



**State Court Rulings Allow Implementation of Tax Law Provisions
Related to the Cigarettes Sold on Indian Reservations
Except as to the Seneca Nation of Indians**

The New York State Supreme Court, Erie County, in *Seneca Nation of Indians v. State of New York*, denied the Seneca Nation of Indians' motion for summary judgment, granted the State's cross-motion for summary judgment, and lifted the temporary restraining order that was in effect since May 10, 2011.

On appeal, a Justice of the New York State Supreme Court, Appellate Division Fourth Department, signed an Order to Show Cause and issued a new limited temporary restraining order enjoining the implementation and enforcement of tax laws and regulations related to the taxation of cigarettes on Indian territory with respect only to the Seneca Nation of Indians.

Based on these orders, the Tax Department will immediately implement the Indian tax exemption coupon system and the prior approval system as described by [TSB-M-10\(6\)M, \(8\)S](#), *Amendments to the Tax Law Related to Sales of Cigarettes on Indian Reservations Beginning September 1, 2010*, and [TSB-M-11\(4\)M, \(7\)S](#), *Federal Court Allows Tax Department to Proceed with the Collection of Taxes on Cigarettes Sold on Indian Reservations*.

Except as provided by the temporary restraining order limited to the Seneca Nation of Indians (described above), wholesale dealers (including agents) are required to collect the cigarette excise tax and prepaid sales tax on all cigarettes sold for resale on an Indian reservation to non-Indians and non-members of an Indian nation or tribe. All packs of cigarettes sold by wholesale dealers to Indian nations and tribes and reservation cigarette sellers are required to have New York tax stamps affixed to them. Wholesale dealers may sell stamped packs of cigarettes to Indian nations and tribes and reservation cigarette sellers exempt from tax to the extent Indian tax exemption coupons are provided or to the extent prior approval is received from the Tax Department.

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