	12	3	5	2	1

Appendix Table 2

Tribal State Strategies for Regulating Tobacco Sales on Tribal Lands, 2005 vs. 2015

✓ Yes *Blank* No -- Not Addressed/Applicable

All (all tobacco purchases by tribe require pre-payment of taxes);
Some (only some amount of tobacco purchases by tribe require pre-payment of taxes);
 * (Products sold to non-members); † (Products sold on reservation by non-tribal retailers);
 % (Products in Excess of Pre-Determined Allotment, Quota, or Amount)

	Stamps Applied to Tobacco Sold on Tribal Lands		State-Tribal Tax Agreements or Compacts Addressed		Limits/ Quotas on Tax-Free Tobacco Sold to Tribes		Pre-Payment of Taxes on Tribally-Purchased Tobacco	
	2005	2015	2005	2015	2005	2015	2005	2015
AK	<i>Tribal State - No key strategies employed</i>							
AZ	✓	✓			✓	✓	Some*	Some*
FL	✓	✓		✓	✓	✓		Some%
ID	✓	✓					Some†	Some†
IA			✓	✓			All	All
MI			✓	✓				
MN	✓	✓	✓	✓	✓	✓	Some%	Some%
MT	✓	✓	✓	✓	✓	✓	All	All
NE	✓	✓	✓	✓			All	All
NV	✓	✓					All	All
NM	✓	✓	✓	✓				
NY	✓	✓		✓		✓		Some%
ND	<i>Tribal State - No key strategies employed</i>							
OK	✓	✓	✓	✓		✓	Some%	Some%
OR			✓	✓				
SD			✓	✓				
UT	✓	✓					All	All
WA	✓	✓	✓	✓				
WI	✓	✓	✓	✓			All	All
WY			✓	✓				
Total	13	13	12	14	4	6	All (6); Some (4)	All (6); Some (6)

Appendix Table 3

Legal Citations for State Tribal Tobacco Laws

State	Cite(s)
AK	15 AAC 50.190 ; 15 AAC 50.100; 43.50. 580
AZ	A.R.S. § 42-3301; A.R.S. § 42-3302; A.R.S. § 42-3304; 1994 WL 16014520 (Ariz.Bd.Tax.App.); Arizona Department of Revenue - Pub 541; 1994 WL 16014520 (Ariz.Bd.Tax.App.)
FL	61A-10.026, FAC; Fla. Stat. § 210.05; Fla. Stat. § 210.1801
IA	IDAPA 35.01.10.022; IDAPA 35.01.10.014
ID	I.C.A. § 421.47; 701 IAC 83.11; 701 IAC 82.4; I.C.A. § 453A.15; I.C.A. § 453A.46
MI	MCLS § 205.30c
MN	Minn. Stat. § 297F.07
MT	Mont. Code Anno. § 16-11-155; Mont. Code Anno. § 16-11-111; MCA 18-11-102 through -104; MCA 18-11-112; MONT. ADMIN. R. 42.31.107; MONT. ADMIN. R. 42.31.131
ND	R.R.S. Neb. § 77-2602.06; Nebraska Admin. Code Title 316-57-019
NE	NAC 370.230; NAC 370.220; NAC 370.280; Nev. Rev. Stat. Ann. 370.230; NAC 370.210; Nev. Rev. Stat. Ann. 370.280; Nev. Rev. Stat. Ann. 370.515
NV	N.M. S.A. § 7-12A-4; N.M. Stat. Ann. § 7-12-2; N.M. Stat. Ann. § 7-12-4; N.M. Stat. Ann. § 7-12-4.1; N.M. Stat. Ann. § 7-12-5; N.M. Stat. Ann. § 7-12-19; N.M.S.A. 1978 § 9-11-12.1; N. M. S. A. 1978 § 9-11-12.2; N.M. Admin. Code 3.1.2; N.M. Admin. Code 3.9.1.10
NM	NY CLS Tax § 470; NY CLS Tax § 471; NY CLS Tax § 471-e
NY	57-36-11.1
OK	68 Okl. St. § 321; 68 Okl. St. § 346; 68 Okl. St. § 348; 68 Okl. St. § 349.1; O.A.C. § 710:70-7-8; O.A.C. § 710:70-7-4; O.A.C. § 710:65-13-30
OR	O.R.S. § 323.615; O.R.S. § 323.401
SD	SDCL § 10-12A-1; SDCL § 10-12A-2; 10-12A-6
UT	Utah Code Ann. § 59.14.102; Utah Code Ann. § 59-14-204.5
WA	ARCW § 82.24.010 through .020; 82.24.300 through .302; ARCW § 43.06.455 through .466; WAC § 458-20-185; WAC § 458-20-192
WI	W.S.A. 139.30; W.S.A. 139.325; W.S.A. 139.803; W.S.A. 139.805; Wis. Adm. Code Tax 9.08;
WY	WCWR 011-000-004

University of Illinois at Chicago
Institute for Health Research and Policy
Attn: Tobacconomics
1747 W. Roosevelt Road
5th Floor (Room 558)
Chicago, IL 60608

tobacconomics@uic.edu

Twitter: [@tobacconomics](https://twitter.com/tobacconomics)

www.tobacconomics.org

*Cover Photo Credits (top to bottom): [Wally Gobetz](#) via Flickr;
[Dolan Halbrook](#) via Flickr.*

