



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

Introduction

While tribes are exempt from state tobacco taxation, non-tribal members or non-tribal consumers purchasing tobacco on-reservation are not exempt, and must pay state tax on those products. Because of jurisdictional issues, states are unable to regulate on-reservation activity, and must use alternative strategies to collect state taxes owed on those non-exempt sales. There are four main strategies used to regulate tobacco sales on tribal lands: 1) **tax stamps**, 2) **tax agreements or compacts** between states and tribes, 3) limits or **quotas** on tax-free products, and 4) **pre-payment** of tobacco tax prior to ultimate sale. Twenty states have laws that address the sale or taxation of tobacco sold on tribal lands (“tribal states”). Fourteen additional states have tribal lands within their borders, but no tribal laws addressing tobacco sales or taxation.

This fact sheet documents the tobacco tax laws in tribal states between 2005 and 2015. Data on tribal tobacco tax laws were compiled through primary legal research into each state’s statutory and administrative codes, using the commercial legal research services, LexisNexis and Westlaw. The data were verified through secondary sources. While this fact sheet shows the strategies employed by individual states, information on the extent of strategy utilization at a national level can be found in a separate fact sheet (See “[Common Strategies for Regulating Tobacco Sales on Tribal Lands – National Overview, 2015](#)”).

A companion [chartbook](#) and complete data files listing the tribal tobacco sales laws for tobacco products from January 1, 2005 through January 1, 2015 is available through the [Tobacconomics](#) website.

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Key Findings

As of January 1, 2015, 18 of the 20 tribal states utilize at least one of the four main strategies for regulating tobacco sales on tribal lands.

Tax Agreements (14 states)

Tax agreements or compacts between state and tribal governments can alleviate jurisdictional issues, and establish tobacco tax rates for on-reservation sales. Between 2005 and 2015, the number of states using tobacco tax agreements has increased from 12 to 14.

Tobacco Tax Stamps (13 states)

Tobacco tax stamping is the second most popular enforcement strategy among tribal states, and is the only strategy whose usage rates remained static between 2005 and 2015.

Tax Pre-Payment (12 states)

Some tribal retailers must pre-pay state excise taxes on all (6 states) or some (6 states) tobacco products. Use of tax pre-payment has increased from 10 in 2005.

Tax-Free Quotas (6 states)

Quotas are statutory limits on the amount of tax-free tobacco products that may be sold to a tribe and are often based on tribal population and smoking rates. Between 2005 and 2015, the number of states using quotas increased from 4 to 5.

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✓ 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)