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

* Only one of Alaska’s many tribes occupies Federal reservation land.

Source: This information was compiled from information from the Bureau of Indian Affairs.
Figure 2: Sample Formula for Tax-Exempt Cigarette Allotment

Probable Demand Per Reservation (Annual)

\[
\text{Average Annual U.S. Cigarette Consumption (Per Capita)} \times \frac{\# \text{ of Qualified Indians on Reservation}}{+ \text{Amount Required For Official Tribal Use}}
\]
Figure 3: Overview of State Tribal Tobacco Sales Laws, 2015

- Tribal Tobacco Sales Regulated by State (N=20)
- No State Laws Governing Tribal Tobacco Sales (N=14)
- N/A – No Reservation Within State Borders (N=17)
Figure 4: Types of Tribal Tobacco Sale Laws, 2015

- Use both compacts and other sales laws (N=11)
- Use sales laws only (N=6)
- Use compacts only (N=3)
- Use no tribal-specific tobacco sales laws (N=14)
- No tribal reservations within state borders (N=17)
Figure 5: Changing Use of State-Tribal Compacts, 2005 vs 2015

- States That Address Compacts Pre-2005 (N=12)
- States That Address Compacts Post-2005 (N=2)
- Tribal States Where Compacts Not Addressed, 2015 (N=6)
- No State Laws Governing Tribal Tobacco Sales (N=14)
- N/A – No Reservation Within State Borders (N=17)
Figure 6: State Parties Authorized to Enter State-Tribal Compacts (N=10), 2015

Data are not mutually exclusive.
## Table 1: Compact States with Suggested or Required Compact Provisions, 2015

<table>
<thead>
<tr>
<th>State</th>
<th>Revenue Collection/Sharing</th>
<th>Enforcement</th>
<th>Duration/Renewal Period (yrs)</th>
<th>Distribution of Funds</th>
<th>Tax Stamps</th>
<th>Record-keeping</th>
<th>Tax Rate</th>
<th>Waiver of Sovereign Immunity</th>
<th>Refund Amnt.</th>
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</thead>
<tbody>
<tr>
<td>FL</td>
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<td><strong>2</strong></td>
<td><strong>2</strong></td>
<td><strong>2</strong></td>
</tr>
</tbody>
</table>

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).

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

- Revenue Sharing/Collection Method: 11
- Enforcement: 6
- Duration or Length Of Contract: 6
- Distribution of Funds: 4
- Recordkeeping: 3
- Stamping Requirements: 3
- Amount of Refund for Pre-Paid Taxes: 2
- Waiver of Sovereign Immunity: 2
- Tax Rate: 2
- Minimum Selling Price: 1
- Sales Through Authorized Parties: 1
- No Suggestions/Requirements: 1

Data are not mutually exclusive.
Figure 8: Types of State Excise Tax-Exempt Tribes, 2015

15 States
Identify Tax-Exempt Status by Consumer Type

- Federally Recognized Tribes: 11 states
- Specific, Listed Tribes: 5 states
- State Recognized Tribes: 2 states
- Qualified/Authorized Indians: 2 states
- Other*: 1 state

* Purchasers on reservation where tribe has a qualifying cigarette tax (NM)

Data are not mutually exclusive.
Figure 9: Types of Stamps Used for Tribal Tobacco Sales, 2015

- **State Excise Stamp** (Same as Non-Tribal Sales) – 12 states
- **One Tribal Stamp to be Used by All Tribes** – 5 states
- **One Tribal Agreement Stamp to be Used by All Tribes with Agreements** – 3 states
- **No Stamps Used** – 3 states
- **Special Stamps to be Used by Specific Tribes** – 2 states
- **Other** – 1 state

* North Dakota does not use tax stamps for any tobacco products.
** Other: Tax-free reservation stamp

Data are not mutually exclusive.
Table 2: Quota Formulations in Select States, 2015

<table>
<thead>
<tr>
<th>State</th>
<th>Statutory Formula/Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>“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)</td>
</tr>
<tr>
<td>Florida</td>
<td>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)</td>
</tr>
<tr>
<td>Minnesota</td>
<td>“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 purchaser.” (Source: M.S.A. § 297F.07)</td>
</tr>
<tr>
<td>Montana</td>
<td>“’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)</td>
</tr>
<tr>
<td>New York</td>
<td>“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)</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>“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)</td>
</tr>
</tbody>
</table>
Figure 10: Limits on Amount of Tax-Exempt Tobacco Tribes May Receive, 2015 (N=20)

- No Allotment (11)
- Allotment – Coupon/Voucher System (2)
- Allotment – Recordkeeping (4)
- Tribal State – No Tribal Tax/Sales Laws (3)
- N/A – No Reservation Within State Borders (N=17)
- No State Laws Governing Tribal Tobacco Sales (N=14)
Figure 11: Change in Pre-Payment of Excise Tax in States with Tribal Tobacco Sales Laws, 2005-2015 (N=17)

- **2005**
  - Pre-Pay Not Required or Silent: 7
  - Pre-Pay Required: Non-Tribal Retailers/Consumers: 2
  - Pre-Pay Required: Excess of Quota: 2
  - Pre-Pay Required: All Products: 6

- **2015**
  - Pre-Pay Not Required or Silent: 5
  - Pre-Pay Required: Non-Tribal Retailers/Consumers: 2
  - Pre-Pay Required: Excess of Quota: 4
  - Pre-Pay Required: All Products: 6
Figure 12: State Regulatory Mechanisms for Tribal Sales, 2005 vs. 2014

Types of State Regulatory Mechanisms Utilized

- Tax-Free Quotas or Allotments
- Tax Pre-Payment
- Tribal-State Compacts
- Tobacco Tax Stamps*

Includes states (2) that explicitly prohibit stamps on some/all tribal sales, but explicitly use stamps for sales made off of tribal land.
Figure 13: Common State-Level Tribal Tobacco Taxation Strategies – National Overview, 2015

To create the map below, we evaluated four areas of law:

- State utilizes regulatory strategy

Comapcts
- Weak
- Strong

Quota
- Weak
- Strong

Prepayment
- Weak
- Strong

Stamps
- Weak
- Strong

No Federal Tribal Lands (N=17)
Non-Tribal Law State (N=14)
No Strategies Employed (N=2)
One Strategy Employed (N=4)
Two Strategies Employed (N=6)
Three Strategies Employed (N=3)
Four Strategies Employed (N=5)