

# Alcohol and Tobacco Taxes

## Presentation to the Indian Affairs Committee

Presented by  
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# Overview

- ▶ **History of Collaboration**
- ▶ **Cooperative Agreements**
- ▶ **Liquor Taxes**
- ▶ **Cigarettes and Tobacco Products**
  
- ▶ **Resources Available**

# Background of Collaboration

- ▶ New Mexico and Tribal Collaboration and Cooperation going back to the 1990s.
- ▶ Largest degree of collaboration on Gasoline Taxes and Cigarette and Tobacco Products Excise Taxes.
- ▶ Gross receipts tax collaboration:
  - Avoiding double taxation;
  - Saving administrative costs;
  - Cooperative agreements;
  - Important: Types of receipts, and the difference between them;
  - Legal issues in state taxation.

# State-Tribal Collaboration

- ▶ Collaboration is a priority with Governor Michelle Lujan Grisham and Secretary Schardin Clarke.
  - Degree of cooperation is unique among all states.
  - Engagement is constant and continuing.
- ▶ Developed the TRD/Tribal Tax Work Group to work out the details of destination sourcing.
- ▶ Finalized and signed 14 Cooperative Agreement Amendments.
- ▶ Continue to develop cooperative agreements with Pueblos.

# Pueblos and Nations with Signed GRT Agreements

- ▶ Isleta Pueblo
- ▶ Jicarilla Apache Nation
- ▶ Laguna Pueblo
- ▶ Ohkay Owingeh Pueblo
- ▶ Picuris Pueblo
- ▶ Pueblo de Cochiti
- ▶ Pueblo de San Ildefonso
- ▶ Pueblo of Acoma
- ▶ Pueblo of Jemez
- ▶ Pueblo of Nambe
- ▶ Pueblo of Pojoaque
- ▶ Pueblo of Zuni
- ▶ Santa Fe Indian School
- ▶ Sandia Pueblo
- ▶ Santa Ana Pueblo
- ▶ Santa Clara Pueblo
- ▶ Santo Domingo Pueblo
- ▶ Taos Pueblo
- ▶ Tesuque Pueblo
- ▶ Zia Pueblo
- ▶ 19 Pueblos

# Pueblos with Other Cooperative Agreements

## ▶ Gasoline Tax

- Pueblo of Nambe
- Santo Domingo Pueblo

## ▶ Cannabis Excise Tax

- Picuris Pueblo
- Pueblo of Pojoaque

# Liquor Excise Taxes

- ▶ Simple statute.
- ▶ No special Tribal arrangements or exemptions.
- ▶ Potential for double taxation may still exist for liquor excise taxes.

# Liquor Excise Taxes

- ▶ Liquor Excise Tax Act, Sections 7-17-1 through 7-17-12 NMSA 1978.
- ▶ Tax is on wholesalers of alcoholic beverages.
  - Tax varies depending on type of alcohol, e.g. beer, wine, cider, spirituous liquors.
  - Tax rates are being examined and may be subject to change by the Legislature.
- ▶ Minimal exemptions and deductions.
  - No specific exemption or deduction relating to sales to Tribes, Tribal members, or on Tribal land.
  - Nevertheless, certain receipts may not be taxable.



# Cigarette Tax

- ▶ Cigarette Tax Act, 7-12-1 through 7-12-19 NMSA 1978.
  - Only applies to cigarettes, not all tobacco products.
  - Tax is on distributors of cigarettes.
- ▶ 7-12-4 Cigarette Tax Exemption for Tribes.
  - Sale by distributor must be for use or sale on Tribal land.
  - But no requirement that the sale must be to a Tribal member.
  - Tribe must have its own qualifying cigarette tax.
  - “Qualifying cigarette tax” defined by level of Tribal tax.
- ▶ Impact on Reporting: In general, an exemption frees a taxpayer from a reporting obligation. Exemptions are not reported.

# Tribal Cigarette Tax: Data

- ▶ TRD does not collect tribal cigarette tax revenue data
- ▶ TRD tracks tribal cigarette stamps
  - CY16 17,760,000
  - CY17 18,060,000
  - CY18 15,915,000
  - CY19 17,179,500
  - CY20 15,930,000
  - CY21 13,605,000
  - CY22 14,865,000

# Tobacco Products Tax

- ▶ Tobacco Products Tax Act, Sections 7-12A-1 through 7-12A-10 NMSA 1978.
  - Applies to tobacco products other than cigarettes: cigars, little cigars, e-liquids, e-cigarettes, and closed system cartridges.
  - Different tax rates depending on type of product.
  - Tax is on manufacturing and acquisition of tobacco products.
- ▶ 7-12A-4 Tax Exemption for Tribes
  - No requirement that the Tribes have a similar tax for exemption to apply.
- ▶ Due to exemption, similar impact on reporting – exempt sales are not reported.

# Contact List

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# Thank you!

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